



Pennsylvania Consolidated Statutes
TITLE 27. ENVIRONMENTAL RESOURCES

PART VI. SANCTIONS AND REMEDIES
SUBPART C. IMMUNITY

CHAPTER 81. GOOD SAMARITAN

- § 8101. Short title of chapter.
- § 8102. Findings.
- § 8103. Purpose.
- § 8104. Definitions.
- § 8105. Eligibility and project inventory.
- § 8106. Landowner liability limitation and exceptions.
- § 8107. Project liability limitation and exceptions.
- § 8108. Permits and zoning.
- § 8109. Relationship to federal and state programs.
- § 8110. General permits.
- § 8111. Exceptions.
- § 8112. Water supply replacement.
- § 8113. Orphan oil and gas wells.
- § 8114. Regulations.

§ 8101. Short title of chapter.

This chapter shall be known and may be cited as the Environmental Good Samaritan Act.

§ 8102. Findings.

The general assembly finds and declares as follows:

1. This commonwealth'S long history of mining and the extraction of oil and gas has left some lands and waters unreclaimed and polluted.
2. These abandoned lands and polluted waters are unproductive, erode the tax base and are serious impediments to the economic welfare and growth of this commonwealth.
3. The unreclaimed lands and polluted waters present a danger to the health, safety and welfare of the people and the environment.
4. This commonwealth does not possess sufficient resources to reclaim all the abandoned lands and to abate the water pollution.
5. Numerous landowners, citizens, watershed associations, environmental organizations and governmental entities who do not have a legal responsibility to reclaim the abandoned lands or to abate the water pollution are interested in addressing these problems but are reluctant to engage in such reclamation and abatement activities because of potential liabilities associated with the reclamation and abatement activities.
6. It is in the best interest of the health, safety and welfare of the people of this commonwealth and the environment to encourage reclamation of the abandoned lands and abatement of water pollution.

§ 8103. Purpose.

This chapter is intended to encourage the improvement of land and water adversely affected by mining and oil and gas extraction, to aid in the protection of wildlife, to decrease soil erosion, to aid in the prevention and abatement of the pollution of rivers and streams, to protect and improve the environmental values of this Commonwealth and to eliminate or abate hazards to health and safety. It is the intent of the General Assembly to encourage voluntary reclamation of lands adversely affected by mining or oil or gas extraction. The purpose of this chapter is to improve water quality and to control and eliminate water pollution resulting from mining or oil or gas extraction or exploration by limiting the liability which could arise as a result of the voluntary reclamation of abandoned lands or the reduction and abatement of water pollution. This chapter is not intended to limit the liability of a person who under existing law is or may become responsible to reclaim the land or address the water pollution or anyone who by contract, order or otherwise is required to or agrees to perform the reclamation or abate the water pollution.

§ 8104. Definitions.

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Abandoned lands."

Land adversely affected by mineral or oil or gas extraction and left or abandoned in an unreclaimed or inadequately reclaimed condition.

"Consideration."

Something of value promised, given or performed in exchange for something which has the effect of making a legally enforceable contract. For the purpose of this chapter, the term does not include a promise to a landowner to repair damage caused by a reclamation project or water pollution abatement project when the promise is made in exchange for access to the land.

"Department."

The department of environmental protection of the Commonwealth.

"Eligible land and water."

Land and water adversely affected by mining or oil or gas extraction and left or abandoned in an unreclaimed or inadequately reclaimed condition or left discharging water pollution and for which no person has a continuing reclamation or water pollution abatement obligation. The term shall also include land and water adversely affected by mining or oil or gas extraction and left in an unreclaimed or inadequately reclaimed condition or left discharging water pollution for which the department of environmental protection has forfeited and collected the operators bonds and there is no outstanding litigation concerning the bond forfeiture.

"Landowner."

A person who holds either legal or equitable interest in real property.

"Mineral."

Any aggregate or mass of mineral matter, whether or not coherent, which is extracted by mining, including, but not limited to, limestone, dolomite, sand, gravel, slate, argillite, diabase, gneiss, micaceous sandstone known as bluestone, rock, stone, earth, fill, slag, iron ore, zinc ore, vermiculite, clay and anthracite and bituminous coal.

"Permitted mining activity site."

A site permitted by the department of environmental protection pursuant to one or more of the following acts:

1. the act of June 22, 1937 (P.L.1987, No.394), known as the Clean Streams Law;
2. the act of May 31, 1945 (P.L.1198, No.418), known as the Surface Mining Conservation And Reclamation Act;
3. the act of April 27, 1966 (1st sp.Sess., P.L.31, no.1), known as the Bituminous Mine Subsidence And Land Conservation Act;

4. the act of september 24, 1968 (P.L.1040, No.318), known as the Coal Refuse Disposal Control Act; or
5. the act of december 19, 1984 (P.L.1093, No.219), known as the Noncoal Surface Mining Conservation And Reclamation Act.

"Person."

A natural person, partnership, association, association members, corporation, political subdivision of the Commonwealth, an agency, instrumentality or entity of federal or state government or other legal entity recognized by law as the subject of rights and liabilities.

"Project work area."

That land necessary for a person to complete a reclamation project or a water pollution abatement project.

"Reclamation project."

The restoration of eligible lands and water to productive use by regrading and revegetating the land to stable contours that blend in and complement the drainage pattern of the surrounding terrain with no highwalls, spoil piles or depressions to accumulate water and by plugging abandoned oil or gas wells and removing production or storage facilities, supplies and equipment from areas disturbed in siting, drilling, completing and producing such wells.

"Water pollution."

Pollution of the waters of this Commonwealth as defined in section 1 of the act of June 22, 1937 (P.L.1987, No.394), known as the clean streams law, which was caused by mining activities or oil or gas extraction or exploration for these resources.

"Water pollution abatement facilities."

The methods for treatment or abatement of water pollution located on eligible lands and water. These methods include, but are not limited to, a structure, system, practice, technique or method constructed, installed or followed to reduce, treat or abate such water pollution.

"Water pollution abatement project."

A plan for treatment or abatement of water pollution located on eligible lands and water. These plans include, but are not limited to, the practices to be followed and the installation, operation and maintenance of facilities to reduce, treat or abate such water pollution.

§ 8105. Eligibility and project inventory.

(a) General Rule.--A landowner or person who voluntarily provides equipment, materials or services at no charge or at cost for a reclamation project or a water pollution abatement project in accordance with this chapter may be immune from civil liability, and may raise the protections afforded by this chapter in any subsequent legal proceeding which is brought to enforce environmental laws or otherwise impose liability. A landowner or other person is only eligible for the protections and immunities provided by sections 8106 (relating to landowner liability limitation and exceptions) and 8107 (relating to project liability limitation and exceptions) if a detailed written plan of the proposed reclamation project or water pollution abatement project is submitted to and approved by the department. The project plan shall include the objective of the project and a description of the work that will be performed to accomplish the objective and must identify the project location, project boundaries, the project participants and the owners of the land.

(b) Notice.--Upon receipt of each project plan the department shall either give written notice by certified mail to adjacent property owners and riparian land owners located downstream of the proposed project or will provide public notice of the proposed project in a newspaper of general circulation, published in the locality of the proposed project, once a week for four consecutive weeks and shall give public notice in the Pennsylvania Bulletin. The person proposing the project may also provide public notice. Any person having an interest which may be adversely affected by the proposed project has the right to file

with the department written objection to the proposed project within 30 days after receipt of the written notice or the last publication of the above notice which shall conclude the public comment period. The department shall provide to the person proposing the project a copy of each written objection received during the public comment period.

(c) Advice.--The department may provide advice to the landowner or other interested person based upon the department's knowledge and experience in performing reclamation projects and water pollution abatement projects.

(d) Departmental review.--The department shall review each proposed reclamation project and approve the project if the department determines the proposed project:

1. will result in the regrading of the land to stable contours that blend in and complement the drainage pattern of the surrounding terrain with no highwalls, spoil piles or depressions to accumulate water;
2. will result in the appropriate revegetation of the site; and
3. is not likely to result in water pollution as defined in section 1 of the act of June 22, 1937 (P.L.1987, No.394), known as the clean streams law. the department shall review each proposed water pollution abatement project and approve the project if the department determines the proposed project is likely to improve the water quality and is not likely to make the water pollution worse.

(e) Additional review.--The department shall review each project plan in accordance with section 8111 (b) (relating to exceptions).

(f) Project inventory.--The department shall develop and maintain a system to inventory and record each project, the project location and boundaries, each landowner and each person identified in a project plan provided to the department. The inventory shall include the results of the department's review of the proposed project and, where applicable, include the department's findings under section 8111(b).

(g) Appeal.--A person aggrieved by a department decision to approve or disapprove a reclamation project or a water pollution abatement project has the right to file an appeal with the environmental hearing board in accordance with the act of July 13, 1988 (p.L.530, no.94), known as the environmental hearing board act, and in accordance with the Environmental Hearing Board's rules, 25 Pa. Code Ch. 1021 (relating to practice and procedures).

§ 8106. Landowner liability limitation and exceptions.

(a) General Rule.--Except as specifically provided in subsections (b) and (c), a landowner who provides access to the land, without charge or other consideration, which results in the implementation of a reclamation project or a water pollution abatement project:

1. shall be immune from liability for any injury or damage suffered by the person implementing the reclamation project or the water pollution abatement project while the person is within the project work area.
2. shall be immune from liability for any injury to or damage suffered by a third party which arises out of or occurs as a result of an act or omission of a person implementing a reclamation project or water pollution abatement project which occurs during the implementation of the reclamation project or the water pollution abatement project.
3. shall be immune from liability for any injury to or damage suffered by a third party which arises

out of or occurs as a result of a reclamation project or a water pollution abatement project.

4. shall not be deemed to assume legal responsibility for or incur liability for any pollution resulting from a reclamation project or water pollution abatement project.
5. shall not be subject to a citizen suit filed pursuant to section 601 of the act of June 22, 1937 (P.L.1987, No.394), known as the Clean Streams Law, for pollution resulting from a reclamation project or water pollution abatement project.
6. shall be immune from liability for the operation, maintenance or repair of the water pollution abatement facilities constructed or installed during the project unless the landowner negligently damages or destroys the water pollution abatement facilities or denies access to those persons who operate, maintain or repair the water pollution abatement facilities.

(b) Duty to warn.--A landowner shall warn a person implementing a reclamation project or water pollution abatement project of known, latent, dangerous conditions located on the project work area which known, latent, dangerous conditions are not the subject of the reclamation project or the water pollution abatement project. Nothing in this chapter shall limit in any way or affect a landowner's liability which results from the landowner's failure to warn of such known, latent, dangerous conditions.

(c) Exceptions to Immunity.--Nothing in this chapter shall limit in any way or affect a landowner's liability which results from a reclamation project or water pollution abatement project and which would otherwise exist:

1. for injury or damage resulting from the landowner's acts or omissions which are reckless or constitute gross negligence or willful misconduct.
2. where the landowner charges an access fee or requires other consideration before allowing access to the land for the purpose of implementing a reclamation project or water pollution abatement project or to operate, maintain or repair water pollution abatement facilities constructed or installed during a water pollution abatement project.
3. for the landowner's unlawful activities.
4. for damage to adjacent landowners or downstream riparian landowners which results from a reclamation project or water pollution abatement project where written notice or public notice of the proposed project was not provided.

§ 8107. Project liability limitation and exceptions.

(a) General rule.--Except as specifically provided in subsection (b), a person who provides equipment, materials or services at no cost or at cost for a reclamation project or a water pollution abatement project:

1. shall be immune from liability for any injury to or damage suffered by a person which arises out of or occurs as a result of the water pollution abatement facilities constructed or installed during the water pollution abatement project.
2. shall be immune from liability for any pollution emanating from the water pollution abatement facilities constructed or installed during the water pollution abatement project unless the person affects an area that is hydrologically connected to the water pollution abatement project work area and causes increased pollution by activities which are unrelated to the implementation of a water pollution abatement project.
3. shall not be deemed to assume responsibility for or incur liability for the operation, maintenance and repair of the water pollution abatement facilities constructed or installed during the water pollution abatement project.
4. shall not be subject to a citizen suit under section 601 of the act of June 22, 1937 (p.L.1987, no.394), known as the Clean Streams Law, for pollution emanating from the water pollution

abatement facilities constructed or installed during the water pollution abatement project.

(b) Exceptions.--

1. nothing in this chapter shall limit in any way the liability of a person who provides equipment, materials or services at no cost or at cost for a reclamation project or a water pollution abatement project which liability results from the reclamation project or the water pollution abatement project and which would otherwise exist:
 - i. for injury or damage resulting from the person's acts or omissions which are reckless or constitute gross negligence or willful misconduct.
 - ii. for the person'S unlawful activities.
 - iii. for damages to adjacent landowners or downstream riparian landowners which result from a reclamation project or a water pollution abatement project where written notice or public notice of the proposed project was not provided.
2. nothing in this chapter shall limit in any way the liability of a person who the department has found to be in violation of any of the following acts:
 - i. the act of may 31, 1945 (p.L.1198, no.418), known as the Surface Mining Conservation and Reclamation Act.
 - ii. the act of April 27, 1966 (1st sp.Sess., P.L.31, no.1), known as the Bituminous Mine Subsidence and Land Conservation Act.

§ 8108. Permits and zoning.

Nothing in this chapter shall be construed as waiving any existing permit requirements or waiving any local zoning requirements.

§ 8109. Relationship to federal and state programs.

The provisions of this chapter shall not prevent the commonwealth from enforcing requirements necessary or imposed by the federal government as a condition to receiving or maintaining program authorization, delegation, primacy or federal funds.

§ 8110. General permits.

If the department determines it will further the purposes of this chapter, the department may issue a general permit for each reclamation project or water pollution abatement project, which general permit shall:

1. encompass all of the activities included in that reclamation project or water pollution abatement project.
2. be issued in place of any required stream encroachment, earth disturbance or national pollution discharge elimination system permits.

§ 8111. Exceptions.

(a) General Rule.--Any person who under existing law shall be or may become responsible to reclaim the land or treat or abate the water pollution or any person who for payment or consideration or who receives some other benefit through a contract, or any person who through a consent order and agreement or otherwise agrees or is ordered to perform or complete reclamation or treat or abate water pollution as well as a surety which provided a bond for the site shall not be eligible for nor shall that

person receive the benefit of the protections and immunities available under this chapter.

(b) Projects Near Mining Or Coal Refuse Sites.--This chapter shall not apply to a reclamation project or a water pollution abatement project that is located adjacent to, hydrologically connected to or in close proximity to a site permitted under the act of May 31, 1945 (P.L.1198, No.418), known as the Surface Mining Conservation and Reclamation Act, the act of April 27, 1966 (1st sp.Sess., P.L.31, No.1), known as the Bituminous Mine Subsidence and Land Conservation Act, the act of September 24, 1968 (P.L.1040, No.318), known as the Coal Refuse Disposal Control Act, or the act of December 19, 1984 (P.L.1093, no.219), known as the Noncoal Surface Mining Conservation and Reclamation Act, unless:

1. the reclamation project or water pollution abatement project is submitted to the department in writing before the project is started.
2. the department finds:
 - i. the reclamation project or the water pollution abatement project will not adversely affect the permittee's obligations under the permit and the applicable law.
 - ii. the activities on the project work area cannot be used by the permittee to avoid the permittee's reclamation or water pollution treatment or abatement obligations.
3. the department issues a written notice of its findings and the approval of the project.

(c) Projects In Lieu of Civil Penalties.--This chapter shall not apply to a reclamation project or a water pollution abatement project that is performed in lieu of paying civil penalties.

(d) Land Recycling And Environmental Remediation Standards Act.--The act of may 19, 1995 (P.L.4, No.2), known as the Land Recycling And Environmental Remediation Standards Act, does not apply to reclamation projects or water pollution abatement projects implemented under this chapter.

§ 8112. Water supply replacement.

A public or private water supply affected by contamination or the diminution caused by the implementation of a reclamation project or the implementation of a water pollution abatement project shall be restored or replaced by the department with an alternate source of water adequate in quantity and quality for the purposes served by the water supply.

§ 8113. Orphan oil and gas wells.

A reclamation project or water pollution abatement project shall not be implemented in a manner which will limit access to an orphan gas well or an orphan oil well.

§ 8114. Regulations.

The department may promulgate rules and regulations necessary to implement the provisions of this chapter.

The complete Pennsylvania Statutes are not yet available on the web. However, selected portions have been made available and can be accessed by [CLICKING HERE](#). These statutes, though available instantaneously over the web, may not be the current law. Court decisions overturning them, later statutes amending them, and a host of other factors come into play when interpreting them. They are provided here as a resource. They should provide some information about the state of the law. However,

a competent lawyer, *who from other sources will research the law to insure what is current*, should always be employed in matters of importance.

Visit/Return to Home Page of [Pennsylvania District Court 15-4-04](#).

The Environmental Good Samaritan Act / Judiciary@aol.com / this webpage was last updated March 2001