

Pennsylvania's Environmental Good Samaritan Act

(PA EGSA)



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PA EGSA

- Brief history
- Eligibility and coverage
- How to apply
- Why it is important to your organization

PA EGSA History

- Signed into law in 1999 along with Growing Greener
- Intended to encourage landowners and others to undertake projects to reclaim abandoned mineral extraction lands and abate water pollution caused by abandoned mines and oil and gas wells.
- The Environmental Good Samaritan Act protects landowners and individuals who volunteer to do such projects from civil and environmental liability under PA laws.

Who is Eligible?

- Any landowner who provides access to the land without charge or compensation for a reclamation or water pollution abatement project
- Additionally, any person, corporation, nonprofit organization or government entity if they:
 - Provide equipment, materials or services for the project for no profit;
 - Did not cause or create the abandoned mineral extraction land or water pollution;
 - Were not ordered by the state or federal government to do the work;
 - Are not performing the work under a contract for profit, such as a competitive bid project or a Government-Financed Construction Contract; and
 - Are not the surety that issued the bond for the site.

Types of Projects Covered

- Land – projects that restore lands abandoned or forfeited and impaired or partially restored by the mineral extraction
- Water – projects that improve water quality from pollution caused by abandoned mines and oil and gas wells

Types of Liability Protection Provided

- Landowner
- Participant

Protections Provided to Landowners

- Injury or damage to a person who is restoring the land or treating the water pollution while the person is on the project area;
- Injury or damage to someone else that is caused by the people restoring the land or treating the water pollution;
- Injury or damage to someone else as a result of the project;
- Any pollution that may be caused by the project; or
- The operation, maintenance or repair of any water pollution treatment equipment constructed on the land, unless the landowner damages or destroys the water pollution treatment equipment or refuses to allow the equipment to be operated or repaired.

Landowners will not be protected from liability if they:

- Deliberately or recklessly cause injury or property damage;
- Charge a fee or receive some other form of compensation for access to the land;
- Violate the law; or
- Fail to warn those who are working on the project about any dangerous conditions of which they are aware within the project work area.
- If the project damages adjacent or downstream landowners, and those individuals had not received written or public notice of the proposed project. This notice is given while DEP is reviewing the proposed project.

Protections Provided to Participants

- Injury or damage that occurs during the work on the project;
- Any pollution coming from the water treatment facilities; or
- Operating, maintaining or repairing the water treatment facilities.

Participants will not be protected from liability if they:

- Cause increased pollution by activities that are unrelated to work on the approved project;
- Deliberately or recklessly cause injury or property damage; or
- Violate the law.
- If the project damages adjacent or downstream landowners, and written or public notice of the proposed project was not provided. This notice is given while DEP is reviewing the proposed project.

How do the protections work?

- State law only!
- While DEP determines project eligibility under the Act, DEP does not have the authority to make legal rulings on who receives protections from liability. That issue must be resolved in civil court. If a landowner or participant in a project is sued for injury or damage, they should use DEP's approval of the project and record of landowners and participants in their defense.

How To Apply

- www.dep.pa.gov
- Type Environmental Good Samaritan into search bar
- Complete the Application
- Send it to your PA DEP District Mining Office

Required Information in Project Proposal Application

- (a) A general description and the objective of the project.
 - (b) A detailed written project plan.
 - (c) A description of the work to be performed.
 - (d) A map or narrative describing the project location and boundaries.
 - (e) A list of the landowners.
 - (f) A list of project participants.
 - (g) The name and address of a newspaper of general circulation published in the vicinity of the proposed project.
 - (h) A list of adjacent and downstream riparian landowners. Riparian landowners are those who own streamside property. The EGSA does not provide immunity to project landowners and participants for damage to adjacent or downstream riparian landowners which results from a project where direct written notice or the newspaper notice was not provided. Consequently, the project applicant must determine the potential for damage from the project when preparing the list of downstream riparian landowners. Consideration should be given to the nature and size of the project and the size of the receiving stream.
 - (i) Documentation that each landowner in the project area gives the department permission to enter the property to observe progress, collect samples, and otherwise do its job.
- *It is recommended, but not required, that the submittal also include color photographs of the land to be reclaimed.

PA DEP Review

- The EGSA authorizes the department to provide advice and information to landowners and other interested people on reclamation and abatement projects.
- Public Notice and Comment - 30 day public comment period
 - DEP publishes notice of receipt of proposed EGSA project in the PA Bulletin
 - Local newspaper or letters to adjacent and downstream riparian landowners
- Once approved, notification is appealable

Aspects of Some Confusion

- Operations and Maintenance are considered “ongoing”
- Project duration
- Who gets included as a participant?
- Riparian landowners within 1000 feet – is that from edge of project or property?
- Keep records of your proposal and approval letters

Federal Good Samaritan Protection?

- It is needed!
- In PA alone, Good Samaritans have constructed over 250 AMD (totaling over \$85Million) treatment systems – a small portion of which are registered with PA EGSA
- Many successes in other states with historic coal legacy as well
- PA serves as a model for any potential Federal Legislation

Helpful Tools

- Contact the individual within your region named on the application!
- DEP hopes to soon have an online application submission
- Where do you go to get names of adjacent and downstream riparian landowners?



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