Policy and Partnerships: H.R. 2937 Community Reclamation Partnerships Act

A New Approach to Good Samaritan Liability Relief for Coal AML Work Under SMCRA Title IV

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Community Reclamation Partnerships  
Act HR 2937  

- New approach to Good Samaritan protections under SMCRA Title IV coal AML Program  
- Introduced by Rep. LaHood (R-IL)  
- Based on State-NGO partnership model  
- Developed as bi-partisan approach  
- Work through existing coal AML program  
- Relieve issues with unrealistic treatment standards, prohibitive potential liability
New Approach To Coal Good Sam

- Coal AML generally handled through SMCRA
- CWA application to SMCRA is dubious
- Court cases confirm fears: East Bay and West Virginia Highlands Conservancy
- CWA/NPDES permit doesn’t work well for AMD treatment
- Unrealistic treatment standards; joint and several liability
CRPA Breakdown

• State AML and State NPDES authority enter MOU; approved by OSMRE and EPA
• MOU outlines AMD water treatment under AML program; MOU takes place of NPDES
• MOU goal is improving water - uses reasonable requirements, e.g. doesn’t require 100% water quality standards if water improving
• Let specifics be negotiated state-by-state; accountability with EPA/OSM approval
• Build on existing state-level arrangements
“(2) MEMORANDA REQUIREMENTS.—Such memorandum shall establish a strategy satisfactory to the State and Federal agencies that are parties to the memorandum, to address water pollution resulting from mine drainage at sites eligible for reclamation and mine drainage abatement expenditures under section 404, including specific procedures for—

“(A) ensuring that activities carried out to address mine drainage will result in improved water quality;

“(B) monitoring, sampling, and the reporting of collected information as necessary to achieve the condition required under subparagraph (A);

“(C) operation and maintenance of treatment systems as necessary to achieve the condition required under subparagraph (A); and

“(D) other purposes, as considered necessary by the State or Federal agencies, to achieve the condition required under subparagraph (A).
CRPA Breakdown

• State can extend protection to eligible NGO groups as “community reclamation partners”
• State submits partnership project to OSMRE
• Partner must meet eligibility; Project must meet conditions of MOU
• If accepted, project is under Title IV MOU, so no NPDES liability if project done right
CRPA Breakdown

• Documentation required to demonstrate eligibility of site and project partners
• Plans for project, including emergency plan
• Show how project will meet terms of MOU
• State accepts ultimate federal responsibility on behalf of partners
• State and partners have separate agreements
CRPA Next Steps

• Hearing held on discussion draft in May, well received
• Markup hearing in June, few tweaks; Passed with Unanimous Consent
• CBO score manageable: $2.5 million
• Passed House on voice vote in early October
• Building support in the Senate now
Partnerships and Strategy for CRPA

• IMCC State AML Programs and NGOs long time partnership under SMCRA
• Working from real, on-the-ground experience
• Solutions in existing systems, other programs
• Working with House Natural Resources Staff
• Bi-partisan Committee effort
Partnerships and Strategy

• Limit the effort to more manageable scale; focus on coal first, existing structure helpful
• Starting at the middle; designed to accommodate all interests from beginning
• Move stalled conversation in congress to state level, build on understanding, relationships there