

Congress of the United States
Washington, DC 20515

July 31, 2017

The Honorable Scott Pruitt
Administrator
U.S. Environmental Protection Agency
William Jefferson Clinton Building
1200 Pennsylvania Ave., NW
Mail Code: 1101A
Washington, D.C. 20460

Dear Administrator Pruitt,

We write to express our concern related to the U.S. Environmental Protection Agency's (EPA) proposed rule, "Financial Responsibility Requirements Under CERCLA 108(b) for Classes of Facilities in the Hardrock Mining Industry," which was published in the Federal Register on January 11, 2017 (82 Fed. Reg. 3388).

This proposed regulation is duplicative, unnecessary and punitive to an industry that generates more than 1.2 million jobs and provides approximately \$3 trillion in added value to America's gross domestic product (GDP).

We greatly appreciate the comment period extension EPA granted earlier this year, which was necessary to allow stakeholders an opportunity for thoughtful review and comment on this complex and important issue.

Today, we reiterate several troubling issues already raised throughout the rulemaking process. The fact remains that EPA's rule seeks to impose excessive and duplicative financial assurance obligations on the hardrock mining and mineral processing (HRM) industry, which will lead to needlessly damaging economic consequences for the industry without yielding even nominal environmental benefits.

Moreover, EPA's imprudent proposal sets a bad precedent for other industry sectors identified by the agency as targets for future CERCLA financial responsibility rules, including chemical manufacturing, oil and gas, and electric utilities.

As it stands, the EPA's proposed rule will produce a duplicative layer of financial responsibility regulations on top of the financial obligations already mandated by existing state and federal regulations. We do not believe that EPA's assessment of the HRM industry appropriately accounted for the comprehensive federal and state programs and associated financial assurance safeguards already in place. These programs ensure that all phases of mining, reclamation, closure and post-closure are designed and operated to provide protection against the very same risks EPA seeks to address in the rule. If EPA finalizes this rule as proposed, the agency will usurp states' regulatory purview and needlessly duplicate stringent state and federal requirements.

EPA's Regulatory Impact Analysis estimates that this rule will impose \$7.1 billion in new financial responsibility obligations on the HRM industry. *See* 82 Fed. Reg. at 3392. According to EPA's data, the proposed rule will require HRM facilities to incur \$171 million per year in new financial responsibility costs, while only saving the government \$15.5 million per year. *Id.* at 3440.

Analyses conducted by affected industries include more comprehensive considerations and assumptions based on knowledge of industry operations. Such analyses estimate the cost of this new federal program to be significantly higher than EPA's already-crippling projections.

The high costs of compliance with the rule will further discourage domestic mineral production and stymie future investment and development opportunities. In turn, this regulation will increase our nation's import reliance on metals and minerals from foreign countries—putting the United States domestic manufacturing, energy, and national security sectors at a major competitive disadvantage. This rule will also have substantial adverse impacts on local economies that depend on high-paying, living-wage HRM industry jobs to support families and generate sufficient tax revenue for local and state governments.

We understand that EPA is currently under a court order to issue a notice of final action by Dec. 1, 2017. As such, we strongly urge you to review and carefully consider industry and Congressional input. In fact, the House Appropriations Committee passed the Interior and Environment Appropriations bill earlier this month with language prohibiting the agency from finalizing the rule in its current form.

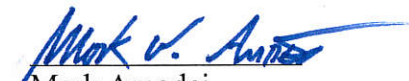
It is our hope that you will conclude, as we have, that this rulemaking is duplicative and unnecessary on account of existent, robust financial responsibility requirements already in place at the state and federal level. The current rulemaking is unnecessary. The agency should choose the "no action" alternative and allow the current requirements already in place to continue.

Thank you for your consideration, and please do not hesitate to contact our offices if we can be of further assistance in these matters.

Sincerely,



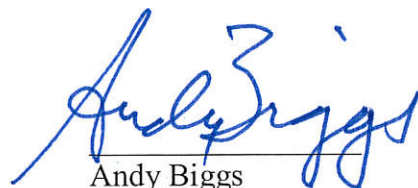
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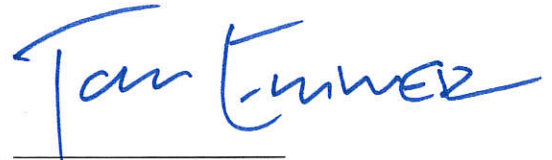
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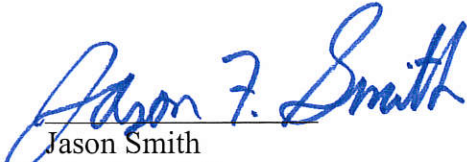
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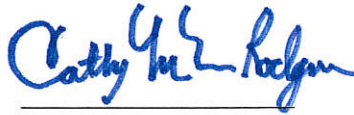
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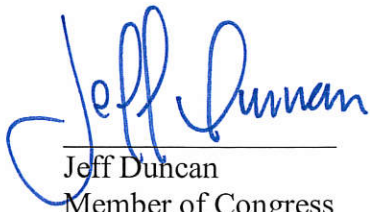
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