

United States Senate

WASHINGTON, DC 20510

August 8, 2017

The Honorable Scott Pruitt
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Ave NW
Washington, DC 20460

Re: Financial Responsibility Requirements Under CERCLA §108(b) for Classes of Facilities in the Hardrock Mining Industry

Dear Administrator Pruitt:

We write regarding the Federal Register notice published on January 11, 2017, regarding updates to requirements under section 108(b) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). We have heard concerns about the proposed rule, which includes iron ore mining as one of the classes of hardrock mining subject to new financial responsibility.

The original Notice of Proposed Rulemaking from December 2016 specifically called for reconsideration of iron ore mining being classified as high risk for financial assurance purposes. The number of iron ore facilities in active operation, their physical size, their annual amount of hazardous substances released, and the extent of their environmental contamination, all point to a misclassification under the proposed rule – particularly given that there have been no iron ore mining sites on Environmental Protection Agency's (EPA) National Priorities List and no federal government expenditures related to CERCLA remediation at these sites. Iron ore (ferrous mining) should not be categorized as the same level of risk factor as, for instance, uranium mining.

Furthermore, the State of Minnesota already has performance-based standards in place that are specifically tailored to address the unique circumstances of individual iron ore mines. As drafted, the proposed rule would create conflicts between the existing State of Minnesota regulatory programs and the EPA.

For these reasons, we ask you to consider including iron ore mining among the categories of low risk mining classes that were excluded from the definition of hardrock mining in the CERCLA 108(b) proposal from December 2016.

Sincerely,



Amy Klobuchar
United States Senator



Al Franken
United States Senator