

Congress of the United States
Washington, DC 20515

July 31, 2017

The Honorable Scott Pruitt, Administrator
U.S. Environmental Protection Agency (EPA)
William Jefferson Clinton Building
1200 Pennsylvania Avenue, NW
Washington, DC 20460

RE: Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)
108(b) Hardrock Mining Financial Assurance Regulations (EPA-HQ-SFUND-2015-
0781)

Dear Administrator Pruitt:

Representing all eight of the United States' active iron ore mining and processing facilities and the thousands of good-paying jobs they provide, we write to raise concerns regarding the EPA's inclusion of this industry in its proposed Section 108(b) rule¹.

Specifically, we believe the agency erred by including the domestic iron ore industry as a covered class in its definition of hardrock mining rather than excluding it with other similar hardrock mining classes that present low Superfund risk.

In doing so, EPA exposed approximately 4,500 family-sustaining jobs in Minnesota and Michigan to burdensome and financially devastating regulations that are not commensurate with the level of CERCLA risk posed by this well-established, low risk-industry that has a history of responsible environmental reclamation practices.

As you may know, in its proposed CERCLA 108(b) rule, EPA solicited comments on whether the iron ore industry presents a lower risk of injury as compared to other classes of hardrock mining and whether such a low-risk designation merits excluding the iron ore industry from the rule. As the EPA reviews these comments, we hope you'll see the merits of an exclusion for a number of reasons, including those outlined below.

Unlike other classes of hardrock mining that rely on heavy chemicals to process mineral commodities, the iron ore sector employs physical separation techniques to separate iron units from the host rock. These techniques have been employed in Michigan's Upper Peninsula and Northeast Minnesota for approximately 170 years and produce value-added iron ore pellets, which are the critical raw material used in the production of iron and steel. The resulting mined areas have been subsequently used for recreation and public drinking water reservoirs. As a

¹ This proposed rule is a product of lawsuits brought by environmental groups in 2008 and 2014, leading to a court order requiring EPA to issue a proposed Superfund/CERCLA 108(b) rule covering the hardrock mining sector by December 2016 and further requiring a final financial assurance rule or determination to be fully promulgated by December 2017.

result, the iron ore industry has minimal CERCLA liabilities as compared to certain other classes of hardrock mining.

Compliance with the rule would come on top of current State regulatory authority and financial assurances already in place. Despite the fact that the iron ore industry has only negligible potential CERCLA liabilities and no history of leaving the federal government on the hook for cleanup costs, we are with the understanding that the proposed CERCLA 108(b) rule would require that the industry post financial assurance for an exorbitant amount that is orders of magnitude larger than any reasonable estimate of the industry's total potential CERCLA liability.

Any requirement to securitize these inflated liability estimates would deprive capital investment needed to remain cost competitive and cause devastating impacts for the strategically important iron ore and steel industries. Both of these industries remain in the fledgling stages of recovery following the commodity recession brought on by the steel import crisis of 2015 and 2016.

We thank you for weighing these concerns and understand EPA's desire to protect against future CERCLA expenditures arising from industries that pose significant CERCLA risks to the Superfund. However, we believe the iron ore industry poses no such imminent risk, and look forward to working with you and your staff on this important issue.

Sincerely,


Richard M. Nolan
Member of Congress


Jack Bergman
Member of Congress

CC: Mr. Byron R. Brown, Deputy Chief of Staff for Policy, Office of the Administrator