

United States Senate

WASHINGTON, DC 20510

February 17, 2017

The Honorable Scott Pruitt
Administrator
U.S. Environmental Protection Agency
William Jefferson Clinton Building
1200 Pennsylvania Avenue, N. W.
Mail Code: 1101A
Washington, DC 20460

Dear Administrator Pruitt:

We write to request a 120-day extension of the 60-day public review and comment period currently established by the U.S. Environmental Protection Agency (EPA) for its 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 Jan. 11, 2017 (82 FR 3388). This additional time will provide state agencies, local governments, and other affected stakeholders an opportunity to thoroughly examine the contents of this proposal and provide the agency constructive comments.

This proposed rule is a far reaching proposal that will have significant impacts on the mining industry as well as other natural resources industry sectors including chemical manufacturing, oil and gas, and electric utilities. The EPA's Regulatory Impact Analysis estimates that the "financial responsibility amount for the regulated industry is \$7.1 billion." According to its own data, the proposed rule will require hardrock mining companies to incur up to \$171 million per year in new financial assurance costs, while only saving the government \$15.5 million per year. It is our understanding that the affected industries' estimates put the cost of this new federal program even higher. In short, cost of compliance will discourage domestic mineral production and lead to significant job losses in the hard rock mining sector.

The current 60-day comment period, which ends on March 13, 2017, is woefully inadequate to review, evaluate, and prepare meaningful public comments on this complex rulemaking. When the proposed rule was first printed in the Federal Register, it spanned 124 pages and was dwarfed by technical supporting documents and relevant materials that the EPA has cross-referenced as part of the index to the docket. As of the date of this letter, there are now more than 2,300 supporting documents exceeding 323,969 pages, more than half of which were added after the original publication. To make matters worse, key tools that are intended to help affected stakeholders determine the impact of the proposed rule and estimate financial responsibility obligations were not made publicly available by the agency until just recently.

It is important to note that the agency only established a 60-day public comment period for this proposal, a limited window typically afforded to noncontroversial proposals on revisions to existing programs. This proposal is classified as a Tier 1 rule, reserved for the most important and complex rules, and establishes

an entirely new federal regulatory program. Given these facts, it is clear an extension of the public review and comment period is necessary.

Thank you for your prompt consideration of this request. Please do not hesitate to contact our offices if we can be of further assistance.

Sincerely,



Dean Heller
U.S. Senator



Lisa Murkowski
U.S. Senator



James E. Risch
U.S. Senator



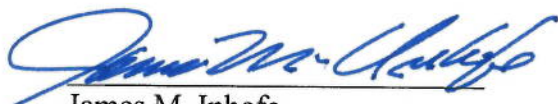
Mike Crapo
U.S. Senator



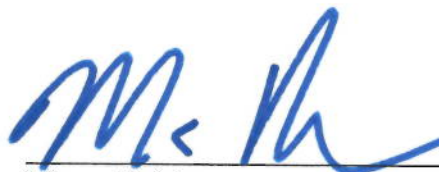
Orrin Hatch
U.S. Senator



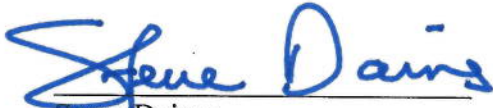
Dan Sullivan
U.S. Senator



James M. Inhofe
U.S. Senator



Marco Rubio
U.S. Senator

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Steve Daines
U.S. Senator

A handwritten signature in blue ink that reads "Michael S. Lee". The signature is written in a cursive style with a horizontal line underneath.

Michael S. Lee
U.S. Senator

A handwritten signature in blue ink that reads "Cory Gardner". The signature is written in a cursive style with a horizontal line underneath.

Cory Gardner
U.S. Senator

cc: Mr. Donald Benton, White House Liaison, U.S. Environmental Protection Agency