

Duplicative Rulemaking that Recasts the EPA as Financial Analyst and Mining Expert

FINANCIAL ASSURANCE RULE

The hard rock mining industry is already heavily regulated at the state and federal levels to ensure that operations are designed, constructed, run and closed in ways that minimize risks to the environment and ensure land restoration. Despite this fact, the EPA is developing unnecessary and duplicative financial assurance requirements on the hard rock mining industry under Superfund.

“...we are concerned about whether EPA has adequately analyzed existing federal and state financial assurance requirements to evaluate properly the need for additional regulation.” – Letter from Rep. Rob Bishop (R-Utah), chairman of the U.S. House of Representatives Natural Resources Committee, and Rep. Fred Upton (R-Mich.), chairman of the U.S. House of Representatives Energy and Committee to EPA Administrator Gina McCarthy

- This rule will cost companies tens of millions of dollars or more in addition to existing financial obligations already committed through state and federal mining reclamation and closure programs that address the risks of mining and mineral processing sites and prevent them from becoming a Superfund liability.
 - EPA's rule has the potential to wipe out what little market capacity exists for affordable financial assurance instruments, leaving cash as the only option – a prohibitively expensive option, designed to do nothing more than put the mining industry out of business.
 - It is rulemaking based on faulty assumptions and not grounded in reality.
 - EPA's analysis is based on mine hypotheticals – not real mines – that are not representative of any operating mines in the United States.
 - The hypotheticals represent a one-size-fits-all approach that ignores unique geology, geography, terrain, climate or mining methods used at a particular mine, or the existing state and federal financial assurance obligations that are functionally equivalent to this rule.
 - This approach overstates potential risk and liability at a facility, resulting in a grossly overinflated cost for compliance.
- Disturbingly, throughout the process, the EPA has conducted the rulemaking with little to no consultation from actual experts from the mining sector or financial institutions. Instead, EPA is searching for a solution to a problem that does not exist for today's mining operations.