

CHAMBER OF COMMERCE
OF THE
UNITED STATES OF AMERICA

WILLIAM L. KOVACS
SENIOR VICE PRESIDENT
ENVIRONMENT, TECHNOLOGY &
REGULATORY AFFAIRS

1615 H STREET, NW
WASHINGTON, DC 20062
(202) 463-5457

February 10, 2017

VIA ELECTRONIC FILING

Ms. Catherine McCabe
EPA Acting Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Mail Code: 1101A
Washington, DC 20460

Mr. Kevin Minoli
EPA Acting General Counsel
U.S. Environmental Protection Agency
William Jefferson Clinton Building
1200 Pennsylvania Avenue, N.W.
Mail Code: 2355A
Washington, DC 20460

Mr. Donald Benton
White House Liaison
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Mail Code: 1101A
Washington, DC 20460

**Re: Request for 120-Day Extension of Comment Period Relating to Proposed
“Financial Responsibility Requirements Under CERCLA § 108(b) for Classes of
Facilities in the Hardrock Mining Industry,” 82 Fed. Reg. 3,388 (Jan. 11, 2017);
Docket No. EPA-HQ-SFUND-2015-0781; RIN 2050-AG61.**

Dear Ms. McCabe, Mr. Minoli and Mr. Benton:

The U.S. Chamber of Commerce, the world’s largest business federation representing the interests of more than 3 million businesses of all sizes, sectors, and regions, as well as state and local chambers and industry associations, and dedicated to promoting, protecting, and defending America’s free enterprise system, respectfully requests that the U.S. Environmental Protection Agency (EPA) extend by 120 days the current 60-day public comment period established for its

proposed rule, “Financial Responsibility Requirements Under CERCLA § 108(b) for Classes of Facilities in the Hardrock Mining Industry,” (the proposed rule) which was published in the *Federal Register* on January 11, 2017. *See* 82 Fed. Reg. 3,388 (January 11, 2017).

The Chamber has serious concerns about the proposed CERCLA § 108(b) rule. Many of our members are in the hardrock mining industry, and the proposed rule would force them to assume substantial liabilities for hypothetical future events that are uncertain. The proposed rule would, moreover, set a precedent for the future regulation of other industrial sectors, whose companies are also Chamber members. *See* “Financial Responsibility Requirements for Facilities in the Chemical, Petroleum and Electric Power Industries,” 82 Fed. Reg. 3,512 (Jan. 11, 2017).

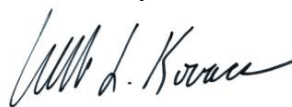
The Chamber has repeatedly expressed our concerns about the proposed rule with EPA and the White House Office of Management and Budget (OMB). In particular, we are troubled that the proposed rule will significantly disrupt the hardrock mining industry, as well as many other industries, while yielding duplicative and overly prescriptive financial assurance mandates. We also have concerns about the rushed process that EPA used to produce the proposed rule.

Accordingly, EPA’s 60-day comment period is inadequate for our members and other stakeholders to review the proposed CERCLA § 108(b) rule—and over 200,000 pages of technical supporting and cross-referenced materials—and then to provide meaningful comment to the agency. Making matters worse, some of the most important materials needed by reviewers has only recently been made available to the public. In light of the tremendous financial impacts at stake for the hardrock mining industry and other industries to follow, it is critical that EPA gives itself the benefit of meaningful stakeholder input.

While the Chamber is aware that EPA operates under an order of the U.S. Court of Appeals for the District of Columbia Circuit to finalize the CERCLA § 108(b) rule by Dec. 1, 2017, that deadline should not deprive affected stakeholders an opportunity to review and comment on this precedent-setting rulemaking. The Court anticipated that an extension of the date might be necessary and provided procedures for securing such an extension. *See* Order, In re: Idaho Conservation League, No. 14-1149 (January 29, 2016). Thus, the Chamber requests that EPA extend the comment period deadline for the rule by 120 additional days, or until July 10, 2017.

If you have questions regarding this request, please feel free to contact me at wkovacs@uschamber.com or at (202) 463-5457.

Sincerely,



William L. Kovacs