

Amigos Bravos * Earthjustice * Earthworks * Great Basin Resource Watch

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Trump EPA abandons safeguards protecting taxpayers from mine cleanup costs

Agency decision leaves communities at risk and taxpayers footing multi-billion dollar bill for toxic releases

WASHINGTON -- Bowing to industry pressure, late last Friday the Trump Administration's Environmental Protection Agency (EPA) refused to finalize a proposed rule governing cleanup costs associated with hard-rock mining - the nation's leading source of toxic releases according to industry self-reporting.

A court settlement forced the Obama Administration to initiate rules intended to hold companies accountable for the cost of their pollution by requiring the companies to demonstrate that they have the funds (financial assurance), up front, to cover the cost of mine clean-up. Unlike other financial assurance requirements by states and other federal agencies, this rulemaking would have covered the clean-up costs of spills and accidents involving hazardous substances unanticipated by a mine plan.

“These rules are necessary because new mines are added to the Superfund list almost every year. Americans have shouldered enormous mine cleanup costs because these protections are not in effect. With this decision, it's clear Scott Pruitt will force taxpayers to pay even more,” **said Bonnie Gestring of Earthworks**. She continued, “It's galling to see the Trump Administration side with industry over the American taxpayer and the many American communities that live with the toxic pollution from these facilities.”

When Congress created the federal Superfund program nearly 30 years ago by passing the CERCLA statute, it gave EPA authority to require hard rock mining companies to demonstrate that they have the funds, up front, to cover the cost of clean-up. However, the rules to implement that authority were never established. After decades of agency inaction, which has allowed company after company to pass the cost of environmental disasters on to taxpayers or allowed abandoned mine sites to bleed toxins into the environment, a coalition of environmental groups successfully sued to force EPA to complete the rulemaking process. The settlement required the mining rule to be issued by December 1, 2017. It also requires the EPA to issue decisions on pursuing new rules on three other industries: coal-burning power plants, petroleum and coke refineries, and chemical manufacturing plants.

“Scott Pruitt is thumbing his nose at both the law and the judges of the D.C. Circuit,” **said Jan Hasselman, attorney with Earthjustice**, which has been litigating this issue on behalf of organizations for nearly a decade. “We know that these rules are critically needed to protect communities and taxpayers, but after meeting with mine company CEOs and lobbyists, Pruitt threw

the proposed standards in the trash and declared that the problem doesn't exist. We will see Pruitt and his 'alternative facts' in Court."

American taxpayers already face an enormous financial burden, and communities throughout the U.S. already face extensive delays in cleanup of toxic waste from mine operations. The EPA estimates the backlog of clean-up costs for hardrock mines across the country at \$20-\$54 billion -- vastly more than the entire annual Superfund budget.

According to the Toxic Release Inventory, metal mining is the nation's leading source of toxic pollutants, generating nearly 2 billion pounds a year of hazardous materials such as arsenic, mercury, lead and cadmium.

"Pollution from mining activities has contaminated drinking water, poisoned streams, killed fish, and caused corrosion of our nation's infrastructure," **said Rachel Conn of Amigos Bravos.** "Unfortunately the Trump Administration's final rule ensures that the public and the environment will continue to pay the price of this pollution."

"Congress 30 years ago justly wanted to see that the industry would be held accountable upfront for the likely failures to cleanup mine sites. Lack of action by EPA has resulted in a number of toxic sites in Nevada with no cleanup, including groundwater contamination in Yerington requiring people to be supplied with bottled water," **said John Hadder of Great Basin Resource Watch.** "The Anaconda site will now cost 100's of millions more to clean up due to the groundwater contamination that could have been arrested had the EPA regulations been in place."

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- EPA press release announcing final decision not to issue financial assurance rules:
<https://www.epa.gov/superfund/final-action-financial-responsibility-requirements-under-cercla-section-108b-classes>
- Draft rule issued in December 2016 that was abandoned by Trump EPA:
<https://www.federalregister.gov/documents/2017/01/11/2016-30047/financial-responsibility-requirements-under-cercla-108b-for-classes-of-facilities-in-the-hardrock>
- Prepublication version of EPA final decision not to issue rules:
<https://www.epa.gov/superfund/pre-publication-version-final-rule-financial-responsibility-requirements-under-cercla>