



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

DEC 21 2016

OFFICE OF
SOLID WASTE AND
EMERGENCY RESPONSE

NOW THE
OFFICE OF LAND AND
EMERGENCY MANAGEMENT

Dear Honorable Leader:

In accordance with the *EPA Policy on Consultation and Coordination with Indian Tribes* (<https://www.epa.gov/tribal/epa-policy-consultation-and-coordination-indian-tribes>), the U.S. Environmental Protection Agency (EPA) is initiating consultation and coordination with federally-recognized Indian tribes on the proposed rulemaking under Section 108(b) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), as amended. The Agency has identified classes of facilities within the hardrock mining industry as those for which financial responsibility requirements will be first developed, and the EPA believes that some of these hardrock mines and mineral processing facilities are likely to be located close to tribal lands.

During the development of the proposed rule, the EPA extended consultation and coordination to federally-recognized Indian tribes from June 15 to August 15, 2016 under *EPA's Consultation Policy*. During this period, we requested tribal leaders and/or their designated representatives submit written comments to the Agency. We also conducted an informational webinar for federally-recognized tribes on June 22, 2016, a conference call with the National Tribal Caucus on August 3, 2016 and a conference call with the Great Lakes Fish and Wildlife Service on August 8, 2016, at their request.

The proposed rule was signed on December 1, 2016. The EPA has made available for review a pre-publication version of the proposed rule on financial responsibility requirements under section 108(b) of CERCLA for classes of facilities in the hardrock mining industry. The pre-publication version of the proposed rule is available on the Superfund Financial Responsibility webpage: <https://www.epa.gov/superfund/pre-publication-copy-proposed-financial-responsibility-requirements-under-cercla-section>.

While EPA has taken steps to ensure the accuracy of this internet copy of the rule, it is not the official version of the proposed rule. The official version will be available through a *Federal Register* publication, which will appear on the U.S. Government Printing Office's website: <https://www.gpo.gov/fdsys/browse/collection.action?collectionCode=FR>. The Agency will accept written comments for 60 days after the rule is published in the *Federal Register*. Instructions for submitting written comments to the Agency will be included with the version of the rule published in the *Federal Register*.

The EPA invites you and your designated representative(s) to participate in the tribal consultation and coordination process, which will extend for 60 days after the proposed rule is published in the *Federal Register*. During this consultation and coordination period you may initiate government-to-government consultation with the Agency.

To provide you with an opportunity to learn more about this proposed rule, the EPA will host an informational webinar for the federally-recognized tribes on January 12, 2017 from 1:30 pm – 2:30 pm EST. The webinar will be available at: <http://epawebconferencing.acms.com/tribaloutreach108b>. For audio only, please use the conference number: USA: +1 (866)-299-3188, Conference Code: (703)-605-0768.

The EPA will also host a webinar for all interested parties focused on the financial responsibility formula on January 30, 2017 from 2:00 pm - 3:00 pm EST. To register, please visit: <https://clu-in.org/conf/tio/108bfrf/>. You will receive additional information on how to connect to this webinar after you complete the registration.

The EPA has set up an electronic mailbox for participants to submit questions prior to the webinars, and the EPA will seek to respond during the webinar. However, due to the volume of questions anticipated, the EPA may not be able to respond to all questions. You may submit clarifying questions in advance to: CERCLA108b_FRTC@epa.gov with subject lines “108(b) tribal webinar” or “financial responsibility formula webinar.” Please submit any clarifying questions by January 6, 2017 for the informational webinar and January 23, 2017 for the financial responsibility formula webinar. The EPA also expects to accept questions during the webinar. Do not submit comments on the rule to this mailbox. As discussed above, the comment period will begin after publication of the proposed rule in the *Federal Register*. To ensure the EPA considers them, comments on the proposed rule must be submitted in accordance with the instructions provided with the published version of the proposed rule in the *Federal Register*.

The official EPA contact person for this consultation and coordination process is Sonya Sasseville, Director of the Program Implementation and Information Division, who is available at: (703) 308-8404 or via email at sasseville.sonya@epa.gov. Your staff may also contact Linda Barr at (703) 605-0768 or barr.linda@epa.gov to request additional information or arrange a meeting with the EPA. Please continue to visit EPA’s Tribal Portal at: <https://yosemite.epa.gov/oita/TConsultation.nsf/TC?OpenView> to track this tribal consultation effort.

I look forward to hearing from you regarding this important matter.

Sincerely,



Barnes Johnson, Director
Office of Resource Conservation and Recovery