NACCO Industries, Inc.

Mary D. Maloney
Associate General Counsel, Senior Director Benefits & Human Resources and Assistant Secretary

December 2, 2013

VIA Electronic Submission (*rule-comments@sec.gov*)
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090

Re: **Pay Ratio Disclosure – Comments on Proposed Regulations**

We are providing comments in connection with the notice of proposed rulemaking issued by the SEC under Item 402 of Regulation S-K to implement Section 953(b) of the Dodd-Frank Wall Street Reform and Consumer Protection Act with respect to the disclosure of the ratio of the compensation of all employees of an issuer other than the Principal Executive Officer (PEO) to the total compensation of the PEO (the "Pay Ratio Disclosure Regulations" or "Proposed Regulations").

We appreciate the SEC's attempt to provide flexibility and simplify the pay ratio disclosure requirements. However, we strongly urge the SEC to reconsider the usefulness of the pay ratio disclosure rules, especially taking into consideration the time and cost involved in calculating the PEO pay ratio. In the event that the SEC is unwilling to rescind the Pay Ratio Disclosure Regulations in their entirety, we respectfully request that the SEC take into consideration the additional clarifications and/or changes described below.

Company Summary

NACCO Industries, Inc. (NACCO) is a publicly-traded holding company (NYSE symbol: NC) with 28 domestic subsidiaries and 9 international subsidiaries/branches. Prior to September 28, 2012, when NACCO spun-off one of its major subsidiaries (Hyster-Yale Materials Handling, Inc.) (NYSE symbol: HY), NACCO owned an additional 4 domestic subsidiaries and 38 international subsidiaries/registered offices.[1] NACCO's subsidiaries operate in the following three principal industries: (1) mining operations conducted by The North American Coal Corporation and its subsidiaries (NA Coal); (2) the design, marketing and distribution of small appliances and commercial products by Hamilton Beach Brands, Inc. (HBB) and (3) specialty retail stores operated by The Kitchen Collection, LLC (KC). In 2012, NACCO had total consolidated revenues of $873.4 million, plus revenues from NA Coal's unconsolidated mining operations of $35.6 million.

[1] See letter dated December 2, 2013 from Suzanne S. Taylor, Vice-President, Deputy General Counsel of Hyster-Yale, also commenting on the Pay Ratio Disclosure Regulations.

The following chart summarizes certain employee and geographical information for NACCO and its subsidiaries for 2012 that is relevant to our comments on the Pay Ratio Disclosure Regulations:

	NACCO	**NA Coal**	**HBB**	**KC**
Type of Business	Professional – Holding Company	Coal Mining and Consulting	Design/marketing and distribution of small appliances	Retail
Number of Employees who were issued 2012 Form W-2s (or similar tax documents (5,847)[2]	12	1,719	572	3,544
2012 Geographic Locations with Employees	U.S. only	U.S. & ex-pats in India	U.S., Canada, Mexico, Hong Kong & China (143 non-U.S.)	U.S. only
Number of Monthly Payrolls	2	30-51	Weekly, bi-weekly and semi-monthly	50 (on two systems)
Major Corporate Events in 2012	Spin-off of Hyster-Yale (reduction of approx. 5,000 employees)	Purchase of four mining operations (addition of over 200 employees)	N/A	N/A
Use temporary employees (on company payroll)?	No	Yes (between 50 and 200)	No	Yes (holiday hires approx. 900)
Use "leased employees" (from temporary agency)?	Yes	Yes	No	No
Use part-time employees?	No	Yes (few)	Yes (approx. 30)	Yes (approximately 2,000)
Any non-consolidated entities?	Yes (See NA Coal)	Yes (approx. 927 employees)	No	No

[2] Excludes employees of HY who were spun-off in 2012.

The Pay Ratio Disclosure Requirement Provides No Benefits to Investors, Is Burdensome and Costly and Should be Repealed in Its Entirety

NACCO does not believe that the Pay Ratio disclosure will provide any meaningful information to investors. Investors already receive a significant amount of information regarding our executive compensation practices through our proxy materials. None of NACCO's investors have asked for information on the pay received by our rank-and-file employees. In fact, several investors have complained to us that the current proxy disclosure rules are too complicated and provide "too much information." In addition, general wage information (by industry) is already available from multiple sources, including the DOL's Bureau of Labor Statistics (BLS) and any of our employees can simply calculate their own pay-ratio by dividing their W-2 income by the PEO's total compensation shown in our annual proxy statement.

In the Preamble to the Proposed Regulations, the SEC estimates that approximately 3,830 registrants will be subject to the Pay Ratio disclosure rules. Once issued, investors and the public will naturally compare the disclosures provided by different companies, without taking into account the differences in industries, geographic locations, staffing decisions or business models. We believe that the disclosure is likely to lead to misleading conclusions and have many unintended consequences, including encouraging investors to base their Say-on-Pay votes solely on our PEO pay ratio number and not taking the time to understand our compensation strategy.

For example, the Pay Ratio Disclosure does not take into account the fact that, in most cases, 100% of the "median employee's" compensation is "guaranteed," whereas the vast majority of most PEO's compensation is performance based. The 2012 total compensation shown in the summary compensation table of the 2013 NACCO Proxy Statement for Alfred M. Rankin, Jr. (NACCO's PEO) was $9,285,582[3]. Of that amount, $5,892,034 (63%) was pure performance-based incentive compensation and an additional $2,232,004 (24%) was above-market interest and profit sharing contributions that are based, in part, on the performance of NACCO's return on total capital employed (ROTCE). Thus, only 13% of Mr. Rankin's 2012 total compensation was payable regardless of how NACCO performed.

The intent of the Pay Ratio Disclosure legislation appears to be to embarrass companies and their PEOs, rather than to provide useful information to investors. *See* Footnote 198 to the Preamble to the Proposed Regulations which quotes a letter from the AFL/CIO: "Company CEOs ... may be potentially embarrassed by their companies' Section 953(b) disclosures." The SEC disclosure requirements should not be used as a tool to further a political or social agenda. Rather,

[3] The total compensation amount listed in NACCO's 2013 Proxy Statement for Mr. Rankin included the sum of (i) compensation he earned during the first nine months of 2012 prior to the HY spin-off when he was employed by a subsidiary of HY while HY was a subsidiary of NACCO and (ii) the compensation he earned from NACCO following the spin-off date. The SEC disclosure rules required that the compensation earned by Mr. Rankin in 2012 prior to the spin-off be included in both NACCO's and HY's Proxy Statements. The disclosure is duplicative and he was not compensated twice for the same duties. His actual total compensation for 2012 was $10,388,186 ($7,202,540 paid by NACCO and $3,185,646 paid by HY). See Footnote 1 to NACCO's 2012 Summary Compensation Table in the 2013 Proxy Statement.

the SEC's disclosure requirements should be used to protect and inform investors and maintain and promote efficient and fair capital markets. The Proposed Regulations do neither.

NACCO is a holding company that owns companies in three very diverse industries. As stated in our Proxy Statement, there is a single over-riding compensation philosophy that is applied at all companies. We use the "Hay Group All Industrials" index as a benchmark for setting compensation. However, due to the different industries in which the subsidiaries operate and from which they draw their employee talent pool, there can be substantial differences between the average pay at each subsidiary. We have a mix of blue collar, white collar and retail/temporary employees, so the compensation of our "combined" average employee is going to be lower than the compensation of employees in certain single industries.

We are also *very* concerned about the cost of complying with the Proposed Regulations. We very much appreciate the SEC's proposal to allow companies to identify the "median" employee using statistical sampling and by applying a consistent compensation measure (such as W-2 wages). However, even with those concessions, NACCO will still be forced to hire an outside consulting firm to assist with this process and we expect it will take several months and hundreds of thousands of dollars to complete. It took almost six weeks to gather the simple summary information shown on the above table. Even then, we could not determine who was employed on December 31, 2012. We were able to determine the number of persons who were issued Form W-2s (or similar tax information documents) in 2012 (5,847, 143 outside the U.S.). We run over 100 payrolls per month and none of our payrolls are integrated with each other. We have requested quotes from various consulting companies regarding what it would cost for them to assist us with the "statistical sampling" method of identifying the "median employee" contained in the Proposed Regulations, but no one was able to provide a quote until they are able to test our various payroll systems. This alone will cost between $50,000 and $100,000 and that is before any actual work begins. The actual cost is indeterminable and we believe it could cost over $500,000, as it will depend on (i) the availability and accuracy of our employee data, (ii) the scope of the final Regulations and (iii) whether we choose to disclose the bare minimum or if we decide to provide various alternative disclosures that would provide investors with more context to the numbers. Due to the minimal (if any) benefits that are provided by the PEO Pay Ratio Disclosure, this added expense will be a waste of corporate assets that could be much better spent elsewhere (for example, hiring more rank-and-file employees).

For these reasons, we ask that the Proposed Regulations be repealed in their entirety.

If Not Repealed, the Proposed Pay Ratio Disclosure Regulations Must be Substantially Altered Prior to Implementation

In the event that the Proposed Regulations are not revoked in their entirety, there are many changes that may be made that will simplify the data gathering process, reduce costs and still comply with the intent of the pay disclosure statute.

I am the person who is responsible for compiling the compensation data that is disclosed in the NACCO Proxy Statement each year. NACCO and each of its subsidiaries operate autonomously. This means that each company has its own payroll system (and, for all companies other than NACCO headquarters, more than one payroll system) and that each company maintains its own incentive compensation plans, with different performance measures and payouts. Due to the complexity of compiling compensation information from four different companies, the proxy process begins in the fall. A team of payroll, compensation, employee benefits and senior management employees at each subsidiary compiles the information for the ten or so most highly compensated employees at each company. We are generally able to narrow down the potential list of named executive officers (NEOs) who will be required to be named in the Summary Compensation Table to approximately 15 executives. However, because (i) the annual W-2's for U.S. employees are not required to be issued until January 31st and (ii) final incentive compensation payouts are not calculated until February, the final list of NEOs is not determined until late February. This requires us to manually compile the compensation information required to be listed in the Summary Compensation Table for all potential NEOs during the months of January and February in order to meet the Proxy filing deadline (including retaining the services of an actuary to calculate the present value of all pension benefits). Using the same process to determine the "total compensation" of our rank-and-file employees would be impossible.

We therefore recommend that the SEC seriously consider the following proposed changes to the Regulations. If implemented, the revised disclosure rules will comply with the spirit of the statutory disclosure requirement but the changes will significantly reduce the burden on reporting companies.

Allow the use of "Average" Employee Compensation instead of "Median"

We acknowledge that the statutory language of Section 953(b) uses the word "median" rather than the word "average." However, in the Preamble to the Regulations, the SEC admits that "Section 953(b) does not expressly set forth a methodology that must be used to identify the median, nor does it mandate that the Commission must do so in its rules." As noted in Footnote 73 to the Preamble, various members of Congress who were responsible for the law specifically used the word "average" when referring to the intent of the disclosure requirements:

- Senator Menedez: "I wrote this provision so that investors and the general public know whether public companies' pay practices are fair to their ***average employees***."

- House Letter and Senate Letter: Noting that Section 953(b) "requires disclosure by public companies of the ratio between the compensation of their CEO and the typical worker at that company...there is no question that CEO pay is soaring compared to that of ***average workers***."

Investors, as well as the general public, are not concerned with the "median" employee. Allowing companies to calculate and disclose the "average" total annual compensation of the "average" employee has the following advantages:

- It will substantially reduce compliance costs. Average compensation may be calculated internally, without the use of an outside advisor.

- The average compensation/employee concept is more readily understood by the general public and the retail investors than the compensation of a "median" employee. (Indeed, the general public may not understand what a "median" employee means.)

- Average compensation may be calculated using readily available payroll records. It reduces the number of hours required to comply with the disclosure requirements and allows internal employees to focus on other activities that increase shareholder value and employee satisfaction.

We propose that companies be allowed to determine the average compensation of the average employee as follows (additional details below). For this purpose, assume that the disclosure is required for the 2012 calendar year:

- Step 1 – Determine the W-2 box 1 wages (or comparable amount for non-US employees) for the 2012 calendar year for all "applicable employees" other than the PEO. Convert non-US amounts to US dollars using any reasonable conversion method.

- Step 2 – Divide the amount determined in Step 1 by the number of applicable employees. This resulting amount is the amount of the "average employee compensation" for 2012.

- Step 3 – Determine the "total annual compensation" of the PEO for 2012 using the current rules for Summary Compensation Tables under Item 402.

- Step 4 – Divide the amount determined under Step 2 by the amount determined under Step 3 to determine the pay ratio that will be disclosed. For example, assume that the average employee compensation for 2012 for the NACCO group was $50,000. Mr. Rankin's total compensation as disclosed on the Summary Compensation Statement in the 2013 Proxy Statement was $9,285,582. $9,285,582 divided by $50,000 is 185.7. Our disclosure would read "Mr. Rankin's annual total compensation as shown on the Summary Compensation Table is 186 times that of the average annual compensation of all applicable employees of the Company." .

This disclosure method is easy to calculate, explain and understand. The "median" method currently contained in the Proposed Regulations does not provide any additional meaningful information.

Whether the final Regulations require the use of "average" or "median" compensation, there are many other issues that need to be resolved. The following issues are listed in the order that they appear in the Preamble to the Proposed Regulations:

Included/Applicable Employees Should be Limited to Full-Time U.S. Employees

The Proposed Regulations take the position that PEO pay must be compared to the pay of "all employees." However, the SEC clearly has the authority to interpret this phrase in the Regulations and should consider the following modifications to this rule:

1. The final Regulations should continue to provide that "leased employees" (i.e., those employed by a temporary staffing agency who perform services for the registrant) should not be taken into account for this purpose. NACCO and its subsidiaries do not track or report W-2 wages for these service providers. This is the responsibility of the staffing agency. NACCO merely pays a single invoiced amount to the staffing agency, which includes service fees, taxes and other amounts that are not considered wages. Obtaining individual W-2 wage information from the staffing agency for each temporary employee would be expensive and time consuming.

2. The final Regulations should allow registrants to exclude employees who are not employed on the last day of the registrant's fiscal year (December 31st in NACCO's case). This is the same rule used to identify the NEOs who are disclosed in the Proxy Statement. However, this rule should be optional. When compiling employee data for this letter, I discovered that the payroll systems at two of our subsidiaries do not currently have an automated method of determining who is employed on December 31st. At those subsidiaries, we will need to reprogram the system or manually review the files to eliminate persons who are not employed on December 31st. Either of those options will be expensive and time consuming. As a result, registrants should be permitted to include compensation information for everyone employed during the year if it is administratively easier. The final Regulations also should permit each registrant to choose another "snapshot date" that is consistently applied. A registrant should be able to apply a "separate line of business" concept (similar to the one allowed under Internal Revenue Code 414(r) for non-discrimination testing for qualified U.S. retirement plans). For example, NACCO should be allowed to choose December 31st as the reporting date for NACCO, HBB and NA Coal, but choose June 30th (for example) for KC since that date is more representative of the KC workforce without the approximately 900 seasonal employees it hires for the holiday season.

3. The final Regulations should exclude all non-U.S. employees. Due to international variations in pay standards and benefits, disclosing the pay ratio of a U.S. PEO compared to the average compensation of workers outside the U.S. is meaningless. If non-U.S. employees are not excluded in their entirety, then special rules should apply. For example, if non-U.S. employees make up less than 20% of the employee population, the registrant should be able to exclude all of them from the calculation. They are not likely to make a very big difference in the final pay ratio calculation and the cost of obtaining and reviewing their data will outweigh any benefit of disclosure. Similarly, if non-U.S. employees make up more than 80% of the employee population, the registrant should be exempt from reporting the pay ratio in its entirety. In addition, allowances have to be made for privacy law requirements in local jurisdictions. NACCO has not engaged legal counsel in the foreign jurisdictions in which HBB operates to determine all applicable privacy laws (which would be outrageously expensive). However, based on discussions with internal local human resource managers, each of these countries has different privacy statutes that need to be reviewed before any personal compensation data is submitted back to the U.S. Note that, in prior years, when a NEO of NACCO was employed by a subsidiary in the U.K., we were advised by outside legal counsel that a written waiver was required from that individual before the local H.R. office could provide me with his compensation information. A large, multi-national company should

not be forced to obtain legal advice in every jurisdiction regarding local privacy laws in order to comply with the pay ratio disclosure rules (and certainly not within the time frames currently contemplated by the Proposed Regulations). Therefore, at the very least, non-U.S. employees should be excluded from the calculations for a period of at least three years after the initial effective date.

4. The final Regulations should exclude all part-time, seasonal and temporary employees from the calculations. Including "permanent" part-time employees will skew the results due to their lower compensation amounts. In any event, however, seasonal and temporary employees absolutely should be excluded from the calculations. This is particularly true with respect to companies like our KC subsidiary, which, in 2012 operated 312 retail stores across the country and hired over 900 seasonal employees for the holiday season. These employees are hired with the understanding that their employment is for a limited period of time. KC provides jobs for college students on break, second jobs to assist with holiday expenses, etc. Based on reported W-2 wages for 2012, KC's average wages for full time employees were close to $30,000, while the average wages for seasonal holiday employees were approximately $1,100. It is blatantly unfair for the seasonal employees' wages to be included in the NACCO PEO's pay ratio disclosure calculations. By their very nature, these "holiday employees" will be on the payroll on December 31st and will decrease the median/average compensation level. Unless KC (and other retailers) are permitted to exclude these employees or choose a measurement date other than December 31st, they will be disadvantaged compared to other types of employers who hire seasonal workers in the summer (restaurants and amusement parks) who will be able to exclude their seasonal employees from the calculations and thus increase the average compensation of workers compared to the PEO.

5. An additional rule should be added to the final Regulations that allows employers to exclude any person who was not employed for at least four months during the calendar year. The rules could contain a consistency requirement to prevent companies from selectively choosing which employees to include or exclude. While the Proposed Regulations permit employers to "annualize" the wages of "permanent" part-time employees, this will be entirely too costly and burdensome to administer and is not likely to be used by anyone. For this reason, the annualization calculations should remain permissive and not be made mandatory.

6. The Proposed Regulations require that all employees of NACCO and its subsidiaries (as defined under Rule 405) be included in the calculation. The employees of any unconsolidated subsidiary or any joint venture or subsidiary that is less than 50% owned by the registrant should be excluded. At NA Coal, for example, of the 1,719 Form W-2s it issued in 2012, 927 were employed by mining subsidiaries whose results are not consolidated in the NACCO financial statements, even though those companies are wholly-owned subsidiaries of NACCO. NACCO should be able to exclude these employees from the pay ratio calculations. (This, of course, exemplifies the problem of not being able to have an "apples-to-apples" comparison of pay ratios among various companies based on the structure of each particular company.) In the joint venture context especially, the registrant may not have access to individual employee

compensation data and, depending on the ownership structure, the other party to the joint venture may not be willing to provide this information.

7. While registrants should be *permitted* to disclose two or more separate pay ratios, they should *not* be *required* to provide anything other than one pay ratio as required by the statute. NACCO does not believe that the pay ratio disclosure will provide any useful information to investors or the general public. It will merely confirm that the PEO is paid considerably more than the average rank-and-file employee, which information is already available from various public sources (e.g., U.S. Bureau of Labor Statistics). Therefore, some companies will simply want to disclose the information at the lowest cost possible and let the public decide for itself whether the PEO is overpaid. Shareholders already have this opportunity, with the much more detailed and relevant information that is required under current compensation disclosure requirements and the "Say on Pay" votes. Other companies may decide to spend additional funds and provide additional information. Each company should be able to make that decision based on its own particular circumstances.

<u>Calculation of "Average Compensation"</u>

We recommend that the "average compensation" of "all applicable employees" be determined using a "consistently applied compensation measure" as specified in the Proposed Regulations. This eliminates the two step process currently contained in the Proposed Regulations (i.e., first identifying the "median" employee by estimating W-2 compensation and then by calculating the "total annual compensation" for that employee using the Summary Compensation Table rules in Item 402).

Reporting companies should also be permitted to provide a range of average annual compensation numbers and pay ratios in a table, such as the following:

Average 2012 Annual Compensation	PEO 2012 Total Annual Compensation (as disclosed in the Summary Compensation Table)	Pay Ratio – PEO Total Annual Compensation disclosed in the Summary Compensation Table is how many times greater than the average 2012 annual compensation of other applicable employees?
$35,000	$9,285,582	266 times greater
$50,000	$9,285,582	186 times greater
$75,000	$9,285,582	124 times greater

If this model is adopted, the registrant would be required to specify (1) the employees who are included/excluded from the "applicable" employee group; (2) the methodology used to calculate the average annual compensation and (3) the estimated amount of actual average annual compensation (using reasonable estimates). For example, a sentence would be included under the table that would read:

"We calculated the average annual compensation by aggregating the amounts disclosed in Box 1 of the Form W-2 (generally, wages, salaries and tips) as reported to the Internal Revenue Service for U.S. employees (or the equivalent amounts for non-U.S. employees) and divided it by the total number of applicable employees, excluding Mr. Rankin. Using this methodology, we believe that the average annual 2012 compensation for all applicable employees is between $35,000 and $75,000."

This simplified method will enhance, rather than distort, the disclosure.

Identifying the Median/Timing of Disclosure

With respect to the specific questions raised by the SEC in the Preamble under "Identifying the Median" and "Timing of Disclosure" please consider:

1. The use of "reasonable estimates" to identify the median/determine average annual compensation should be permitted, but no further guidance or safe harbors are needed or requested. The Final Regulations should not require that the results meet specified confidence levels, as this will definitely require all registrants to hire outside consultants. Simplifying the disclosure (as shown above) eliminates most of these issues.

2. There is no good reason to calculate the "compensation of all employees other than the PEO" using the Summary Compensation Table rules of Item 402. Using average compensation obtained from Form W-2 (or comparable non-U.S. forms) simplifies the calculation and, if anything, will understate the average compensation of the non-PEO employees and thus overstate the pay ratio disparity. This is because certain information (e.g., employer contributions to defined contribution plans; change in actuarial value of pension benefits and certain elements of "other compensation") that are included in the PEO Summary Compensation Table compensation amount will not be included in the average compensation number. If a particular registrant is not concerned about the pay ratio number (or, more likely, does not believe that it provides any useful information), then it should be permitted to save the expense of making detailed calculations that, in the end, will not have a material impact on the potential usefulness of the final pay ratio. In the example shown on the above-table, we do not believe it would be worth an additional $100,000 in consultant costs (and countless hours of employees' time) to determine that the median employee's "total compensation" was actually $38,576 (instead of between $35,000 and $50,000) and that the PEO's pay was actually 241 times that employee's total compensation. The estimates shown on the above table provide investors with the information required to be disclosed in the statute. Whether the actual pay ratio is 186, 241 or 266 times greater does not provide enough additional useful information to justify the costs of providing that level of detailed disclosure.

3. Registrants should be permitted to use the time period that is used for payroll or tax recordkeeping when calculating average compensation. For example, for the 2012 reporting period, a registrant with employees in the U.S. and the U.K. should be permitted to use (1) W-2 box 1 compensation as reported on the 2012 Form W-2 for U.S. employees plus (2) the compensation reported for the U.K. employees as of April 6, 2012 (the tax period ending with or within the registrant's fiscal year). The registrant should not be forced to recalculate all U.K. employees' income for the 2012 calendar

year, since such amounts are not readily available in the payroll system. Although this differs from the Proposed Regulations, which would require the use of fiscal year compensation in the final calculation of the pay ratio for the selected "median employee," this is not statutorily required. It is very unlikely that there will be a big swing in non-U.S. compensation from year-to-year and, if there is, it will be captured in the next reporting period. Using compensation data that is readily available (even if not on a fiscal year basis) will not negatively impact the usefulness of the pay ratio disclosure. If the SEC does not want to provide for blanket approval of non-fiscal year measures, it should at least allow it for registrants with non-U.S. employees making up less than 20% of the total workforce.

4. Registrants should not be *required* to disclose additional narrative information such as employment policies, use of seasonal workers, outsourcing, etc. In addition to providing confidential data to our competitors, it is very unlikely that this information would assist investors in understanding the pay ratio. However, a particular registrant should have the ability to provide supplemental information, at its discretion.

5. In the event that the SEC does not eliminate non-U.S. employees entirely from the calculations and continues to require the identification of a median employee and the use of actual fiscal year compensation calculated in accordance with the rules in Item 402, then the timing of the disclosure in the Proposed Regulations is insufficient after the end of our fiscal year for us to comply with the disclosure requirements. Our payroll departments are extremely busy the first quarter of the year, finalizing and distributing Form W-2s, calculating incentive compensation payments and running special incentive compensation payrolls. In addition, I spend approximately 80% of my time from December through mid-March on the Proxy Statement, much of it simply gathering the required information for the NEOs. Due to the complexities of a holding company (e.g., many payrolls, different industries, different systems, international operations), as well as the time required to calculate our final incentive compensation payments, it will be impossible to finalize the additional pay ratio disclosure by the Proxy filing deadline. Using reasonable estimates is not a workable solution, since the same amount of underlying work will be required. Our recommendation is that if such disclosure is required, it should be filed separately on a Form 8-K after the Proxy is filed and at least 14 days before the annual shareholders meeting. This will give NACCO the opportunity to focus on the pay ratio disclosure (and rank-and-file employee information) separately from the information required for the Proxy filing. Such a delay will not impact the usefulness to investors of the disclosure, since it will be provided before any "say on pay" vote is required.

<u>Additional Comments</u>

1. At the very earliest, the pay ratio rules should not be effective until the 2017 Proxy season (using 2016 compensation data). With health care reform compliance scheduled to be effective on January 1, 2015, and detailed reporting requirements required in early 2016, our computer systems, payroll, IT and human resources employees will already be stretched to the limit. We also need time to interview consultants and test computer systems.

2. The Final Regulations must include transition periods for significant corporate events. In 2012, NACCO experienced two significant corporate events. The first was the spin-off of Hyster-Yale, which resulted in a reduction in the number of NACCO group employees from over 9,000 to approximately 4,000. The second was NA Coal's purchase of four mining companies in Alabama, which resulted in the addition of 200 employees. These types of corporate events will have a major impact on the PEO pay ratio. For example, it took NA Coal almost 6 months to integrate the purchased coal mines into their compensation structure and employee benefits. Moving to the NA Coal compensation system increased the employees' compensation substantially. If NACCO had been required to include these employees in the pay ratio calculation in 2012 (at their old, lower compensation rates), the disparity in our PEO ratio would have been unfairly increased (since we had nothing to do with setting the old compensation policy). In similar fashion, the loss of approximately 5,000 Hyster-Yale employees would have had the same effect. In lieu of adopting a different transition rule that would apply solely to the PEO pay ratio rules, we propose that the SEC apply rules similar to the "transitional rules" of Internal Revenue Code 410(b)(6) which apply for non-discrimination testing purposes of qualified retirement plans (and which should be known to most U.S. registrants). As applied to the pay ratio rule, Code Section 410(b)(6) would allow the registrant to ignore the impact of a corporate event through the last day of the fiscal year following the year in which the event occurred. For example, the NA Coal mine purchase occurred in August, 2012. NACCO would not have to take these employees into account under the pay ratio rule until January 1, 2014.

3. The final Regulations should contain a safe-harbor or simplified reporting method. It is no surprise to anyone that the average PEO is paid much more than the average rank-and-file employee. At some point, the actual number becomes meaningless. For example, if a registrant is willing to state that they believe that the total compensation of its PEO exceeds 300 times that of the average worker, then no additional disclosure should be needed.

4. Regardless of the method for choosing the median/average employee in the final Regulations, a registrant should be able to determine the average compensation by taking into account only taxable compensation (for the applicable period) that is reported to taxing authorities and is readily available in payroll systems. For example, the registrant should be able to ignore pension benefits, above-market interest and "other compensation" since, if this additional compensation is not taken into account, it will *reduce* the compensation of the median/average employee and therefore, increase the pay disparity. If a registrant does not believe that the additional time and cost involved in calculating and verifying the actual "to the penny" total compensation for the median/average employee using the 402 rules is worth it, they should have that option. (The total pay of the PEO would continue to be calculated under the 402 rules.)

I appreciate the opportunity to comment on the Reportable Event Regulations. Please feel free to contact me at 440/449-9661 (prior to January 1st) or 440/229-5171 if you have any questions about our comments.

Very truly yours,

Mary D. Maloney

5875 Landerbrook Drive • Cleveland, Ohio 44124-4017 • Telephone 440/449-9661 or 440/229-5171 • mmaloney@naccoind.com