



The Auditing Roundtable

The Professional Organization For EHS Auditors

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October 31, 2011

VIA ELECTRONIC SUBMISSION to rule-comments@sec.gov

U.S. Securities and Exchange Commission
Attn: Elizabeth M. Murphy, Secretary
100 F Street, NE
Washington, DC 20549

Re: Proposed Conflict Minerals Regulation, File Number S7-40-10

Dear Ms. Murphy:

Below are comments on certain aspects of the conflict minerals proposed rule published in the December 23, 2010 Federal Register (75. Ref. Reg 80948 et. seq.)

The Auditing Roundtable, Inc. is a professional organization dedicated to the development and professional practice of environmental, health, and safety (EHS) auditing.

Today, the Auditing Roundtable represents the voice of the profession with more than 500 members, all of whom have agreed to abide by the Roundtable's Code of Ethics. Our mission is to enhance the practice of EHS auditing by creating a national forum and organization to advance ideas, procedures and member interaction.

As the leading organization of professional environmental, health and safety auditing practitioners, we submit the following comments related to auditor qualifications, audit scope/standards and incorporation of international voluntary standards within US rulemaking. It is our understanding that these issues were key matters for which SEC staff had specific questions related to EHS audit practitioners during the October 18, 2011 Roundtable meeting on the regulations.

Issue #1: Relevant auditor qualifications. We understand that there are multiple audits currently being discussed by various stakeholders through the conflict minerals supply chain due diligence process. As pointed out by Kay Nimmo of ITRI at the Roundtable, up to four separate audit processes are currently envisioned; however, our comments focus on the auditor qualifications referenced in the OECD document and EICC's conflict free smelter (CFS) program. Both of these audit programs specifically refer to ISO 19011 as the relevant auditor competence standard, with OECD simply recommending that auditors meet the ISO 19011 competence standards.

ISO 19011 is the lowest possible level of EHS auditor competence, does not mandate – or relate to – any form of auditor certification. It is our organization's position that this is inadequate in the context of the importance these audits have in the global supply chain for tin, tungsten, tantalum and gold, the national economy of the DRC and in direct support of US law/implementing regulations under the jurisdiction of SEC.

There is also a question as to how reliable such audits will be viewed by the auditors who will conduct the conflict minerals report (CMR) audits. We expect that the CMR audits will - or at least should- assess the reliability/credibility of the management system elements. In addition, the OECD Guidance requires that as part of the smelter audit, therefore, the qualifications of the smelter audit are likely to be made public as part of the smelter report. The CMR auditor may determine that an issuer has relied on a program element (such as a CFS audit) that is not credible based on the qualifications of the auditor.

Surveys conducted of US-based EHS audit practitioners and buyers of these services within the past six months demonstrate significant erosion in the confidence in ISO-based EHS auditor qualifications. The ISO14000 series is the environmental management system standard and related auditor certification. ISO 19011 is supposed to represent an updated version of ISO14000 that also integrates a quality management system (the original ISO 9000 series). Clearly, even those professionals in the practice are pessimistic on the value or significance of ISO-based EHS auditor standards or qualifications.

BEAC – the Board of Environmental, Health & Safety Auditor Certifications – has been certifying professional environmental auditors (CPEAs) since 1997. Additionally, BEAC has Performance and Program Standards for the Professional Practice of EHS Auditing. All CPEAs must meet these standards and must maintain their certification on an every two year basis thereby demonstrating their excellence and professionalism.

We ask that SEC recognize the need for the highest possible level of EHS auditor qualifications for these audits and require a greater level of competence and certification than is incorporated in the OECD and CFS auditor standards.

Issue #2: Reasonable assurance. Conflict mineral management systems - and the associate audits - must reflect reasonable assurance rather than absolute certainty.

A review of the CFS audit tools makes it apparent that these audits require complete certainty of “all materials” within the scope of those audits. As in any other audit, such absolute assurance should not be an expectation of the audited entity or the standard imposed on the auditor.

Although the Commission addressed the concept of reasonableness in the preamble

language, we request that the matter be directly and specifically addressed in the final regulation to eliminate any potential ambiguity on the part of issuers.

Issue #3: Use of Performance Audit scope/standards. We support the use and standard of Performance Audits as the appropriate audit standard for the CMR report audit. Doing so will allow EHS audit practitioners to perform these audits. Should SEC mandate attestation engagements as appropriate, then only CPA's will be authorized to conduct the audits, which will significantly increase the general cost structure for this audit element. We believe SEC correctly expressed concern about the cost to industry if only CPAs are deemed qualified to conduct CMR audits. And by mandating the highest level of EHS auditor competence/certification as we discussed in Issue #1 above, issuers and SEC can be comfortable that appropriately qualified auditors will be conducting these highly important audits. EHS Auditors, especially those who have been certified (i.e., a Certified Professional Environmental Auditor – CPEA) by the Board of Environmental, Health, & Safety Auditor Certifications (BEAC) have significant, relevant experience, and are capable of performing these audits.

Issue #4: Incorporation of voluntary international standard into regulations. The OECD Guidance is a voluntary international standard (although the DRC has codified it into their law). SEC is proposing to incorporate that into their regulations. This is similar to what occurred in the 1990s when EPA considered incorporating ISO14000 into its regulations. As EPA ultimately realized, there are a myriad of problems related to taking international voluntary standards and making them U.S. legal requirements.

Based on the collective experience of our organization and members related to EPA's attempt to codify ISO14000, we strongly recommend that SEC seriously identify and assess the potential latent risks/impacts to industry and auditors related to codifying voluntary industry standards into the conflict minerals regulations.

We are aware that the original comment period on the proposal closed on March 2, a date that preceded the finalization or public availability of key documents. Therefore, this newly re-opened public comment period is the first official and fully-informed opportunity The Auditing Roundtable have had to voice our position as the leading organization of EHS audit practitioners. Until now, the auditing community has not been particularly vocal or visible in the regulatory process. We hope the Commission recognizes the critical importance that audits – and therefore auditors – have in conflict minerals supply chain traceability program implementation and credibility.

We are happy to discuss these comments at your convenience.

Sincerely,

A handwritten signature in black ink that reads "Andrew P. Broadbent". The signature is written in a cursive, flowing style.

Andrew P. Broadbent
President, The Auditing Roundtable, Inc.