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COMMITTEE ON ENERGY AND COMMERCE  
HEALTH  
COMMERCE, TRADE AND CONSUMER PROTECTION



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Congress of the United States  
House of Representatives  
Washington, DC 20515

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December 29, 2011

Mary L. Schapiro, Chairwoman  
Securities and Exchange Commission  
100 F Street, NE  
Washington, D.C. 20549

RECEIVED  
ES 146 497  
2012 JAN -5 PM 11:50  
CHAIRMAN'S  
CORRESPONDENCE UNIT

*Re: SEC Initiatives under the Dodd-Frank Wall Street Reform and Consumer Protection Act – Section 1502 Conflict Minerals Disclosure*

Dear Chairwoman Schapiro:

I write to express my concern about pending Securities and Exchange Commission (SEC) regulations related to conflict minerals under the Dodd-Frank Wall Street Reform and Consumer Protection Act (PL 111-203). The current proposal would create burdensome and cost-prohibitive compliance protocols that would put U.S. manufacturers at a severe competitive disadvantage globally. I respectfully request the SEC rewrite the conflict-free minerals rule in a manner that is more transparent, achievable, and economically feasible while upholding congressional intent to ensure the mining of valuable minerals is not used to fund violent criminals guilty of committing human rights abuses in central Africa.

Although U.S. manufacturing is leading the country's economic recovery, many manufacturers are facing barriers to continued growth. The proposed regulation under section 1502 of the Dodd-Frank Act will put US manufacturers an immediate cost disadvantage against our nine largest trading partners while still not achieving the statute's intent: to enhance supply chain transparency.

For instance, tungsten is considered a "conflict mineral" only because a de minimis amount of the world's supply is mined in the Democratic Republic of the Congo (DRC). Most U.S. based manufacturers do not rely on DRC sources and fully support the humanitarian aims of section 1502. In fact, China controls 85% of the world's tungsten supply and is greatly restricting the export of tungsten, driving the price up by 130% in 2011. As a result, manufacturers have identified a secondary source of tungsten: recycled scrap. The use of recycled scrap material is an environmental, cost-cutting solution that helps address pricing and access to raw materials. However, as with many recycled materials, tracing its original source is impossible.

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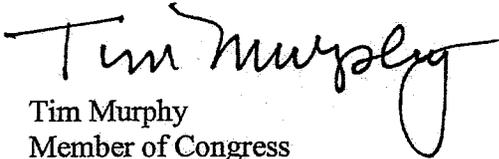
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While scrap tungsten is not specifically addressed by section 1502, the SEC's proposed rule would categorize scrap as "DRC Conflict-Free" because of formidable challenges to tracing recycled materials' lifecycle. Nevertheless, it is the understanding of Congress that the SEC may still impose full disclosure standards that are both burdensome and costly on purchasers of scrap.

There are alternatives. The SEC could reconfigure the auditing requirement to exempt recycled scrap or phase in implementation to allow materials already in the supply chain with unknown origin to be properly classified. Exempting recycled scrap would encourage manufacturers to engage in an environmentally-friendly method of reuse; including scrap in an audit may force some buyers to forgo that opportunity.

For the sake of U.S. manufacturers and all its downstream customers that rely on tungsten based manufacturing tools and products, please consider these regulatory options. I appreciate your agency's willingness to consider this recommendation. If you have any questions or concerns, please do not hesitate to contact Brad Grantz in my office at (202) 225-2301.

Sincerely,

A handwritten signature in black ink that reads "Tim Murphy". The signature is written in a cursive style with a long, sweeping underline that extends to the right.

Tim Murphy  
Member of Congress