To: The Securities and Exchange Commission
From: The United Mine Workers of America
Subject: Mine Safety Disclosure; File No. S7-41-10
Date: March 1, 2011

The United Mine Workers of America (UMWA), the nation's primary labor union representing coal miners, offers these comments on the SEC's proposed rule on Mine Safety Disclosures. The UMWA has been an unwavering advocate for miners' health and safety for over 120 years. We believe investors need to know when the companies they invest in are engaged in practices or experience significant events that may adversely affect the value of their investments. Accordingly, we support the proposed rule and expect it will allow investors to better appreciate some of the consequences of unsafe mining practices, which will add impetus for operators to improve their mine health and safety practices.

To maximize the effectiveness of the underlying law and Congressional intent, we urge that the final rule be written so that the required disclosures are as "user-friendly" as feasible, with information easily displayed and accessed. This is essential for the investment community to be able to understand when companies they invest in are engaging in practices that jeopardize the health and safety of miners, which in turn can adversely affect the financial stability of such mining companies.

We understand that much of what is included in the proposed rule is already mandated by law, and that the proposed rule primarily seeks to clarify a few unresolved issues. From the reporting that operators are already providing pursuant to the Act, it is apparent that operators can satisfy the reporting timelines. Therefore there should be no reductions to the present reporting practices or time requirements.

We firmly agree that smaller reporting companies must be included in the reporting requirements, and not excluded, based on the plain language of Section 1503 (a) as well as for policy reasons. Likewise, there should be no exclusion based on materiality thresholds, or any subjective criteria (75 Fed Reg 80376, at fn 38). We also agree that the required reporting should be done for each mine covered by the Federal Mine Safety and Health Act of 1977 ("Mine Act"), and not grouped by geography or any other basis. Operators subject to the Mine Act are already accustomed to reporting health and safety information on a mine-by-mine basis, so doing so for SEC purposes will conform to operators' current reporting methods.

We also have responses for the following requests for comment:

3) "…Should the requirements apply to smaller reporting companies, as proposed, or should we exempt smaller reporting companies from the disclosure requirement or some portion of the disclosure requirement? Are there alternative accommodations we should consider for smaller reporting companies?" Answer: Smaller companies should not be exempted from any portion of the disclosure requirements. All investors have an equal interest in knowing about the financial security of their investments regardless of the size

or value of any particular one. Moreover, to the extent the required disclosures add impetus for operators to improve their mine health and safety practices, the need is the same regardless of the size of the coal mine or the entity that owns or operates it.

5) "As proposed, the required disclosure must be provided for each mine for which the issuer or a subsidiary of the issuer is an operator. How burdensome would such disclosure be for issuers to prepare? Could this approach produce such a volume of information that investors will be overwhelmed? Should we instead require disclosure by project or geographic region?…" Answer: It will not be too burdensome for operators to disclose information on a mine-by-mine basis. This is how operators report information to the Mine Safety and Health Administration ("MSHA"), so operators will be able to file such reports with the SEC organized on a mine by mine basis. Having disclosures made on a "project" or "geographic region" basis would not make much sense, and could obscure significant adverse information about a single operation.

6) "General Instruction I to Form 10-K and General Instruction H to Form 10-Q contain special provisions for the omission of certain information by wholly-owned subsidiaries. General Instruction J to Form 10-K contains special provisions for the omission of certain information by asset-backed issuers. Should either or both of these types of registrants be permitted to omit the proposed mine safety disclosure in the annual reports on Form 10-K and quarterly reports on Form 10-Q?" Answer: The UMWA does not believe that information of wholly owned subsidiaries should be excluded from these reports.

9) We agree with the proposal to require a summary of the mine health and safety issues in the body of reports, supplemented by exhibits that include the required detail. However, certain extraordinary information, such as all fatal accidents and if the mine has been placed on a "pattern of violation," should be included in the body of reports so investors can be alerted to significant information without having to hunt through attachments.

11) Should the SEC "require the disclosure to be provided in an interactive data format? Why or why not? Would investors find interactive data to be a useful tool to analyze the information provided and generate statistics for their own use? If so, what format would be most appropriate for providing standardized data disclosure - for example, eXtensible Markup Language (XML) or eXtensible Business Reporting Language (XBRL)? Could the use of interactive data make it possible for issuers to reduce reporting costs by using the same data that is already available through MSHA's data retrieval system?" Answer: The UMWA believes it would be more helpful to investors for the information to be submitted in an interactive format. Public companies are already required and accustomed to filing their financial reports in an interactive format using XBRL, ever since the SEC and FDIC, *inter alia*, have been requiring that format. Investors are already familiar with and comfortable using that format.

Further, MSHA's database is organized by mining operation not by corporate ownership. For investment purposes, MSHA's data system can be misleading to those not familiar with the corporate structures of mining companies. For example, many think of

"Massey" or "Massey Energy" as being the mining company liable for the Upper Big Branch disaster (where 29 miners died in an underground explosion in West Virginia) in April 2010. Indeed, Massey experienced adverse financial consequences related to that tragedy. Yet, while Massey is the controller company, one must look for "Performance Coal" in MSHA's data list to find the data about the Upper Big Branch mine.

12) We are in strong agreement with the proposal to require disclosure of orders, citations, violations, assessments, and legal actions received or initiated during the fourth quarter as well as in the aggregate for the year. To understand any material changes in a mine's health and safety record, it is important for investors to learn of any trends, and requiring the information for both the fourth quarter and the whole year will help reveal any such trends, especially after the first reporting year.

13) "As proposed, issuers would be required to report all orders, violations or citations received during the period covered by the report, regardless of whether such order, violation or citation was subsequently dismissed or reduced below a reportable level prior to the filing of the periodic report…" Answer: We agree with requiring information to be reported *when* it happens. It is not uncommon for contested citations to take years to resolve so waiting for resolution before it would be reportable would both diminish the usefulness of the information, and also encourage operators to file contests to postpone their reporting obligations.

At this time, the Federal Mine Safety and Health Review Commission ("FMSHRC") has over 18,000 cases pending, with a multi-year backlog in case processing. The overwhelming majority of its backlog developed since the MINER Act was enacted in 2006, and it will likely continue so long as the current federal budget challenges persist. [Current information about its backlog is summarized in the January 2011 Budget Request for FY 2012 the FMSHRC filed with Congress, which can be accessed through the FMSHRC web site; other charts showing the growing number of pending cases is also available at the FMSHRC web site and is hereby incorporated in these comments by reference.] Thus, while an operator should be permitted to include information when, for example, it successfully contests a matter and obtains a reduced penalty or vacation of a citation or order, information about orders, violations and citations should be reported when they are issued. After all, company values can be affected by events that happen *when* they occur, not just years later when litigation may be resolved. Also, the perception of a problem can impact a company's valuation as much as the problem itself, so investors should be informed when the citations and orders are first issued, without delaying until they are finally resolved. Finally, it is contrary to public policy to add any inducements for operators to contest MSHA enforcement actions; allowing operators to desist in their SEC reporting of contested matters until they would be deemed final would serve as just such an improper inducement.

14) "Is it appropriate to limit this disclosure item to only S&S violations, or should we require disclosure of every violation under section 104 of the Mine Act?" Answer: We agree with limiting disclosure to "S&S" violations, and excluding non S&S violations.

Otherwise there will be too much information and it will become unmanageable for investors' use.

We also support the requirement that the total number of 104(b) orders requiring an immediate withdrawal, citations and orders for unwarrantable failures, flagrant violations and imminent danger orders must be reported, along with the total dollar of MSHA's proposed assessments for the time period covered by the particular report, as these are all relevant to a company's value and exposure.

15) "As proposed, the new rules would require disclosure of the total dollar amounts of assessments of penalties proposed by MSHA during the time period covered by the report, and also the cumulative total of all proposed assessments of penalties outstanding as of the date of the report. Is this approach appropriate?" Answer: Yes. Because many challenged citations take years to resolve (see reply to #13, above), but still represent a financial liability while they remain in dispute, it is important for an investor to see the cumulative exposure. This also helps an investor see trends, which can affect a company's value. Having educated and involved investors should serve to enhance miners' health and safety.

16) "As proposed, issuers would be required to include in the total dollar amount any proposed assessments of penalties that are being contested. Should issuers be permitted to exclude proposed assessments that are being contested? Should issuers be permitted to note the contested amounts separately?" Answer: Issuers should not be permitted to exclude proposed assessments that are being contested, nor should they be permitted to separate out the contested amounts. (See reply to #13, above.) That said, issuers may indicate that certain amounts are being contested, but all citations and amounts should be reported in the same place and in the same way to enable the investors to better understand a company's mine health and safety record and its financial exposure. Otherwise, issuers will be encouraged to contest citations. Moreover, most contested citations are upheld in whole or in part when they proceed through the administrative adjudicative procedure, so it will be more meaningful to investors if all assessment information is included, even if some matters are being contested.

We agree that all mining-related fatalities of mines subject to the Mine Act should be reported, and that the MSHA standards for chargeability should apply for SEC purposes, as well. All fatal accidents should be reported when they occur, though a subsequent non-chargeable decision by MSHA may later be reported, as well. We also support the reporting of fatalities at mines not subject to the Mine Act that are controlled by issuers that have the duty to file these SEC reports; for any such mines the MSHA criteria should apply when determining if a fatality is mining-related.

20) We agree that summary disclosure of pending legal actions before the Federal Mine Safety and Health Review would be appropriate. Information about pending legal actions should be disclosed when it is initiated, with updates so long as the litigation is pending. We do not think it is necessary to require reports about vacated assessments, though we expect this information will be reported.

21 and 22) The contextual information about pending litigation, and about the categories of violations, orders and citations, as proposed, is appropriate for inclusion; we do not suggest requiring the addition of any other information.

23) "The events that would trigger filing under proposed Item 1.04 are also events that are required to be disclosed in periodic reports under Section 1503(a) of the Act and our proposed Item 106 of Regulation S-K. Should we revise our proposal to minimize duplicative disclosure such as by not requiring repetition of information previously reported?…" Answer: We support the reporting as proposed and suggest no elimination of previously reported information.

Finally, responding to the SEC's request for suggestions, we urge that the final rule be governed by the principle that issuers must report enough substantive information, and in a manner, so investors may learn about the health and safety records of coal mines, which information should reveal any trends of improving or deteriorating conditions, and enhanced or reduced enforcement activity. This information must be reported in an accessible manner so that investors can find and best understand and appreciate the impact that health and safety compliance can have on the value of their investment.

We appreciate this opportunity to comment on this proposed rule.