

HAL QUINN
President & CEO



June 15, 2012

The Honorable Mary L. Shapiro
Chairman
U.S. Securities and Exchange Commission
100 F Street NE
Washington, DC 20549

The Honorable Ken Salazar
Secretary
U.S. Department of the Interior
1849 C Street NW
Washington, DC 20240

Dear Chairman Shapiro and Secretary Salazar:

Over the last decade, there has been increasing interest in initiatives to improve transparency and accountability of extractive industry sectors' payments to governments. The National Mining Association (NMA) and its members fully support transparency in such payments and development and implementation of a revenue transparency process in the U.S. that will be successful and a model for other countries to emulate.

In the United States, pathways for revenue transparency have emerged: Section 1504 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Pub. L. No. 111-203) that was signed into law in July 2010; and U.S. commitment to the Extractives Industry Transparency Initiative (EITI) announced in September 2011. Given the shared goal, but different mechanisms for achievement of that goal, there is potential for significant overlap and confusion between the EITI and Dodd-Frank efforts to increase transparency of payments to governments. Clearly, Congress contemplated the alignment of these processes. Congress directed that "the rules issued under [Dodd-Frank § 1504] shall support the commitment of the federal government to international transparency promotion efforts relating to the commercial development of oil, natural gas or minerals." § 1504(q)(2)(E). In addition, § 1504 tasks the Commission with defining reportable payments, "to the extent practicable," "consistent with the guidelines of the Extractive Industries Transparency Initiative." § 1504(q)(1)(C)(ii). Thus in the Act, Congress pushed for alignment of the SEC regulations with the EITI, to which it is explicitly tied.

NMA is concerned that simultaneous design of Dodd-Frank § 1504 regulations through the U.S. Securities and Exchange Commission (SEC) and the EITI process being overseen by the Department of the Interior (DOI) may result in duplicative, burdensome

The Honorable Mary L. Shapiro
The Honorable Ken Salazar
June 15, 2012
Page Two

and complex revenue transparency requirements. Obviously, such a result would run contrary to the President's recent Executive Orders 13563 and 13610 on identifying and reducing regulatory burdens. It is imperative that these processes be aligned and coordinated to ensure that extractive industries are not subject to contradictory or overlapping reporting processes. Furthermore, coordination and alignment among the two processes could alleviate several concerns expressed by Chairman Shapiro about the specialized disclosure provisions of the Dodd-Frank Act, including the observation that "expertise about these events does not reside within the Commission or our staff."¹

Alignment and coordination would allow the Commission and the Department to utilize the expertise of the multi-stakeholder group (MSG) established to design the U.S. EITI framework and guide its implementation. Many, if not most, of the stakeholders that have expressed interest in MSG participation have considerable experience regarding EITI implementation in other countries. For example, many NMA member mining companies have a great deal of experience as they are official supporters of EITI, have reaped the benefits of operating in EITI compliant countries, have facilitated countries to sign on to EITI, and even disclose their payments to governments when not required by a host transparency mechanism.² It is precisely this experience that could inform and benefit your efforts as contemplated by President Obama's May 1, 2012 Executive Order 13609 on promoting international regulatory cooperation.

We believe alignment of the SEC rulemaking and the EITI efforts is the best way for the U.S. to continue to be a global leader on revenue transparency while at the same time committing to the most efficient and inclusive process for achieving these goals. In conclusion, NMA is strongly supportive of the goals of revenue transparency inherent in both Dodd-Frank § 1504 and EITI and we look forward to continued engagement with both SEC and DOI in development of revenue transparency policies for extractive industries in the United States.

Sincerely,



Hal Quinn

cc: The Honorable Cass R. Sunstein, Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget
The Honorable Hillary Rodham Clinton, Secretary, U.S. Department of State
The Honorable Thomas E. Donilon, National Security Advisor, National Security Council

¹ See Speech by SEC Chairman, Statement at SEC Open Meeting, Wednesday, December 15, 2010, U.S. Securities and Exchange Commission, available at <http://sec.gov/news/speech/2010/spch121510mls-2.htm>.

² NMA member companies are operating in the following EITI compliant and candidate countries; Ghana, Guinea, Kyrgyz Republic, Mali, Mongolia, Peru, Democratic Republic of Congo, Kazakhstan, Madagascar, Mozambique, Tanzania and Zambia.