

POGO Calls for Removal of American Petroleum Institute (API) from Transparency Group (USEITI)

FOR IMMEDIATE RELEASE

CONTACT: Ari Goldberg (agoldberg@pogo.org; [240.678.9102](tel:240.678.9102))

February 1, 2017

WASHINGTON—On behalf of civil society groups, [The Project On Government Oversight](#) (POGO) today formally requested the removal of the American Petroleum Institute (API) from the United States Extractive Industries Transparency Initiative (USEITI), which is part of an international effort to promote open and accountable management of natural resources.

During a meeting of the multi-stakeholder group, in which POGO is a participating member, POGO Executive Director [Danielle Brian](#) said API's current effort to kill a key anti-corruption measure in the Dodd-Frank Wall Street Reform and Consumer Protection Act known as the Cardin-Lugar Provision or Section 1504:

".... is particularly galling, in that in their fact sheets, API uses their participation in USEITI as evidence that they believe in transparency. In those same documents API claims the disclosures required by 1504, which are complementary to EITI standards, are anti-competitive, even though their competitors are held to the same standards through the EU and Canadian rules. In other words, they never intended to support disclosure of taxes by company or project level reporting of other revenue streams."

".... It is simply unacceptable for API to continue to benefit from the goodwill generated from their boasting of their participation in USEITI while at the same time actively working to directly undermine our success. As a result, civil society is formally requesting that the DFO (Designated Federal Officer) remove API from the MSG (multi-stakeholder group) [of USEITI members]."

See also: [POGO Fights House Attempt to Gut Anti-Corruption Law](#)

Transcript of Danielle Brian's full remarks:

Today the House and possibly the Senate are preparing to vote on whether to disapprove the Cardin-Lugar 1504 rule. As all of you who have been working on USEITI know, we have been waiting for months, years, for that rule to be finalized so that we could move forward with our work. 1504 is the cornerstone of USEITI and civil society vociferously objects to its gutting.

During these past years we have been told repeatedly that industry will not voluntarily disclose more than what is required of them by law. To be fair, despite that, several companies have

honored the spirit of EITI and have gone beyond what was already legally required and disclosed their tax payments even before 1504 was implemented. And we thanked those companies by name in the last report. And we have been punting on the basic EITI requirements of tax disclosure and project level reporting because we were told we had to wait for the rule before we could do more.

I now ask our government and industry colleagues to please join me in expressing our opposition to the misguided effort to disapprove the rule. If any of the companies who have already supported the disclosure of taxes and project level reporting are willing to make their voices heard now, before the House and Senate vote, we might be able to prevent the loss of this anti-corruption measure.

We in civil society believe that the lobbying effort by the American Petroleum Institute to kill the 1504 rule is particularly galling, in that in their fact sheets, API uses their participation in USEITI as evidence that they believe in transparency. In those same documents API claims the disclosures required by 1504- which are complementary to EITI standards - are anti-competitive- even though their competitors are held to the same standards through the EU and Canadian rules. In other words, they never intended to support disclosure of taxes by company or project level reporting of other revenue streams.

We know that Aaron has been working hard on USEITI and he is not personally responsible for the positions of his employer, but it is simply unacceptable for API to continue to benefit from the goodwill generated from their boasting of their participation in USEITI while at the same time actively working to directly undermine our success. As a result, civil society is formally requesting that the DFO remove API from the MSG.

United States Senate

WASHINGTON, DC 20510

February 2, 2017

Acting SEC Chairman Michael Piwowar
100 F Street, NE
Washington, DC 20549

Dear Acting Chairman Piwowar:

We are voting for the resolution (H.J. Res. 41) to express congressional disapproval under the Congressional Review Act of the Securities and Exchange Commission's Final Rule on Disclosure of Payments by Resource Extraction Issuers. We are of course strong supporters of policies to combat U.S. companies' participation in corrupt financial practices abroad, and we are committed to efforts to encourage corporate transparency on these matters consistent with the international standards already adopted by European and other governments.

However, we will vote to disapprove the SEC's rule because it would place American and other SEC-registered companies at a significant and unacceptable competitive disadvantage. Under the SEC's rule, as we understand it, U.S. companies would be required to make the disclosures about their payments to host governments even where another country's laws might prohibit by law those disclosures. Effectively that could require U.S. companies to stop doing business in those countries, leaving those markets to the unfettered advantage of their foreign competitors.

We would encourage the SEC to consider this and other anti-competitiveness concerns when it revisits its statutory mandate to propose a new rule to implement the bipartisan Cardin-Lugar anti-corruption provisions (Section 1504) of the Wall Street Reform and Consumer Protection Act of 2010. In addition, we are open to supporting legislative or other solutions that might be appropriate to address any issues that might be posed by the Congressional Review Act's restrictions on the similarities between the SEC's new rule and this now disapproved rule.

We look forward to working with the SEC in support of its efforts to encourage corporate transparency and combat corruption abroad.

Sincerely,



Bob Corker
U.S. Senator



Susan Collins
U.S. Senator



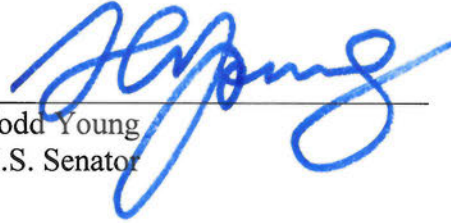
Marco Rubio
U.S. Senator



Johnny Isakson
U.S. Senator



Lindsey Graham
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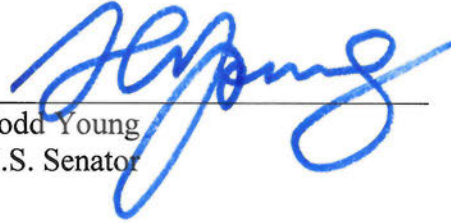
Marco Rubio
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U.S. Senator



Lindsey Graham
U.S. Senator



Todd Young
U.S. Senator

OFFICE: Office of Natural Resources Revenue (ONRR)
MEMBER: General Interest
ISSUE: U.S. Extractive Industries Transparency Initiative

Key Points:

- The U.S. government committed to implementing EITI in the U.S. (USEITI) in 2011 and in the spring of 2012 designated the Department of the Interior the lead Agency for implementing USEITI. Implementing USEITI provides additional oversight of the collection and disbursement of the Nation's mineral resources revenues. USEITI successfully completed the initial requirements to join EITI as a candidate country when accepted by the International EITI Board in March 2014. Key successes include publishing the 2015 and 2016 USEITI Annual Reports on an open source, open code interactive web-based data portal (<https://useiti.doi.gov>). On this portal, the Department of the Interior unilaterally discloses 2013, 2014, and 2015 revenues by company, commodity, and revenue type as well as production data across all commodities. The portal is the new global standard in revenue governance transparency.

Background:

- The Extractive Industries Transparency Initiative is a voluntary, global effort designed to strengthen accountability and public trust for the revenues paid and received for a country's oil, gas, and mineral resources. EITI brings together a coalition of government, companies, and civil society (the Multistakeholder Group or MSG), to oversee the domestic implementation of the voluntary framework in which governments disclose revenues received from oil, gas, and mining assets, with parallel disclosure by companies of what they have paid to the government in royalties, rents, bonuses, taxes, and other payments. In March 2014, the U.S. became the first G7 country to achieve Candidate Country status. Both the United Kingdom and Germany have followed the U.S. lead and have both become Candidate countries. The Annual Reports provide clarity and transparency of the revenues generated by energy development on public lands and waters—a significant source of financial support for local communities, States, Tribes, and the Federal Government. In the spring of 2016, three states (Montana, Wyoming, and Alaska) opted-in to USEITI, allowing for expanded State reporting of extractive revenues.

Current:

- The U.S. is scheduled to produce its third Annual Report in December 2017 and undergo validation April 1, 2018. Validation is an independent, external and impartial process that serves to assess performance and promote dialogue and learning at the country level. It also safeguards the integrity of the EITI by holding all EITI implementing countries to the same global Standard. USEITI has met 8 of the 9 elements of the standard but will not be found in compliance with the EITI standard until companies timely and comprehensively report tax revenues, project-level non-tax revenues, and beneficial owners. The EITI Board is likely to find USEITI to have made inadequate progress or be suspended. ONRR will begin mainstreaming DOI revenue reporting and institutionalizing EITI processes.

Prepared by: Gregory J. Gould, Director, Office of Natural Resources Revenue, (303) 231-3429
Date: May 10, 2017

OFFICE: Office of Natural Resources Revenue (ONRR)

MEMBER: General Interest

ISSUE: U.S. Extractive Industries Transparency Initiative (EITI)

Key Points:

- The U.S. government committed to implementing EITI in the U.S. (USEITI) in 2011 and in the spring of 2012 designated the Department of the Interior the lead Agency for implementing USEITI.
- The USEITI Federal Advisory Committee was established in August 2012. The Committee's purpose was to serve as the EITI Multistakeholder Group (MSG) and its duties included consideration and fulfillment of the tasks required to achieve candidate and compliant status in the EITI.
- USEITI successfully completed the initial requirements to join EITI as a candidate country when accepted by the International EITI Board in March 2014.
- Key successes include publishing the 2015 and 2016 USEITI Annual Reports on an open source, open code interactive web-based data portal (<https://useiti.doi.gov>). On this portal, the Department of the Interior unilaterally discloses 2013, 2014, 2015 and 2016 revenues by company, commodity, and revenue type as well as production data across all commodities. The portal is the new global standard in revenue governance transparency.
- The Annual Reports provide clarity and transparency of the revenues generated by energy development on public lands and waters—a significant source of financial support for local communities, States, Tribes, and the Federal Government.

Background:

- The EITI is a voluntary, global effort designed to strengthen accountability and public trust for the revenues paid and received for a country's oil, gas, and mineral resources. EITI brings together a coalition of government, companies, and civil society to oversee the domestic implementation of the voluntary framework in which governments disclose revenues received from oil, gas, and mining assets, in parallel with disclosure by companies of what they have paid to the government in royalties, rents, bonuses, taxes, and other payments.
- The U.S. became the first G7 country and the second OECD country to achieve Candidate Country status and become an EITI implementing country. Since the first public meeting in 2013, through to the 20th meeting in 2017, the USEITI MSG worked collaboratively to successfully reach consensus on how to implement USEITI.

Current:

- The U.S. is scheduled to produce its third Annual Report in December 2017 and undergo independent third party validation April 1, 2018. USEITI has met 8 of the 9 elements of the standard but will not be found in compliance with the EITI standard until companies timely and comprehensively report tax revenues, project-level non-tax revenues, and beneficial owners. The EITI Board is likely to find USEITI to have made inadequate progress and suspend the U.S. Consistent with EITI principles ONRR will continue mainstreaming DOI revenue reporting and institutionalize EITI processes.

Prepared by: Gregory J. Gould, Director, Office of Natural Resources Revenue, (303) 231-3429

Date: October 5, 2017

Label: "FOIA EITI"

Created by:greg.gould@onrr.gov

Total Messages in label:370 (41 conversations)

Created: 11-30-2017 at 14:54 PM

Conversation Contents

Draft Improving Reporting Workshop presentation for the Feb MSG

Attachments:

/40. Draft Improving Reporting Workshop presentation for the Feb MSG/1.1 Improving Reporting Workshop 1_11_2017.pptx

/40. Draft Improving Reporting Workshop presentation for the Feb MSG/2.1 Improving Reporting Workshop 1_11_2017 ggcmts.pptx

"Wilson, Judith" <judith.wilson@onrr.gov>

From: "Wilson, Judith" <judith.wilson@onrr.gov>
Sent: Fri Jan 27 2017 08:53:01 GMT-0700 (MST)
Greg Gould <greg.gould@onrr.gov>, Jim Steward <Jim.Steward@onrr.gov>, Robert Kronebusch <robert.kronebusch@onrr.gov>, David Romig <david_romig@fmi.com>, Phil Denning <phillip.denning@shell.com>, Daniel Dudis <ddudis@citizen.org>, Isabel Munilla (b) (6) @gmail.com>, Mia Steinle <msteinle@pogo.org>, Jerold Gidner <jerold.gidner@onrr.gov>, Paul Bugala (b) (6) @gmail.com>
To:
Subject: Draft Improving Reporting Workshop presentation for the Feb MSG
Attachments: Improving Reporting Workshop 1_11_2017.pptx

All,

If you have a few moments between now and Monday to look over the slides and let me know if you want any clarification or revision please let me know. As always, I hope to have your insights as well during the presentation.

--

Judy Wilson
Program Manager USEITI Secretariat
Office of Natural Resources Revenue
judith.wilson@onrr.gov
202-208-4410

"Gould, Greg" <greg.gould@onrr.gov>

From: "Gould, Greg" <greg.gould@onrr.gov>
Sent: Fri Jan 27 2017 12:12:50 GMT-0700 (MST)
To: "Wilson, Judith" <judith.wilson@onrr.gov>
Jim Steward <Jim.Steward@onrr.gov>, Robert Kronebusch <robert.kronebusch@onrr.gov>, David Romig <david_romig@fmi.com>, Phil Denning

CC: <phillip.denning@shell.com>, Daniel Dudis <ddudis@citizen.org>, Isabel Munilla (b) (6) @gmail.com>, Mia Steinle <msteinle@pogo.org>, Jerold Gidner <jerold.gidner@onrr.gov>, Paul Bugala (b) (6) @gmail.com>, Danielle Brian <dbrian@pogo.org>, Veronika Kohler <VKohler@nma.org>

Subject: Re: Draft Improving Reporting Workshop presentation for the Feb MSG

Attachments: Improving Reporting Workshop 1_11_2017 ggcmts.pptx

Judy,

Great work, I had a few minor edits in red on the attached slides and noted below:

Slide 4 Changed "be consistent" to "reconcile"

Slide 5 Added a bullet at the top "Reconciliation via Government Mainstreaming"

Slide 5 Added "a second time" to what was the first bullet, now the second bullet.

I also added Danielle and Veronika as an FYI.

Thanks,

Greg

Gregory J. Gould

*Acting Deputy Assistant Secretary/Director
Office of Natural Resources Revenue
U.S. Department of the Interior*

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On Fri, Jan 27, 2017 at 8:53 AM, Wilson, Judith <judith.wilson@onrr.gov> wrote:

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202-208-4410

"Gidner, Jerold" <jerold.gidner@onrr.gov>

From: "Gidner, Jerold" <jerold.gidner@onrr.gov>
Sent: Fri Jan 27 2017 12:14:30 GMT-0700 (MST)
To: "Gould, Greg" <greg.gould@onrr.gov>
"Wilson, Judith" <judith.wilson@onrr.gov>, Jim Steward
<Jim.Steward@onrr.gov>, Robert Kronebusch
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<msteinle@pogo.org>, Paul Bugala (b) (6) @gmail.com>,
Danielle Brian <dbrian@pogo.org>, Veronika Kohler
<VKohler@nma.org>
Subject: Re: Draft Improving Reporting Workshop presentation for the Feb
MSG

Thanks Judy - no comments.

Jerry Gidner
Senior Policy Advisor
Office of Natural Resources Revenue

and

Tribal Liaison Officer
Office of Policy, Management, and Budget
4040 MIB
202-302-9731

Be sure to visit <http://onrrresource/> for employee news, resources, and events.

And visit <https://useiti.doi.gov/> for the US Extractive Industries Transparency Initiative data portal

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EarthRights International v. U.S. Department of the Interior, 22-cv-01503-CKK00002222

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Sent: Fri Jan 27 2017 12:14:07 GMT-0700 (MST)
To: "Gould, Greg" <greg.gould@onrr.gov>
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judith.wilson@onrr.gov
202-208-4410

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Label: "FOIA EITI"

Created by:greg.gould@onrr.gov

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Conversation Contents

Data Portal lesson for NMA members

Attachments:

/41. Data Portal lesson for NMA members/1.1 image001.png
/41. Data Portal lesson for NMA members/2.1 image001.png
/41. Data Portal lesson for NMA members/3.1 image001.png
/41. Data Portal lesson for NMA members/4.1 image001.png
/41. Data Portal lesson for NMA members/5.1 image001.png
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/41. Data Portal lesson for NMA members/14.1 image001.png
/41. Data Portal lesson for NMA members/15.1 image001.png
/41. Data Portal lesson for NMA members/16.1 image001.png

"Kohler, Veronika" <VKohler@nma.org>

From: "Kohler, Veronika" <VKohler@nma.org>
Sent: Thu Dec 08 2016 12:18:26 GMT-0700 (MST)
To: "michelle.hertzfeld@gsa.goc" <michelle.hertzfeld@gsa.goc>, "corey.mahoney@gsa.gov" <corey.mahoney@gsa.gov>
CC: "Judith Wilson (judith.wilson@onrr.gov)" <judith.wilson@onrr.gov>, Greg Gould <greg.gould@onrr.gov>
Subject: Data Portal lesson for NMA members
Attachments: image001.png

Dear Ladies,

It was a pleasure to see you at the recent MSG meeting. Great work!

As discussed, I would love it if you could come to NMA to give a similar interactive presentation on the data portal specific to what we think the companies will find useful and interesting.

I am not sure any of my members are going to the site and so think a chauffeured run may change that. Are you available on Thursday January 12th at 1pm?

cid:image001.png@01E

Veronika Kohler
Director, International Policy
National Mining Association
101 Constitution Ave. NW, Suite 500 East
Washington, D.C. 20001
Phone: (202) 463-2600

"Kohler, Veronika" <VKohler@nma.org>

From: "Kohler, Veronika" <VKohler@nma.org>
Sent: Thu Dec 08 2016 12:19:46 GMT-0700 (MST)
To: "Michelle Hertzfeld (michelle.hertzfeld@gsa.gov)"
<michelle.hertzfeld@gsa.gov>, "corey.mahoney@gsa.gov"
<corey.mahoney@gsa.gov>
CC: "Judith Wilson (judith.wilson@onrr.gov)"
<judith.wilson@onrr.gov>, Greg Gould <greg.gould@onrr.gov>
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National Mining Association
101 Constitution Ave. NW, Suite 500 East
Washington, D.C. 20001
Phone: (202) 463-2600
Direct: (202) 463-2626
vkohler@nma.org

"Kohler, Veronika" <VKohler@nma.org>

From: "Kohler, Veronika" <VKohler@nma.org>
Sent: Thu Dec 08 2016 12:40:59 GMT-0700 (MST)
To: "Michelle Hertzfeld (michelle.hertzfeld@gsa.gov)"
<michelle.hertzfeld@gsa.gov>, "corey.mahoney@gsa.gov"
<corey.mahoney@gsa.gov>
CC: "Judith Wilson (judith.wilson@onrr.gov)"
<judith.wilson@onrr.gov>, Greg Gould <greg.gould@onrr.gov>
Subject: RE: Data Portal lesson for NMA members
Attachments: image001.png

Scratch that, I meant Wednesday January 11th same time.

From: Kohler, Veronika
Sent: Thursday, December 08, 2016 2:21 PM
To: Michelle Hertzfeld (michelle.hertzfeld@gsa.gov) <michelle.hertzfeld@gsa.gov>; 'corey.mahoney@gsa.gov' <corey.mahoney@gsa.gov>
Cc: Judith Wilson (judith.wilson@onrr.gov) <judith.wilson@onrr.gov>; Greg Gould <greg.gould@onrr.gov>
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101 Constitution Ave. NW, Suite 500 East
Washington, D.C. 20001
Phone: (202) 463-2600
Direct: (202) 463-2626
vkohler@nma.org

Michelle Hertzfeld <michelle.hertzfeld@gsa.gov>

From: Michelle Hertzfeld <michelle.hertzfeld@gsa.gov>
Sent: Fri Dec 09 2016 19:41:06 GMT-0700 (MST)
To: "Kohler, Veronika" <VKohler@nma.org>
CC: "corey.mahoney@gsa.gov" <corey.mahoney@gsa.gov>, "Judith Wilson (judith.wilson@onrr.gov)" <judith.wilson@onrr.gov>, Greg Gould <greg.gould@onrr.gov>
Subject: Re: Data Portal lesson for NMA members
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Hi Veronika!

Thanks for your kind words, and it was great to see you there, too! If we can do a remote walk-through, then we can be available. Would a WebEx or something similar work for your group?

Best,
Michelle

On Thu, Dec 8, 2016 at 12:19 PM, Kohler, Veronika <VKohler@nma.org> wrote:

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101 Constitution Ave. NW, Suite 500 East
Washington, D.C. 20001
Phone: [\(202\) 463-2600](tel:(202)463-2600)
Direct: [\(202\) 463-2626](tel:(202)463-2626)
vkohler@nma.org

--

Michelle Hertzfeld
michelle.hertzfeld@gsa.gov
[202-317-0155](tel:202-317-0155)
@18F

"Kohler, Veronika" <VKohler@nma.org>

From: "Kohler, Veronika" <VKohler@nma.org>
Sent: Tue Jan 03 2017 08:13:16 GMT-0700 (MST)
To: Michelle Hertzfeld <michelle.hertzfeld@gsa.gov>
CC: "corey.mahoney@gsa.gov" <corey.mahoney@gsa.gov>, "Judith Wilson (judith.wilson@onrr.gov)" <judith.wilson@onrr.gov>, Greg Gould <greg.gould@onrr.gov>
Subject: RE: Data Portal lesson for NMA members
Attachments: image001.png

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[Veronika](#)

[From:](#) Michelle Hertzfeld [<mailto:michelle.hertzfeld@gsa.gov>]
[Sent:](#) Friday, December 09, 2016 9:41 PM
[To:](#) Kohler, Veronika <VKohler@nma.org>
[Cc:](#) corey.mahoney@gsa.gov; Judith Wilson (judith.wilson@onrr.gov) <judith.wilson@onrr.gov>; Greg

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"Kohler, Veronika" <VKohler@nma.org>

From: "Kohler, Veronika" <VKohler@nma.org>
Sent: Fri Jan 06 2017 12:54:47 GMT-0700 (MST)
To: Michelle Hertzfeld <michelle.hertzfeld@gsa.gov>
"corey.mahoney@gsa.gov" <corey.mahoney@gsa.gov>, "Judith Wilson (judith.wilson@onrr.gov)" <judith.wilson@onrr.gov>, Greg Gould <greg.gould@onrr.gov>
CC:
Subject: RE: Data Portal lesson for NMA members

EarthRights International v. U.S. Department of the Interior, 22-cv-01503-CKK00002230

Attachments: image001.png

Hi, just checking in to see if you saw my email below. I think keeping our date for next week is unrealistic at this point. Any suggestions? How about the last week of January? Or will you be in town soon?

From: Kohler, Veronika
Sent: Tuesday, January 03, 2017 10:15 AM
To: 'Michelle Hertzfeld' <michelle.hertzfeld@gsa.gov>
Cc: corey.mahoney@gsa.gov; Judith Wilson (judith.wilson@onrr.gov) <judith.wilson@onrr.gov>; Greg Gould <greg.gould@onrr.gov>
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From: Michelle Hertzfeld <michelle.hertzfeld@gsa.gov>
Sent: Fri Jan 06 2017 13:58:58 GMT-0700 (MST)
To: "Kohler, Veronika" <VKohler@nma.org>
CC: "corey.mahoney@gsa.gov" <corey.mahoney@gsa.gov>, "Judith Wilson (judith.wilson@onrr.gov)" <judith.wilson@onrr.gov>, Greg Gould <greg.gould@onrr.gov>
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From: Michelle Hertzfeld <michelle.hertzfeld@gsa.gov>
Sent: Tue Jan 10 2017 12:29:49 GMT-0700 (MST)
To: "Kohler, Veronika" <VKohler@nma.org>
CC: "corey.mahoney@gsa.gov" <corey.mahoney@gsa.gov>, "Judith Wilson (judith.wilson@onrr.gov)" <judith.wilson@onrr.gov>, Greg Gould <greg.gould@onrr.gov>

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From: "Kohler, Veronika" <VKohler@nma.org>
Sent: Wed Jan 11 2017 07:25:10 GMT-0700 (MST)
To: Michelle Hertzfeld <michelle.hertzfeld@gsa.gov>
CC: "corey.mahoney@gsa.gov" <corey.mahoney@gsa.gov>, "Judith Wilson (judith.wilson@onrr.gov)" <judith.wilson@onrr.gov>, Greg Gould <greg.gould@onrr.gov>
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[Yes the last week of January will work. Any particular day off limits for the same time?](#)

[Veronika Kohler](#)
[Director, International Policy](#)

[Ph. 202.463.2626](tel:202.463.2626)
[Fax. 202.463.2648](tel:202.463.2648)

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"corey.mahoney@gsa.gov" <corey.mahoney@gsa.gov>, "Judith
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Subject: Re: Data Portal lesson for NMA members
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Wednesday 25 at 1pm eastern??

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From: Michelle Hertzfeld <michelle.hertzfeld@gsa.gov>
Sent: Tue Jan 24 2017 13:15:06 GMT-0700 (MST)
To: "Kohler, Veronika" <VKohler@nma.org>
"corey.mahoney@gsa.gov" <corey.mahoney@gsa.gov>, "Judith Wilson (judith.wilson@onrr.gov)" <judith.wilson@onrr.gov>, Greg Gould <greg.gould@onrr.gov>
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GSA / TTS / 18F
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Great! I am excited!

They have background on EITI so I think we can skip that. If someone ends up asking a general question on USEITI I can go ahead and answer or talk to them off line. I will probably ask a company to be the guinea pig (do we still say that??) so we can get some participation. So we can look up Freeport revenues for example.

I am not sure how many coal companies will join us but still think we should go over AML anyway, in addition to a country case study (either copper or gold), a state that will opt in and any info we have on that (Wyoming?), state transfers, resource to revenue, etc

Hopefully they will get excited and start asking questions.

From: Michelle Hertzfeld [mailto:michelle.hertzfeld@gsa.gov]

Sent: Tuesday, January 24, 2017 3:15 PM

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Cc: corey.mahoney@gsa.gov; Judith Wilson (judith.wilson@onrr.gov) <judith.wilson@onrr.gov>; Greg Gould <greg.gould@onrr.gov>

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Sent: Friday, December 09, 2016 9:41 PM
To: Kohler, Veronika <VKohler@nma.org>
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That sounds perfect, re: topics to be covered.

You asked in another email about titles -- technically, my title is Front End Design Supervisor, which is a mouthful! Perhaps something like "Michelle Hertzfeld, designer and developer" makes the most sense.

Also, it looks like Corey won't be able to make it tomorrow, but I can certainly speak to everything on the site.

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From: "Gould, Greg" <greg.gould@onrr.gov>
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To: "Kohler, Veronika" <VKohler@nma.org>
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Hmm, not very inclusive. :)

Gregory J. Gould

*Acting Deputy Assistant Secretary/Director
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U.S. Department of the Interior

Natural Resources Revenue Data

2017 Executive Summary



A Note on This Report:

This report outlines progress made by the Department of the Interior and the Office of Natural Resources Revenue (ONRR) in 2017 on continuing to build upon the efforts of the Extractive Industries Transparency Initiative (EITI). In 2017, the U.S. withdrew from EITI as an Implementing Country, but will remain fully committed to institutionalizing the EITI principles of transparency and accountability. The U.S. intends to continue mainstreaming government reporting of energy production and the associated revenue collection and disbursement, and will maintain the Natural Resources Revenue Data portal (<https://revenuedata.doi.gov>).



2017 by the Numbers

Extractive Industries' Revenues in the U.S.



100% of DOI revenues for 2016 disclosed in unilateral disclosure



Payments from 651 companies disclosed for 2016



In 2016, \$5.6B in DOI revenues from extraction on federal lands and waters



9 revenue streams from 21 commodities disclosed

USEITI 2017 Features



1 new state with significant extractive industries opted-in



1 addition on tribal land and governance



12 extractive industry county case studies and 3 state additions were updated with most recent data



1 addition regarding renewable energy in the U.S.



1 addition discussing forestry in the U.S.



1 addition describing the life of an onshore and an offshore lease



1 addition outlining employee data by commodity

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1

OVERVIEW OF 2017 ACTIVITIES





Overview of 2017 Activities

New contextual narrative information developed for 2017 aimed to strengthen the information presented and increase transparency and public awareness beyond the federal government level and to additional industries.

Specifically, the new content added included:

- Special highlights on new non-energy minerals, renewables, and forestry in the United States
- Additional information throughout the data portal on tribal governance of extraction
- A new state opt-in for 2017, Colorado
- Employment data by commodity throughout the data portal
- Overview of the “life of a lease” outlining the necessary actions of onshore and offshore lessees

ONRR’s 2016 Unilateral Disclosure includes production data from federal lands for 42 different products, including:

Gas:	4.5 trillion cubic feet	
Oil:	762 million barrels	
Coal:	292 million tons	
Copper:	25 thousand tons	

In FY2016, ONRR disbursed \$6.2B dollars, including disbursements to the following:

U.S. Treasury: \$2.5 billion

U.S. States: \$1.3 billion

Reclamation: \$1.0 billion

Land & Water Conservation: \$884 million

American Indian Tribes: \$560 million

The 2017 Executive Summary

This Executive Summary presents an overview of the 2017 DOI Natural Resources Revenue Data (NRRD) Report. Online you can do the following:

1. Review unilateral revenue disclosures from 2013 to 2016
2. Explore maps and charts of extractive industries, as well as revenue and economic data, for the United States and 18 prioritized states, with additional information for the four states that opted in 2016 and 2017
3. Download relevant data sets
4. Read 12 county case studies on the history, geology, production, employment, revenue, and fiscal costs of specific industries, with updated information for 2015 and 2016
5. Conduct a curated search for additional data and information
6. Discuss and participate



How it works

How do natural resources result in federal revenues?

Companies pay for the right to explore on federal lands. If they find and extract resources, they may pay royalties, fees, taxes, and other revenues, depending on the resource.



Case studies

How does natural resource extraction affect local communities?

Learn about 12 communities that led the U.S. in production of iron, copper, gold, coal, oil, and natural gas over the last decade.



Explore data

Where does the money go?

Revenue from natural resources goes to federal, state, and county governments, as well as to a range of funds that work at the local and national levels.



2

STATE PARTICIPATION IN 2017

State Participation in 2017



WHAT'S HERE AND WHERE TO GO FOR MORE INFORMATION

This section introduces Colorado, the new state addition for 2017, and provides a high level overview of the types of information the state provided. Online you can explore the state sections, including last year's opt-ins at <https://revenue.data.doi.gov/explore/>. You can view more information on state and tribal governance at <https://revenue.data.doi.gov/how-it-works/>. Additionally, you can read the 12 county case studies at <https://revenue.data.doi.gov/case-studies/>.



WHAT'S CHANGED FROM 2016 TO 2017

In 2016, three states opted in, providing data on revenues, distribution of those revenues, and legal and fiscal governance of the extractive industries, as well as the economic impact of extraction in their states. In 2017, one state opted-in: Colorado. DOI also furthered local accountability and transparency in this year's report by updating 12 county case studies that depict the impact of specific extractive industries on local communities.

2017 State Opt-In: Colorado

In 2017, we continued to work to increase state and tribal participation. One state chose to voluntarily opt-in this year: Colorado. In addition to the new information included for the state of Colorado, the data portal now includes updated information for last year's three opt-ins: Alaska, Montana, and Wyoming.



COLORADO

Colorado collected \$282M in revenue from extraction. This represented 0.89% of Colorado's state revenue. The School Trust and the School Trust Permanent Fund received the largest amounts of this money (\$56M and \$52M respectively).

State Opt-In Information

Colorado worked with ONRR to provide publicly available data and contextual information covering five areas:



Laws & the Land

Information on land ownership in the state, key state agencies involved in extraction, and how the extractive process works in the state.



Production

Information on which commodities are produced in the state, how much is produced, and how that production compares to other U.S. states.



Revenues

Information on the state's revenue streams, including the types of revenue streams, the amount collected, the counties where revenue comes from, and the tax expenditures the state institutes.



Distribution

Information on how and by what means state revenue gets distributed, where that money goes, and how much the state chooses to save or spend.



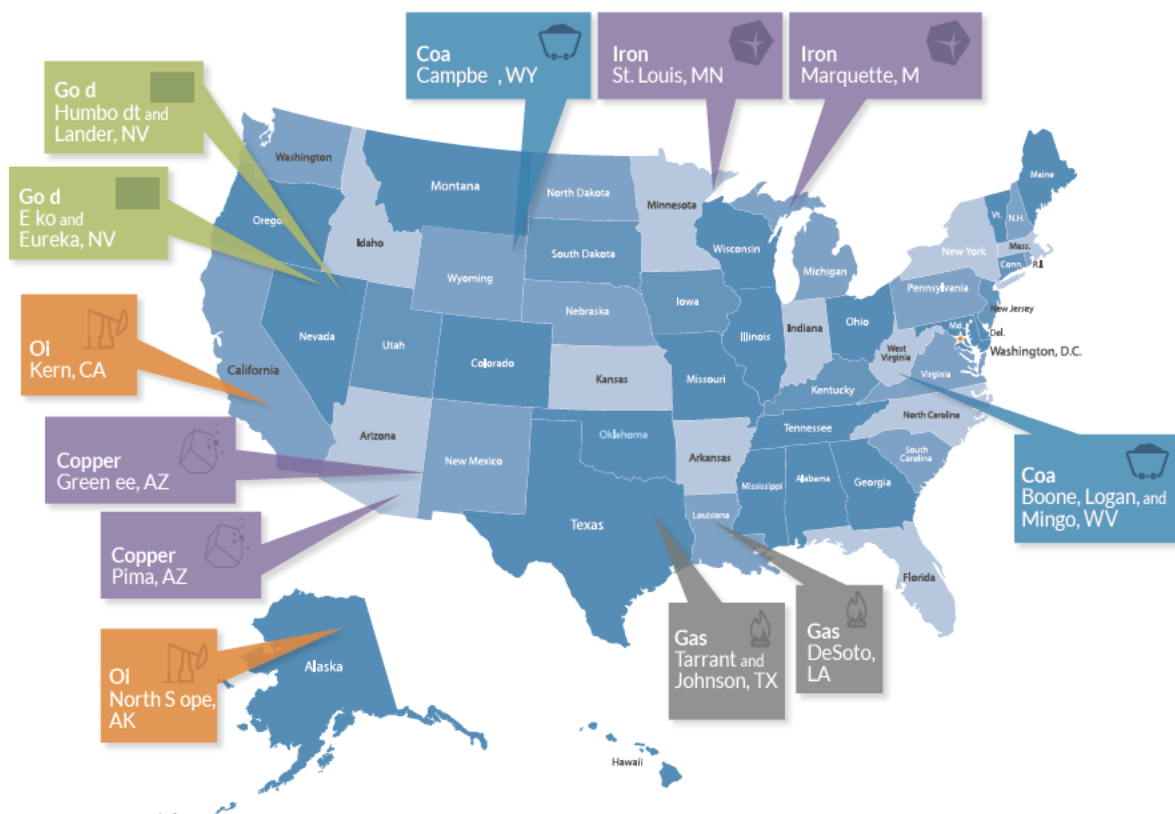
Economic Impact

Information on the extractive industries contributions to state GDP, jobs, wages, the state's revenue sustainability, and the costs associated with extraction.

You can see those state sections, as well as more robust state-specific pages for every state with extractive industries activity, on the online report at <https://revenue.data.doi.gov/explore/>. There you can view the data in-depth and explore interactive maps of land ownership and production for different commodities as well as interactive graphs of production, revenue, disbursements, and economic impact.

County Case Study Updates

In 2017, we updated the information on the 12 county case studies initially developed in 2015. These case studies provide a snapshot into communities that, over the last decade, have led U.S. counties in producing oil, gas, coal, gold, iron, or copper. The county case studies are designed to help readers understand the economic and fiscal effects of oil, gas, coal, and mineral extraction on local communities, including revenue sustainability. You can read the full case studies in the online report, available at <https://revenuedata.doi.gov/case-studies/>.





3

NEW SECTIONS IN THE 2017 REPORT

New Sections in the 2017 Report



WHAT'S HERE AND WHERE TO GO FOR MORE INFORMATION

In an effort to improve public understanding and inform discussions around the extractive industries in the United States, we developed six new contextual sections for the 2017 report. In addition to the state and tribal opt-in sections, they cover new content on extraction on tribal lands, overviews of the forestry and renewable energy sectors, a highlight on the life of a lease, expanded content on non-energy minerals, and new data on employment by commodity. This portion of the Executive Summary contains an overview of these additions. The online report contains the majority of the information, including more graphs and maps.



WHAT'S CHANGED FROM THE 2016 TO 2017 REPORT

Previous reports included general information on extraction on tribal lands, reported on renewable energy production, discussed three non-energy minerals, and outlined the basics of federal leasing. Those topics have been expanded this year. This is the first employment by commodity and forestry content.

Tribal Overview

The 2017 Report includes new information on the extractive industries on tribal land in the United States. The new information includes:

Subject	Information
Ownership of Tribal Land & Resources	Enhanced explanations of tribal and individual Indian land and natural resource ownership in the United States
Governing Laws & Agreements	New content explaining major laws covering federal trust obligations and the basis and explanation of responsibility as well as governing the extraction of natural resources on trust land
Production on Indian Land	New information on the five stages of extraction on tribal lands (Plan, Lease, Explore, Develop, Decommission & Reclaim), including fluid and solid minerals as well as renewable energy projects
Revenues from Indian Land	New overview of how revenues from Indian lands are collected and disbursed, including relevant context, links to agencies, and laws
Audits and Assurances for Revenues from Indian Land	New resources on audit and assurance practices of the federal government relevant to Indian revenues and disbursements
Tribal Economic Impact	New content discussing the economic contributions and costs of extraction on tribal land

Special Highlights on Renewables, Forestry, and Non-Energy Minerals

The 2017 Report includes extensive additional information on two new industries (forestry and renewables) as well as an expansion of current non-energy mineral content to include four additional minerals: lead, silver, zinc, and molybdenum.



Forestry

A special highlight on forestry in the United

States, including ownership information and governance of forests, production, revenue collection and distribution, and economic impact.



Renewables

A special highlight on the renewables

industry in the U.S. including governance, production, revenue, and economic impact.



Non-Energy Minerals

A special highlight on four additional

metals: lead, silver, zinc, and molybdenum. Information includes production, industry overview, and economic impact.

Life of a Lease

As a part of increasing public awareness and trust of the processes governing extraction on public lands, the 2017 report includes new information outlining the life of a federal lease for extracting resources onshore or offshore in the United States. This complements and expands upon existing information on the [How it Works](#) page of the data portal (<https://revenuedata.doi.gov/how-it-works/>). It outlines:

1

Before a Lease: Lessee and government responsibilities prior to a lease sale commencing

3

Under a Lease: Lessee and government responsibilities during the life of the lease

2

Lease Sale: Lessee and government responsibilities and actions during a lease sale

4

End of a Lease: Lessee and government responsibilities at the expiration of a lease

Employment-by-Commodity Data and Other Data Portal Enhancements

In 2017, we added new employment-by-commodity data for wage and salary jobs to the data portal. This information enables users, from experts to the general public, to understand the employment impact of specific industries at the national and state levels. It includes information on six commodities: oil and gas, non-energy minerals, coal, hydroelectric energy, wind energy, and solar energy. Wage and salary jobs by commodity at the national level can be viewed online here: <https://revenuedata.doi.gov/explore/#economic-impact>. Additionally, in 2017, we improved the search capability on the data portal.



4

MAINSTREAMING

Mainstreaming



WHAT'S HERE AND WHERE TO GO FOR MORE INFORMATION

In 2017, in consultation with stakeholders from government, industry, and civil society, Deloitte prepared a Mainstreaming Feasibility Study. This continued efforts by the Department of the Interior to act on its formal commitment to mainstreaming. This executive summary outlines the information presented in that feasibility study.

Mainstreaming Overview

The objective of mainstreaming is to make transparency integral to our systems at the Department of the Interior. Mainstreaming is the formal process countries pursue to demonstrate integrated transparency. The process consists of seven phases: formal commitment, feasibility study, work plan, application, approval, implementation, and review.

Deloitte prepared this mainstreaming feasibility study at the request of ONRR and consulted closely with members of Industry, government, and civil society. The information in the report in this section of the Executive Summary reflects those consultations as well as an independent assessment of U.S. processes and controls.

Unilateral Disclosure of Revenue (UDR)

Each year, ONRR unilaterally discloses calendar year (CY) energy and mineral revenue paid to DOI. Only the revenue deemed to be in-scope is unilaterally disclosed. These disclosures are disaggregated at the company level and reported by natural resource and revenue type. The UDR showcases the United States' commitment to the unilateral disclosure of federal natural resources revenue by company, natural resource, and revenue stream. The UDR uses data reported by federal lease holders on Forms ONRR-2014 and ONRR-4430¹, as well as ONRR direct billing. The UDR is available on DOI's data portal.

Topic	Disclosure Detail
Calendar Years Disclosed	2013–2016
Unique Identified Companies	1,300+ companies paying over \$100K year ²
Total \$ Amount Disclosed ³	\$38,699,490,038
Natural Resource Categories	17
Government Agencies Included	Three (ONRR, the U.S. Bureau of Land Management (BLM), and the U.S. Office of Surface Mining Reclamation and Enforcement (OSMRE))
Revenue Streams	Nine (ONRR royalties, inspection fees, civil penalties, and other revenue; ONRR/BLM rents and bonuses; BLM permit fees; and OSMRE abandoned mine land (AML) fees, including audit and late charges, as well as civil penalties including late charges)

¹ OSMRE and BLM revenue streams are not collected through Forms ONRR-2014 and ONRR-4430. As a result, not all UDR AML fee revenue for OSMRE is from federal leaseholders.

² Thousands more individuals and companies paid as well, but in amounts smaller than \$100,000 per year.

³ This disclosure represents all revenue paid to DOI in CYs 2013–2016.

The total amount disclosed by year can be seen below:

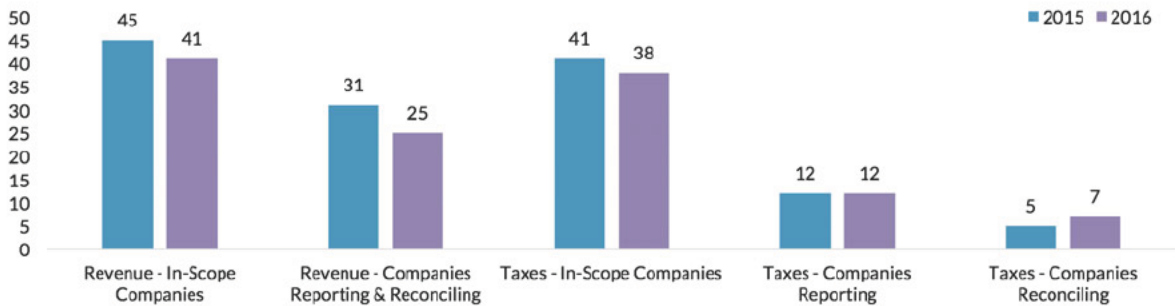
Year	Total \$ Amount Disclosed
2013	\$12,677,473,905
2014	\$12,646,673,553
2015	\$7,803,271,935
2016	\$5,572,070,645

ONRR will continue to unilaterally disclose revenue annually. The data set has been cleaned and organized for ease of use by the general public. It delineates aggregate payments by calendar year, corporate name, revenue stream, natural resource, and revenue.

U.S. Track Record of Reconciliation

The United States conducted its first reconciliation in 2015 as part of the United States Extractive Industries Transparency Initiative (USEITI). The USEITI Multi-Stakeholder Group (MSG) had set the scope of reconciliation to include the top paying companies that, together, accounted for 80% of revenue paid to ONRR. The first period of reconciliation was CY 2013. Across 31 companies (out of 45 invited to reconcile) and 10 revenue streams, the overall variance for all DOI revenue came to \$93,976,582, or 1.1% of all revenue reported by the 31 reconciling companies. For five companies reconciling taxes, there was one variance that totaled \$6,297,360, or 3.3% of reconciled taxes. Seventeen discrepancies exceeded the allowable margin of variance determined by the USEITI MSG. The USEITI Independent Administrator (IA), in collaboration with in-scope companies and government entities, resolved or explained all discrepancies, which included differences regarding when payments were recorded and how they were classified.

Reporting and Reconciliation Results



Result	2015	2016
DOI Revenues Unilaterally Disclosed	100% of 2013 revenues	100% of 2014 and 2015 revenues (only 2015 reconciled)
Companies Participating	31 of 45 companies	25 of 41 companies
DOI Revenues Reported & Reconciled	\$8.5B (81% of in-scope DOI revenues, 67% of all DOI revenues)	\$4.83B (79% of in-scope DOI revenues, 62% of all DOI revenues)
Companies Reporting Taxes	12 of 41 reported \$190M	12 of 38 reported -\$308M
Companies Reconciling Taxes	5 of 41 reconciled \$90M	7 of 38 reconciled -\$130M
Variances	17	21
Variances Resolved or Explained	100%	100%

The Department of the Interior will use the UDR to document the UDR process as it continues to be comprehensive, timely, and accurate. The DOI plans to make the UDR publicly available via existing sources, except where current laws or regulations prohibit data disclosure.

Increasing & Embedding Disclosures

The U.S. government publicly discloses all data embedded in DOI's data portal. This data is updated annually. Key information on the data portal includes:

- **Federal production data** for 55 products extracted from 2006 to 2016. This data can be filtered by product type, region (including state, county, and offshore region), and both calendar and fiscal years.
- **Federal revenue by region** for 2006 to 2016. This data can be filtered by natural resource category and/or region.
- **Company data** for 2013 to 2016, provided by ONRR in its unilateral disclosure. This data can be filtered by natural resource category and/or revenue type.
- **Economic impact data on the extractive industries** for 2006 to 2015, including gross domestic product, exports, and jobs. This data can be filtered by region, with results shown as dollar values or percentage values. The data can be further filtered by natural resource category for exports and by job type for jobs.
- Beyond disclosing DOI data, the portal **aggregates and makes accessible relevant data sets from other government organizations**, including the U.S. Energy Information Administration, the U.S. Bureau of Economic Analysis, and the U.S. Bureau of Labor Statistics, as well as select state and local government data.

In addition to DOI's data portal, ONRR's statistical information site (<http://statistics.onrr.gov/>) provides data sets on disbursements (at the fund or state level and by fiscal year) and reported revenue data (i.e., sales volumes, sales values, and revenue by natural resource category), which is shared at the state, onshore, offshore, and Indian levels in the United States.

The disclosures of companies in the extractive industries in the United States, on the other hand, are generally dictated by their ownership status (and corresponding controls and audits) and internal procedures. In 2016, 34 of the 41 in-scope companies were public (i.e., stock traded on the open market). Public companies must annually disclose their financial statements and the result of their audits. Of the 34 companies, 29 follow accounting principles generally accepted in the United States. The remaining five companies follow International Financial Reporting Standards (IFRS). For each company, independent auditors review and attest to the company's internal controls, in addition to auditing the company's financial statements.

Private companies have fewer requirements to make their information and financial statements public. In 2016, seven in-scope companies were private. These companies, while not subject to the same disclosure requirements as public companies, still operate within the system of controls and audits in which public companies operate. Importantly, private companies can be subject to audits by the IRS.

Evaluating Data Quality

This section outlines the characteristics of U.S. data on whether it is up to date, comprehensive, and reliable.

Up-to-Date Data

For government and industry entities that currently report, U.S. data is disclosed on an annual basis and within the second to last complete accounting period. DOI UDR data is reported for the previous accounting period (e.g., the 2016 report includes 2015 data).

Comprehensive Data

The U.S. government's UDR covers all in-scope, non-tax payments received by the U.S. government. Unilateral disclosure in the United States covers royalties, rents, bonuses, and other revenue, both by revenue stream and by company.

Federal Income Tax disclosure is made by the U.S. Treasury on an aggregate basis by industry. Some companies voluntarily disclose Federal Income Tax data to fulfill regulatory requirements in other countries, or as part of their own transparency reporting.

DOI provides contextual narrative information throughout its data portal, which provides a detailed overview of the extractive industries on federal government lands in the United States. The portal contains dozens of pages, tables, and graphics that allow users to dynamically explore data related to the extractive industries in the United States. It also explains how the extractive industries function in the United States. Specifically, the portal includes:

- More than 15 in-depth contextual pages about the entities that own natural resources, the laws governing natural resource extraction, how natural resources result in federal revenue, details on revenue streams, and data accuracy and accountability measures.
- Fifty-five dynamic regional profile pages with contextual data integrated throughout.
- Twelve county case study pages that examine major producers of in-scope natural resources and the socioeconomic impact extractives industries have on these counties.

Additionally, the data portal includes a glossary related to the extractive industries, downloadable data sets for further analysis, and data documentation and usage notes.

Reliable Data

Companies in the extractive industries are subject to laws and regulations related to payments to the U.S. government, including the process for submitting those payments to the federal government. The processes for how these payments and revenue are recorded and verified are detailed in DOI's *Audit and Assurance*

Practices and Controls in the U.S. Factsheet, which is available at https://revenuedata.doi.gov/downloads/USEITI_budget-audit-factsheet_2016-08-17.pdf. *Appendix 2* includes tables that outline the major laws establishing the fiscal regime, fees, and fines related to extractive industries revenue collection in the United States.

Standards for both the federal government and companies in the extractive industries are promulgated by regulatory and voluntary oversight bodies.⁴ These standards define:

- How companies and the U.S. government report revenue and financial information.
- How internal and external audit procedures provide payment and collection assurance.
- How external auditors provide assurance on companies' financial statements, as well as disclose audit results and audited financial statements for public companies.

These standards as well as select laws establishing the fiscal regime of the extractive industries in the United States can be found in the Appendix of this report.

Reconciliation & Mainstreaming

If data is comprehensive and reliable, then the data is “audited in accordance with international standards, the procedure does not require a comprehensive reconciliation of government revenue and company payments.” This section details the audit, reconciliation, and assurance processes in place at ONRR and other U.S. government agencies.

There are generally four levels of mainstreamed controls:

- Upfront reconciliation of transaction data between DOI, U.S. Treasury, and companies
- Internal audit and other assurance processes within DOI
- External audit of DOI
- Other ad hoc oversight from the Office of the Inspector General (OIG), Congress, and other bodies

As part of the pre-reconciliation process integral to ONRR's receipt and processing of company payments and reporting, ONRR conducts 100% upfront reconciliation. Numerous internal audit and other assurance processes within DOI further aim to achieve accuracy and reliability in payment collection, accounting, and reporting. Those controls, as well as DOI's financial data, are further subject to external audits and ad hoc oversight from the OIG, Congress, and other bodies.

⁴ “Tracking and Verifying Company Payments to Government Agencies in the U.S. Extractive Industries,” n.d., USE T , https://revenuedata.doi.gov/downloads/USE T _budget-audit-factsheet_2016-08-17.pdf

Conclusions

This feasibility study was prepared by Deloitte in consultation with other stakeholders from government, industry, and civil society. The following three primary statements reflect those consultations and a review of documents:

- The United States has **routine disclosures at the requisite level of detail for a significant amount of data**. The U.S. government's UDR covers all in-scope, non-tax payments received by the U.S. government and covers royalties, rents, bonuses, and other revenue by revenue stream and company. The disclosure is available to the public through a data portal (<https://revenue.data.doi.gov/downloads/federal-revenue-by-company/>). The USEITI MSG and EITI International Secretariat have made significant efforts toward the usability and public awareness of the data portal.

That said, there are two areas in which there is not currently routine disclosure:

- Corporate Income Tax, which is an in-scope revenue stream, is not currently disclosed at the company level. Federal law, including Section 6103 of the Internal Revenue Code (26 U.S.C.), which provides for the confidentiality of tax returns and return information, prohibits unilateral disclosure by the U.S. government of taxpayer information at the company level. However, the U.S. Treasury does publicly disclose Corporate Income Tax on an aggregate basis by industry, including for the oil and gas and mining industries. Also, the IRS, which is under the U.S. Treasury umbrella, has the right to audit individual taxpayer returns. In addition, some companies voluntarily disclose Corporate Income Tax data to fulfill regulatory requirements in other countries, or as part of their own transparency reporting. Fuller tax disclosure would require either new legislation and/or expanded voluntary company disclosure. Based on consultations conducted in preparation of this report, stakeholders did not see a path to either at this time.
- With respect to beneficial owners, there is an existing framework of Federal banking, securities, mineral extraction and other regulations which require routine disclosure of significant owners and "responsible persons" for U.S. companies in many situations. There are also existing ethics rules which require Federal employees to disclose financial interests in companies and limit conflicts of interest. (See page 30 for more detail). However, because companies can register in any of the 50 states, there is no single authoritative source for beneficial ownership information, and the level of disclosure at the state level varies widely. Based on consultations conducted in preparation of this report, stakeholders did not see a legislative or regulatory path to create such a source at the present time.

Considered together, the system of internal controls, the disclosure of non-tax revenue through the UDR, and the disclosure of industry aggregates for Corporate Income Tax, the United States has routine disclosure of a significant amount of the data.

- **In-scope financial data for the U.S. government is subject to independent audit, applying international standards.**⁵ The U.S. government and companies (both public and private) generally have controls and systems of internal and external audit consistent with international standards.

With respect to the external audit of DOI, OIG engages an external auditor to conduct an annual audit of ONRR's financial functions. The external audit is conducted according to GAGAS, an internationally recognized standard. While the specific tests used in DOI's external audit have not been disclosed, interviews with OIG and other DOI personnel indicate that source documents and records are used to verify the accuracy of financial reports. In addition to the external audit, DOI and ONRR are subject to oversight related to the collection, distribution, and reporting of revenue, including oversight from DOI's Office of Audits, Inspections, and Evaluations and DOI's Office of Investigations.

In addition, all publicly traded in-scope companies undergo external audits in accordance with international standards, either GAAP or IFRS, and disclose their financial statements and the results of their audits to the SEC. Privately held U.S. companies also generally undergo audits in accordance with international standards and may be audited by the IRS, although they are not required to publicly disclose their results.

- **Internal controls exist to support the reliability and accuracy of payment collection, accounting, and reporting of in-scope data.** Internal processes and controls between the U.S. Treasury, DOI, and company payors are in place, including an upfront reconciliation of a large percentage of transactions, which compares the amounts owed to the amounts collected. These processes and controls are designed to monitor the accuracy and timeliness of revenue collection and reporting between the company payor and the U.S. government. This system of controls is also intended to reduce the opportunities for fraud by the company payors or U.S. government officials. The OMB Circular A 123 program, DOI's Integrated Internal Control Program, and ONRR's data accuracy efforts for Form ONRR-2014 and OGOR submissions are examples of the additional controls in place in the United States to support the reliability and accuracy of data. ONRR's Audit and Compliance Management office within DOI serves to verify the accuracy of data reported to ONRR and examines statements, records, and operations of companies to verify compliance with lease instruments and established regulations, laws, and guidelines. Additionally, states and tribes in the United States maintain audit programs.

⁵ <https://revenue.data.doi.gov>



5

UPDATES TO RELEVANT LAWS AND REGULATIONS

Updates to Relevant Laws & Regulations

A full overview of federal laws and regulations governing extractive industries in the U.S. can be found at <https://revenuedata.doi.gov/how-it-works/federal-laws/>.

Relevant New Laws, Rules, and Reports

In 2017 there were a number of new final and proposed rules, Government Accountability Office (GAO) reports, and OIG reports issued. They include a repeal of a rule updating coal, oil, and gas valuation and OIG reports on BIA's management of the Osage Nation's energy resources and on the OSMRE's oversight of the Abandoned Mine Lands Program. You can read summaries of these updates and find links to the full rules and reports online at <https://revenuedata.doi.gov/how-it-works/federal-reforms/>.

Dodd Frank 1504 & the Congressional Review Act

Congress passed the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (124 Stat. 1376) to improve transparency and accountability across the financial system. Section 1504 of the act requires extractive industries companies registered with the Securities and Exchange Commission (SEC) to separately disclose information about payments to governments around the world in an interactive data format. You can read the act at <https://www.gpo.gov/fdsys/pkg/PLAW-111publ203/pdf/PLAW-111publ203.pdf>.

Section 1504 mandates disclosure of “the type and

total amount of (such) payments made for each project of the resource extraction issuer relating to the commercial development of oil, natural gas, or minerals,” including “taxes, royalties, fees (including license fees), production entitlements, bonuses, and other material benefits, that the Commission, consistent with the guidelines of the EITI (to the extent practicable), determines are part of the commonly recognized revenue stream for the commercial development of oil, natural gas, or minerals.”⁶

The SEC rewrote the rule to implement this law and released the final implementation rules in June 2016. In February 2017, the U.S. Congress passed a joint resolution of disapproval for the rule under the Congressional Review Act of 1996.⁷ This nullified the SEC's rule. While Section 1504 still carries a legal mandate, the resolution of disapproval means that “the rule may not take effect and the agency may issue no substantially similar rule without subsequent statutory authorization.”⁸ Furthermore, under the law, the rule “shall be treated as though [it] had never taken effect.”⁹

The final rule as SEC issued it can be found here: <https://www.sec.gov/rules/final/2016/34-78167.pdf>. The resolution of disapproval can be read here: <https://www.congress.gov/bill/115th-congress/house-joint-resolution/41>.

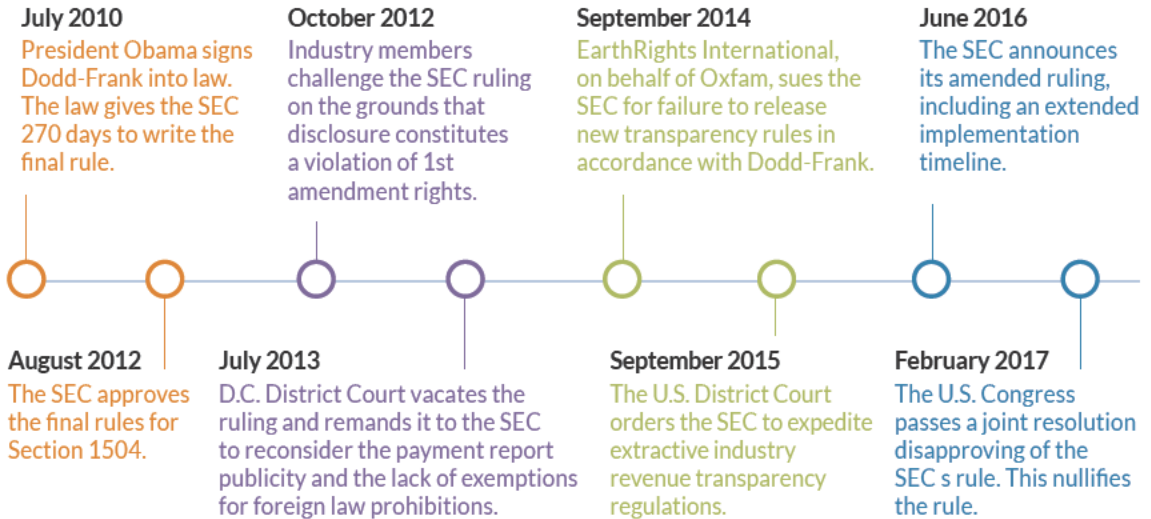
⁶ Dodd-Frank Wall Street Reform and Consumer Protection Act, <https://www.gpo.gov/fdsys/pkg/PLAW-111publ203/content-detail.htm>

⁷ The Congressional Review Act enables Congress to disapprove of a rule within 60 days of receiving it.

⁸ <https://www.senate.gov/CRSpubs/316e2dc1-fc69-43cc-979a-dfc-24d784c08.pdf>

⁹ 5 U.S.C. Section 801(f).

Dodd-Frank 1504 Timeline¹⁰



¹⁰ Securities and Exchange Commission, "SEC Adopts Rules for Resource Extraction Issuers Under Dodd-Frank Act," <https://www.sec.gov/news/pressrelease/2016-132.htm>



6

APPENDIX — RELEVANT U.S. LAWS AND REGULATIONS

Appendix — Relevant U.S. Laws and Regulations

Law Name and Code	Description	Relevant Lands or Waters	Relevant Natural Resources
General Mining Act of 1872, as Amended ¹¹ (30 USC § 29 and 43 CFR 3860)	Provides the right to patent, meaning transfer to private ownership, federal land and natural resources for mining. Since October 1, 1994, Congress has imposed a budget moratorium on any new mineral patent applications.	Federal Onshore Lands (Public Domain)	Locatable hardrock minerals (e.g., gold, silver, and copper)
Leases of Allotted Lands for Mining Purposes ¹² (25 USC § 396 and 25 CFR 212)	States that all lands allotted to Indians, except those made to members of the Five Civilized Tribes and Osage, may be leased for mining purposes for any term of years as may be deemed advisable by the Secretary of the Interior.	Indian Lands (Allotted)	Not specified
Mineral Leasing Act of 1920, as Amended ¹³ (30 USC 181 et. seq.)	Creates a system of leasing mineral resources on federal lands for extraction, and grants BLM the authority to administer mineral leasing.	Federal Onshore Lands (Public Domain)	Coal, oil, gas, oil or gas shale, sodium, potassium, phosphate, sulfur, and gilsonite
Indian Mineral Leasing Act of 1938 ¹⁴ (25 USC § 396a et. seq.)	Opens unallotted lands within any Indian reservation for leasing for mining purposes by authority of the tribal council and approval from the Secretary of the Interior.	Indian Lands (Tribal)	Not specified
Mineral Leasing Act for Acquired Lands of 1947 ¹⁵ (30 USC § 351 et seq. and 43 CFR 3420)	Extends the Mineral Leasing Act of 1920 and the authority of the Secretary of the Interior to govern mineral leasing on federal acquired lands.	Federal Onshore Lands (Acquired)	Coal, oil, gas, oil or gas shale, sodium, potassium, phosphate, sulfur, and gilsonite

Select Laws Establishing the Fiscal Regime for Extractive Industries in the United States:

¹¹ http://apps2.eere.energy.gov/wind/windexchange/wind_installed_capacity.asp

¹² <http://www.gpo.gov/fdsys/pkg/USCODE-2011-tit e25/pdf/USCODE-2011-tit e25-chap12-sec396.pdf>

¹³ https://www.onrr.gov/Laws_R_D/PubLaws/PDFDocs/MineralLeasingAct1920.pdf

¹⁴ <http://www.gpo.gov/fdsys/pkg/USCODE-2009-tit e25/html/USCODE-2009-tit e25-chap12.htm>

¹⁵ http://egcounsel.house.gov/Comps/m_aacq.pdf

Law Name and Code	Description	Relevant Lands or Waters	Relevant Natural Resources
Materials Act of 1947 ¹⁶ (30 USC § 601 et. seq.)	Also known as the Common Varieties Act, it regulates the sale and permitting of the most common hardrock minerals. It replaces the General Mining Law of 1872.	Federal Onshore Lands	Common hardrock minerals (e.g., sand, gravel, stone, pumice, cinder)
Submerged Lands Act of 1953 ¹⁷ (43 USC § 1301 et. seq.)	Recognizes states' rights to the submerged navigable lands within their boundaries, as well as the marine waters within their boundaries often defined as three geographical miles from the coastline.	State Offshore Lands	All natural resources
Outer Continental Shelf Lands Act of 1953, as Amended ¹⁸ (43 USC § 1331)	Gives the Secretary of the Interior responsibility for administering mineral exploration and development and other energy resources on the Outer Continental Shelf, subject to environmental safeguards. Mandates receipt of fair market value for mineral leasing.	Outer Continental Shelf	Oil, gas, and other minerals
Geothermal Steam Act of 1970 ¹⁹ (30 USC § 1001 et. seq.)	Allows the leasing of federal land under BLM's administration for geothermal resource development, excluding prohibited lands.	Federal Onshore Lands	Geothermal
Mining and Minerals Policy Act of 1970 ²⁰ (30 USC § 21a)	Amends the Mining Act of 1920 to establish the national interest to develop a domestic private enterprise mining industry, while addressing adverse environmental impacts.	Federal Onshore Lands	All natural resources
Federal Coal Leasing Amendments Act of 1975 (FCLAA) ²¹ (90 STAT 1083)	Amends Section 2 of the Mineral Leasing Act of 1920 by requiring all public lands available for coal leasing to be leased competitively, with the government only accepting lease bids equal to or more than fair market value, as well as the consolidation of leasing into logical mining units, the continual operation by lease holders, and other measures.	Federal Onshore Lands	Coal

¹⁶ [http://egcounse.house.gov/Comps/Act%20of%20July%202031,%201937-\(Materials%20Act%20of%201947\).pdf](http://egcounse.house.gov/Comps/Act%20of%20July%202031,%201937-(Materials%20Act%20of%201947).pdf)

¹⁷ <http://www.boem.gov/uploadedFiles/submergedLA.pdf>

¹⁸ <http://www.gpo.gov/fdsys/pkg/USCODE-2010-title43/html/USCODE-2010-title43-chap29-subchap1.html>

¹⁹ <http://www.gpo.gov/fdsys/pkg/STATUTE-84/pdf/STATUTE-84-Pg1566.pdf>

²⁰ <http://www.gpo.gov/fdsys/pkg/USCODE-2011-title30/pdf/USCODE-2011-title30-chap2-sec21a.pdf>

²¹ <http://www.gpo.gov/fdsys/pkg/STATUTE-90/pdf/STATUTE-90-Pg1083.pdf>

Law Name and Code	Description	Relevant Lands or Waters	Relevant Natural Resources
Surface Mining Control and Reclamation Act of 1977 (SMCRA) ²² (30 USC § 1201 et. seq.)	Creates the Office of Surface Mining Reclamation, and Enforcement (OSMRE) to establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations. OSMRE is charged with balancing the nation's need for continued domestic coal production with protection of the environment. In this effort, OSMRE requires coal mine owners to post bonds as insurance for reclaiming the land after current mining operations are complete, as well as requires them to pay into the Abandoned Mine Reclamation Fund, which is intended to address mines abandoned prior to 1977.	Federal Onshore Lands	Coal
Federal Oil and Gas Royalty Management Act of 1982 (FOGRMA) ²³ (30 USC § 1701 et. seq.)	Grants the Secretary of the Interior authority for managing and collecting oil and gas royalties from leases on federal and Indian lands.	Federal Onshore and Indian Lands, and Outer Continental Shelf	Oil and gas
Indian Mineral Development Act of 1982 ²⁴ (25 USC §§ 2101–2108)	Provides Indian tribes with flexibility in the development and sale of mineral resources, including opportunities to enter into joint venture agreements with mineral developers.	Indian Lands (Tribal)	Oil and gas, coal, geothermal, and other mineral resources
Federal Onshore Oil and Gas Leasing Reform Act of 1987 (FOOGLRA) ²⁵ (30 USC § 181 et. seq.)	Amends the Mineral Leasing Act of 1920 to give the U.S. Forest Service the authority to proactively offer leases for oil and gas on National Forest System lands, provided environmental and other land-use regulations are met. BLM largely administers leasing on these lands.	Federal Onshore Lands	Oil and gas
Federal Oil and Gas Royalty Simplification and Fairness Act of 1996 (RSFA) ²⁶ (30 USC § 1701 et. seq.)	Improves royalty management from federal onshore and Outer Continental Shelf oil and gas leases.	Federal Onshore Lands and Outer Continental Shelf	Oil and gas

²² <http://www.gpo.gov/fdsys/pkg/STATUTE-91/pdf/STATUTE-91-Pg445.pdf>

²³ http://www.boem.gov/uploadedFiles/BOEM/Oil_and_Gas_Energy_Program/Leasing/Outer_Continental_Shelf/Lands_Act_History/federal%20og%20royalty%20mgmt.pdf

²⁴ <http://www.gpo.gov/fdsys/pkg/STATUTE-96/pdf/STATUTE-96-Pg1938.pdf>

²⁵ <http://www.gpo.gov/fdsys/pkg/USCODE-2011-title30/pdf/USCODE-2011-title30.pdf>

²⁶ <http://www.onrr.gov/awards/PubLaws/PDFDocs/rsfa.pdf>

Law Name and Code	Description	Relevant Lands or Waters	Relevant Natural Resources
Energy Policy Act of 2005 (EPA Act) ²⁷ (42 USC § 13201 et. seq.)	Addresses energy production in the United States, including the production, transportation, and transmission of energy, other than oil and gas (e.g., wind energy), in the waters of the Outer Continental Shelf; incentives for oil and gas development; and provisions to access oil and gas resources on federal lands.	Federal Onshore Lands and Outer Continental Shelf	Oil, gas, coal, wind, solar, hydropower, and geothermal
Gulf of Mexico Energy Security Act of 2006 (GOMESA) ²⁸ (120 Stat. 2922)	Opens 8.3 million acres in the Gulf of Mexico for oil and gas leasing; shares leasing revenue with oil-producing gulf states and the Land and Water Conservation Fund; and bans oil and gas leasing within 125 miles off the Florida coastline in the Eastern Planning Area and a portion of the Central Planning Area until 2022.	Outer Continental Shelf	Oil and gas

There are other laws governing natural resources and companies operating in the extractive industries. Some of these laws require companies to pay fees. Violating some of these laws can also result in the incursion of fines.

Select Laws Resulting in Fines or Fees for Extractive Industries Companies in the United States:

Law Name and Code	Description	Relevant Lands or Waters	Relevant Natural Resources
Federal Land Policy and Management Act of 1976 (FLPMA) ²⁹ (43 USC § 1701 et. seq.)	Requires BLM to administer federal lands using a land use planning framework that includes no unnecessary or undue degradation; multiple-use, sustained yield, considerations for present and future generations; and public planning. Requires receipt of fair market value for use of federal lands and resources.	Federal Onshore and Indian Lands	All natural resources
Clean Air Act of 1970 (CAA) ³⁰ (42 USC § 7401 et. seq.)	Outlines steps that federal agencies, state and local governments, and industry must take to decrease air pollution. Oil and gas wells are exempt from legal aggregation, whereby the emissions from small sites that are connected in close proximity or under shared ownership are added together and regulated as “stationary sources” if they emit or could emit 100 tons per year of a pollutant.	All Lands	All natural resources, except when oil and gas are exempted

²⁷ <http://www.gpo.gov/fdsys/pkg/B-LLS-109hr6enr/pdf/B-LLS-109hr6enr.pdf>

²⁸ <http://www.boem.gov/Oil-and-Gas-Energy-Program/Energy-Economics/econ/GOMESA-pdf.aspx>

²⁹ <https://www.blm.gov/or/regulations/fines/FLPMA.pdf>

³⁰ <http://www.gpo.gov/fdsys/pkg/USCODE-2008-title42/pdf/USCODE-2008-title42-chap85.pdf>

Law Name and Code	Description	Relevant Lands or Waters	Relevant Natural Resources
Clean Water Act of 1977 (CWA) ³¹ (33 USC § 1251 et. seq.)	Establishes a regulatory framework to protect water quality and monitor discharges of pollutants into waters in the United States. The U.S. Environmental Protection Agency (EPA) does not require National Pollutant Discharge Elimination System (NPDES) permits for uncontaminated storm water discharges from oil and gas exploration, production, processing, or treatment operations, or transmission or drill site preparation. ³²	All Lands	All natural resources, except when oil and gas are exempted
Safe Drinking Water Act of 1974 (SDWA) ³³ (42 USC 300f–300j)	Protects public health by regulating the nation's public drinking water supply and its sources. As of the 2005 Energy Policy Act, hydraulic fracturing fluids are exempt from underground injection control permits, unless diesel fuel is used in the extraction process. ³⁴	All Lands	All natural resources, except when oil and gas are exempted
Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) ³⁵ (42 USC 9601–9675)	Provides a federal superfund to clean up uncontrolled or abandoned hazardous waste sites, as well as accidents, spills, and other emergency releases of pollutants and contaminants into the environment, and gives EPA the power to seek out those parties responsible for any release and ensure their cooperation in the cleanup.	All Lands	All natural resources, except when oil and gas are exempted
Endangered Species Act of 1973 (ESA) ³⁶ (16 USC § 1531 et. seq.)	Protects and recovers imperiled species and the ecosystems upon which they depend.	All Lands	All natural resources
Marine Mammal Protection Act of 1972, as Amended ³⁷ (16 USC 1361 et. seq.)	Prohibits, with certain exceptions, the taking of marine mammals in U.S. waters and by U.S. citizens on the high seas, and the importation of marine mammals and marine mammal products into the United States.	All Lands	All natural resources, except when oil and gas are exempted

³¹ <https://www.gpo.gov/fdsys/pkg/USCODE-2011-tit-e42/pdf/USCODE-2011-tit-e42-chap6A-subchapX.pdf>

³² U.S. Environmental Protection Agency, "Regulation of Oil and Gas Construction Activities," March 9, 2009, <http://water.epa.gov/pollution/npdes/stormwater/Regulation-of-Oil-and-Gas-Construction-Activities.cfm>

³³ <https://www.gpo.gov/fdsys/pkg/USCODE-2011-tit-e42/pdf/USCODE-2011-tit-e42-chap6A-subchapX.pdf>

³⁴ U.S. Environmental Protection Agency, "Regulation of Hydraulic Fracturing Under the Safe Drinking Water Act," http://water.epa.gov/type/groundwater/uic/cass2/hydraulicfracturing/waters_hydroreg.cfm

³⁵ <https://www.gpo.gov/fdsys/pkg/USCODE-2010-tit-e42/pdf/USCODE-2010-tit-e42-chap103.pdf>

³⁶ <http://www.nmfs.noaa.gov/pr/pdfs/awes/esa.pdf>

³⁷ <http://www.nmfs.noaa.gov/pr/pdfs/awes/mmpa.pdf>

Extractive industries companies must comply with many other laws. The websites for DOI, EPA, the National Oceanic and Atmospheric Administration (NOAA), and other federal agencies contain more comprehensive lists of related laws that they enforce:

- DOI Bureau of Ocean Energy Management (BOEM): <http://www.boem.gov/Regulations/BOEM-Governing-Statutes.aspx>
- DOI Bureau of Safety and Environmental Enforcement (BSEE): <http://www.bsee.gov/Regulations-and-Guidance/BSEE-Governing-Statutes/>
- DOI BLM: <https://www.blm.gov/about/laws-and-regulations>
- EPA: <http://www2.epa.gov/laws-regulations/laws-and-executive-orders#majorlaws>
- NOAA: http://www.nmfs.noaa.gov/ole/about/what_we_do/laws.html

Laws, Regulations, Professional Standards, and Regulatory Organizations:

Law, Regulation, Professional Standard, or Regulatory Organization	Acronym	Description
Generally Accepted Accounting Principles	GAAP	GAAP is the standardized accounting rule set for federal government entities and publicly traded or private companies domiciled in the United States or other international jurisdictions in which GAAP is required. GAAP enables company stakeholders to compare accounting statements for different companies and industries using a standard methodology. Because of various accounting and financial reporting standards, the federal government tailors GAAP to meet its unique characteristics and circumstances.
Internal Revenue Service	IRS	The IRS is the revenue service of the U.S. government. The IRS is a bureau within the U.S. Treasury and is under the immediate direction of the Commissioner of Internal Revenue. The IRS is responsible for collecting taxes and the administration of the Internal Revenue Code.
Securities and Exchange Commission Act	SEC	The Securities Exchange Act of 1934 established the SEC to govern the securities industry. By regulation of the SEC, public companies must have their financial statements prepared in accordance with GAAP or IFRS, as issued by the International Accounting Standards Board (IASB), and audited each year by an independent registered public accounting firm. During an audit, the independent auditor examines, on a test basis, evidence supporting the amounts and disclosures in the financial statements. The auditor provides a written opinion on whether the company's financial statements are, in all material respects, fairly presented in accordance with GAAP or IFRS, whichever is applicable.

Law, Regulation, Professional Standard, or Regulatory Organization	Acronym	Description
Sarbanes-Oxley Act of 2002	SOX	SOX requires all financial reports for large public companies (i.e., those with market capitalizations of \$75 million and referred to as "accelerated" filers and those subject to SEC reporting requirements) to include certification of internal control over financial reporting (ICFR) by company management and an ICFR opinion by an independent auditor as of the specified balance sheet date. Congress passed SOX in 2002, in part, to further protect investors from fraudulent accounting activities by public companies.
Public Company Accounting Oversight Board	PCAOB	PCAOB exists to confirm that registered public accounting firms are auditing the financial statements and ICFR of public companies in accordance with auditing standards established and adopted by the PCAOB. The PCAOB is a nonprofit corporation established by Congress to oversee the audits of public companies in order to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports.
American Institute of Certified Public Accountants	AICPA	AICPA requires independent auditors to comply with the audit standards issued by the AICPA for the audits of all companies that are not subject to SEC jurisdiction. The AICPA has released mandatory audit and attestation standards for conducting, planning, and reporting on audit and attestation engagements of private companies.
Financial Accounting Standards Board	FASB	The FASB is a private, nonprofit organization whose primary purpose is establishing and improving GAAP within the United States. The SEC designated the FASB as the organization responsible for setting accounting standards for public companies in the United States. The FASB created the Private Company Council (PCC), which works jointly with the FASB to mutually agree on a set of criteria to decide whether and when alternatives within GAAP are warranted for private companies.
International Financial Reporting Standards	IFRS	IFRS are accounting standards developed by the IASB that are intended to establish a consistent global standard for the preparation of public company financial statements for entities domiciled outside the United States. The IASB, based in London, is an independent accounting standard-setting body. It is funded by contributions from major accounting firms, private financial institutions, industrial companies, central and development banks, national funding regimes, and other international and professional organizations throughout the world. Approximately 120 nations and reporting jurisdictions permit or require IFRS for domestic-listed companies. The SEC is currently considering whether it will incorporate IFRS into the financial reporting system for U.S. issuers. There is currently no estimated date for when such a decision might be made.
Generally Accepted Auditing Standards	GAAS	GAAS are the minimum standards for auditing private companies and come in three categories: general standards, standards of fieldwork, and standards of reporting. PCAOB has adopted these standards for public (i.e., traded on the open market) companies. Each audit engagement may require audit work beyond what is specified in the GAAS in order to provide a written opinion on whether a set of financial statements is, in all material respects, fairly presented in accordance with GAAP.

Law, Regulation, Professional Standard, or Regulatory Organization	Acronym	Description
Generally Accepted Government Auditing Standards	GAGAS	GAGAS provides a framework for conducting high-quality audits of government resources and programs with competence, integrity, objectivity, and independence. Government auditing allows legislators, oversight bodies, those charged with governance, and the public to hold government agencies accountable. GAGAS is used by auditors of government entities, entities that receive government awards, and other audit organizations performing audits. GAO, an independent, nonpartisan agency that works for Congress, is responsible for maintaining and updating GAGAS. GAO is often called the “congressional watchdog” and investigates the executive branch of the federal government.
Chief Financial Officers Act of 1990 (P.L. 101-576)	CFO Act	The CFO Act establishes a leadership structure, provides for long-range planning, requires audited financial statements, and strengthens accountability reporting in the federal government. The aim of the CFO Act is to improve financial management systems and information. The CFO Act also requires the development and maintenance of agency financial management systems that comply with the following: applicable accounting principles, standards, and requirements; internal control standards; OMB requirements; U.S. Treasury requirements; and requirements of other agencies. Reports of audits conducted under the CFO Act are done on an annual basis and must be completed by November 15 following the close of the fiscal year (September 30) for which the financial statements were prepared.
Government Management Reform Act of 1994 (P.L. 103-356)	GMRA	GMRA requires the independent, external audit of agency financial statements and the preparation and audit of a consolidated financial statement for the federal government on an annual basis.
OMB Circular A-136 (Financial Reporting Requirements)	A-136	A-136, which is updated annually by OMB, provides federal guidance for agency and government-wide financial reporting. This circular establishes a central point of reference for all federal financial reporting guidance for the departments, agencies, and entities in the executive branch that are required to submit an Agency Financial Report (AFR) under the CFO Act and the GMRA. In compliance with the CFO Act, the GMRA, and A-136, DOI publishes an AFR every fiscal year.
Federal Financial Management Improvement Act of 1996 (P.L. 104-208)	FFMIA	FFMIA requires federal agencies to implement and maintain financial management systems that substantially comply with federal financial management system requirements, applicable federal accounting standards, and the USGGL at the transactional level.
Federal Information Security Management Act of 2002 (P.L. 107-347)	FISMA	FISMA requires federal agencies to provide information security controls commensurate with the risk and potential harm of not having those controls in place. FISMA also requires the heads of agencies and OIG to conduct annual IT security reviews, perform annual independent evaluations of the effectiveness of the agency’s security programs and systems, and report their results to OMB and Congress.

Law, Regulation, Professional Standard, or Regulatory Organization	Acronym	Description
Federal Accounting Standards Advisory Board	FASAB	FASAB was established in October 1990 by the Secretary of the Treasury, the Director of OMB, and the U.S. Comptroller General. This board possesses the legal authority, under various laws, to establish accounting and financial reporting standards for the federal government. In October 1999, the AICPA recognized FASAB as the board that promulgates GAAP for federal entities.
OMB Circular No. A-123	A-123	A-123 prescribes management's responsibilities for establishing and maintaining effective internal controls and financial management systems that meet the objectives of the Federal Managers' Financial Integrity Act of 1982.
OMB Bulletin 14-02 (Audit Requirements for Federal Financial Statements)		OMB Bulletin No. 14-02, issued on October 21, 2013, establishes minimum requirements for independent audits of federal financial statements. This bulletin implements the audit provisions of the CFO Act, as amended, the GMRA, and FFMIA.





U.S. Department of the Interior

Natural Resources Revenue Data

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United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240

MAY 05 2017

Memorandum

To: Assistant Secretaries

From: Director, Office of the Executive Secretariat and Regulatory Affairs *James L. Hill*

Subject: Boards and Commissions

The Secretary is committed to restoring trust in the Department's decision making, and that begins with institutionalizing state and local input and ongoing collaboration.

The Department currently includes more than 200 boards, committees, subcommittees, commissions, and other internal and external advisory bodies (committees) that are authorized to meet periodically and solicit input.

To maximize feedback from these committees and ensure their compliance with the Federal Advisory Committee Act (FACA), the President's recent executive orders, and the Secretary's recent secretary's orders, the Department is currently reviewing the charter and charge of each committee. This review necessitates the postponement of all meetings, which will be rescheduled for September 2017 or later.

To assist with this review, please direct the bureaus/offices you oversee to provide you with the following information by May 22, 2017:

- (1) the most recent charter, and any prior versions if there have been significant changes over time;
- (2) the costs and resources required annually to support the committee;
- (3) a list of both Federal and non-Federal members/alternates, to include their organization, whether they represent the Department of the Interior, and their term limits;
- (4) whether the committee is mandated by statute/law, authorized by statute/law, or established pursuant to Agency authority (provide a copy of the enabling legislation and any amendments);

- (5) brief description of the benefits, services, and/or recommendations provided by the committee to the Department and bureaus (i.e. provide a narrative justification for the committee);
- (6) other information relevant to understanding the purpose of the committee; and
- (7) the most recent annual schedule of meetings, including when the next meeting would be held, the location of the meeting, and if the meeting has been noticed in the Federal Register.

Additional briefings may be scheduled to discuss the material. If you have any questions, please contact the Office of the Executive Secretariat at (202) 208-3181.

cc: Chiefs of Staff
Chiefs of Staff, Bureaus and Offices
FACA Group Federal Officers, Bureaus and Offices

<Member Name>

<Address>

<Address>

<Address>

Dear <Member Name>:

Thank you for participating in the United States Extractive Industries Transparency Initiative (USEITI) Advisory Committee. Your work helped to make the public more aware of the contributions of the extractive industries to the U.S. economy and jobs.

This journey began in September 2011, when as part of the U.S. Open Government Partnership, the Office of Natural Resources Revenue (ONRR) began collaborating with other Government agencies, departmental bureaus and offices, and industry and civil society stakeholders to implement USEITI. Since the first public meeting in 2013, through to the 20th meeting in 2017, the USEITI Multi-stakeholder Group (MSG) worked collaboratively to successfully reach consensus on how to implement USEITI.

Highlights of our joint commitment to transparency and good governance of U.S. extractive sector revenues include:

- Becoming the first G7 country and second Organization for Economic Cooperation and Development (OECD) country to achieve Candidate Country status and become an EITI implementing country. U.S. leadership has played a crucial role in the endorsement of the EITI by the G-7, the G-20, and the United Nations Security Council.
- Disclosing unilaterally in 2014, for the first time, Department of the Interior (DOI) production data and calendar-year revenue data by company, revenue type, and commodity. The DOI has unilaterally disclosed for calendar years 2013-2015, \$33.1 billion in revenues paid by companies for extraction on Federal lands and waters.
- Publishing in December 2015, the first online Report and Executive Summary on the DOI data portal <https://useiti.doi.gov/>, and in November 2016, the second online Report and Executive Summary. Building on your direction, in December 2017, ONRR will complete a third online report.
- Demonstrating zero unresolved discrepancies between Federal Government disclosed revenues received from oil, gas, and mining companies, with parallel disclosure by companies of what they have paid to the Government in royalties, rents, bonuses, taxes, and other payments.

- Demonstrating DOI has robust ONRR-managed audit and assurances practices in place to assure accountability for the revenues paid and received for our Nation's oil, gas, and mineral resources.
- Building the DOI data portal with modern, open-source technologies so that techniques and tools can be shared and replicated throughout the U.S. and in other EITI countries around the world. The website's open data sets and visualizations can be reused for strategic reporting and reposted and sent through social media, thus further informing the public and open debate on the extractives industry in the U.S. The portal is the new global standard in revenue governance transparency.
- Expanding public awareness of the role of extractive industries at the state and local level. The States of Montana, Wyoming, and Alaska collaborated with USEITI to allow for expanded State reporting of extractive revenues. The MSG also furthered local accountability and transparency by including 12 county case studies that depict the impact of specific extractive industries on local communities.

The EITI Standard fits within ONRR's guiding principles of accountability, professionalism, integrity, partnerships, and innovation. We strive to be recognized as a world-class natural resources revenue management program, setting the standard for accountability and transparency. In the long term, extractive industry transparency should not be confined to EITI reporting, rather be recognized an integral part of how Government manages. Therefore, at DOI we have initiated steps to move towards institutionalizing innovation in digital services and mainstreaming Government extractives revenue data pipelines and end-user needs. Moving forward in this journey, institutionalizing EITI will continue to improve Government revenue transparency in the U.S. and continue to serve as an example internationally.

Again, thank you for your contribution in promoting revenue transparency and accountability in the extractive sector.

Sincerely,

Judy Wilson
Acting Designated Federal Officer,
USEITI Advisory Committee

<Member Name>

<Address>

<Address>

<Address>

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- Demonstrating zero unresolved discrepancies between Federal ~~G~~overnment disclosed revenues received from oil, gas, and mining companies, with parallel disclosure by companies of what they have paid to the ~~G~~overnment in royalties, rents, bonuses, taxes, and other payments.
- Demonstrating ~~DOI the Department, as managed by ONRR,~~ has robust ~~ONRR-managed~~ audit and assurances practices in place to assure accountability for the revenues paid and received for our ~~Nation's country's~~ oil, gas, and mineral resources.
- Building the DOI data portal with modern, open-source technologies so that techniques and tools can be shared and replicated throughout the U.S. and in other EITI countries around the world. The website's open data sets and visualizations can be reused for strategic reporting and reposted and sent through social media, thus further informing the public and open debate on the extractives industry in the U.S. The portal is the new global standard in revenue governance transparency.
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The EITI Standard fits within ONRR's guiding principles of accountability, professionalism, integrity, partnerships, and innovation. We strive to be recognized as a world-class natural resources revenue management program, setting the standard for accountability and transparency. In the long term, extractive industry transparency should not be confined to EITI reporting, rather be recognized an integral part of how ~~G~~overnment manages. Therefore, at DOI we have initiated steps to move towards institutionalizing innovation in digital services and mainstreaming ~~G~~overnment extractives revenue data pipelines and end-user needs. Moving forward in this journey, institutionalizing EITI will continue to improve ~~G~~overnment revenue transparency in the U.S. and continue to serve as an example internationally.

Again, thank you for your contribution in promoting revenue transparency and accountability in the extractive sector.

Sincerely,

Judy Wilson
Acting Designated Federal Officer~~ial~~,
USEITI Advisory Committee
~~Department of Interior~~



OFFICE OF
INSPECTOR GENERAL
U.S. DEPARTMENT OF THE INTERIOR

UNITED STATES' IMPLEMENTATION OF THE EXTRACTIVE INDUSTRIES TRANSPARENCY INITIATIVE



OFFICE OF
INSPECTOR GENERAL
U.S. DEPARTMENT OF THE INTERIOR

Memorandum

MAY 15 2017

To: Greg Gould
Director, Office of Natural Resources Revenue

From: Mary L. Kendall *Mary L. Kendall*
Deputy Inspector General

Subject: Final Inspection Report – United States' Implementation
of the Extractive Industries Transparency Initiative
Report No. 2016-EAU-041

This memorandum transmits the findings of our inspection of the United States' implementation of the Extractive Industries Transparency Initiative (EITI). Our inspection objective was to determine the status of the U.S. implementation of the EITI standard. We are not making any recommendations in this report but are providing it for information purposes only.

The legislation creating the Office of Inspector General requires that we report to Congress semiannually on all audit, inspection, and evaluation reports issued; actions taken to implement our recommendations; and recommendations that have not been implemented.

If you have any questions concerning this report, please do not hesitate to contact me at 202-208-5745.

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Results in Brief

The United States (U.S.) has made significant progress meeting the individual requirements necessary to achieve compliant status with the Extractive Industries Transparency Initiative (EITI). EITI is a global initiative that promotes revenue transparency and accountability for natural resource extraction. The Department of the Interior (DOI) works in collaboration with industry and civil society partners¹ to implement EITI on behalf of the United States.

Our review found that the U.S. has met seven of the eight EITI requirements and partially met one requirement in its effort to achieve EITI compliant status, the highest level of implementation. It has only partially met the revenue collection requirement (Requirement 4) because it has been unable to obtain full disclosure of extractive resource payments from companies, thus preventing the required reconciliation to Government receipts. In addition, the U.S. has encountered challenges as part of its participation in EITI that could prevent it from reaching the goal of compliant status. Should the U.S. not achieve compliant status, its standing in EITI would be diminished.

In spite of the framework laid out in Requirement 4 and the ensuing challenges, the U.S. could still meet this requirement. Through its regular ongoing operations, the U.S. has a system in place that achieves the standard's disclosure and reconciliation requirement, through a process known as mainstreaming. This reporting method may enable the U.S. to meet the EITI reporting and reconciliation mandates without necessarily following the prescriptive language of the standard.

We are not making any recommendations in this report but are providing this document for informational purposes to the Office of Natural Resources Revenue—DOI's EITI representative—and to the members of the U.S. EITI multi-stakeholder group for use as they move forward.

At the close of our field work, senior Government officials disclosed that the U.S. was considering all options associated with the validation process in spite of uncertainties in achieving Requirement 4. We learned that the U.S. is scheduled to undergo validation in April 2018, even though it expects the EITI international board to find that it has made inadequate progress toward validation. If that occurs, the U.S. likely would transition from an implementing country to a country that only supports EITI. The U.S. intends to continue its efforts to disclose revenue and maintain its public website by institutionalizing EITI processes.

¹ Civil society is defined as community and citizenry involvement. In the U.S., it includes academia, non-governmental organizations, and labor unions.

Introduction

Objective

We conducted this inspection to determine the status of the United States' implementation of the Extractive Industries Transparency Initiative (EITI) standard.

Appendix 1 contains the scope and methodology, as well as sites visited.

Background

EITI is a global initiative that aims to promote revenue transparency and accountability for natural resource extraction (e.g. oil, natural gas, coal, non-energy minerals such as gold, and renewable energy). The initiative grew out of concern about corruption and mismanagement of these resources worldwide. Many EITI participating countries are in developing parts of the world, and the initiative seeks to strengthen these government and company systems. The U.S. Government, however, has long had a management system featuring numerous controls and protections to oversee natural resource extraction, which helps reduce the risk of corruption.

As a leading extractive producer of such natural resources as oil, natural gas, and coal, the U.S. announced its intention to join EITI in September 2011. The Secretary of the Interior serves as the Administration's senior official responsible for EITI implementation. The Office of Natural Resources Revenue (ONRR) within DOI serves as the Government's lead representative on the multi-stakeholder group (MSG). The U.S. has been working toward achieving compliant status, and validation is scheduled to begin in April 2018.

To date, DOI expenditures for EITI have totaled approximately \$6.5 million, of which the Government spent \$2.8 million in fiscal year 2016. The largest expenditures included Government labor and contracts for outside services. Current estimates of expenditures for reconciliation of Government receipts to company payments total \$519,000 per year.

The EITI standard has eight primary requirements and multiple subparts that countries must follow when implementing EITI. A synopsis of the eight EITI standard requirements is detailed in Figure 1 below.

EITI Standard Requirements

I: Multi-stakeholder group oversight. Government, industry, and civil society engagement.

EITI Standard Requirements	
2: Legal and institutional framework.	Disclosure of legal framework and fiscal regime governing extractive industries.
3: Exploration and production.	Disclosure of exploration and production activities, as well as export data.
4: Revenue collection.	Disclosure and reconciliation of company payments and Government revenues.
5: Revenue allocations.	Disclosure of revenue distribution, revenue management, and expenditures.
6: Social and economic spending.	Disclosure of social expenditures and the extractive sector's impact on the economy.
7: Outcomes and impact.	Disclosure of discrepancies identified in EITI reports, as well as lessons learned during implementation.
8: Compliance and deadlines for implementing countries.	Outlines timeframes established by the EITI international board and consequences of noncompliance with the deadlines and requirements for EITI implementation.

Figure 1. A full explanation of EITI requirements is available at <https://eiti.org/eiti-requirements>.

The initiative is implemented by governments, in collaboration with the MSG, which includes industry and civil society, the latter defined as community and citizenry involvement (e.g. academia and non-governmental organizations). In the U.S., MSG formation in 2012 brought together these three sectors for the first time to achieve a common goal. Initially skeptical, MSG members found that genuine cooperation could generate appreciation for differing viewpoints.

EITI has 56 participating countries. Each country that chooses to implement the EITI standard must establish an MSG that oversees implementation. In addition, most countries, including the U.S., create a national secretariat with a full-time staff to administer the program. The EITI international board, headquartered in Oslo, Norway, is the governing body. Countries implementing the standard publish an annual report in which governments publicly disclose payments received from companies obtaining extractive resources, which an independent administrator reconciles with payments disclosed by those companies.

Countries join EITI with the goal of achieving compliance with the EITI standard. To achieve compliant status, a country must go through the EITI validation process. This includes a comprehensive evaluation of the country's progress toward achieving the eight requirements, as determined by the EITI international board. A country must make satisfactory progress on each requirement in the standard in order to achieve compliant status.

Results

Progress in Complying with EITI

The U.S. has been working on EITI implementation since 2011. It has made significant progress meeting the individual requirements necessary to achieve the highest level of EITI implementation, known as compliant status. Based on our analysis, the U.S. has met seven of the eight requirements and partially met Requirement 4, which necessitates that all Government revenue receipts be reported and subjected to reconciliation. Reconciliation involves comparison of Government receipts to company payments, and explains significant discrepancies between the two. This activity is performed by a third party, known as the independent administrator. The Office of Inspector General (OIG) independently assessed the status of DOI's EITI implementation, as shown in Figure 2.²

OIG Assessment of DOI EITI Implementation		
Requirement	Status	Comments
I – MSG oversight.	Met	MSG formed, with equal representation by government, industry, and civil society. All required meetings and work products achieved.

² The EITI international board is the body that officially determines whether a country has fulfilled the standard, and sets four categories of progress for assessing a country's compliance with each requirement: satisfactory, meaningful, inadequate, and no progress. Our determination of the status does not directly align with those categories identified in the standard. Our assessment was not intended to mirror the board or duplicate any effort. For simplicity, we established our own categories: met, partially met, and not met.

OIG Assessment of DOI EITI Implementation

Requirement	Status	Comments
2 – Legal and institutional framework.	Met	<p>Collaborating with the General Services Administration, DOI produced a public website known as the portal, which houses natural resource data along with the electronic version of the annual EITI report. We found that the portal, which went online in December 2015, presents natural resource-related information in a user-friendly format. The international board has recognized the portal as a model for other countries to emulate.</p> <p>Online data portal provides details on allocation of contracts and licenses, with links to Bureau of Land Management and Bureau of Ocean Energy Management websites.</p>
3 – Exploration and production.	Met	Online data portal provides details on fossil fuels, renewable energy, and non-energy minerals, as well as exports of various commodities.
4 – Revenue collection.	Partially Met	Low disclosure of nontax and tax revenues by companies prevent required comprehensive reconciliation of Government revenue receipts to company payments.
5 – Revenue allocations.	Met	Online data portal provides details on all revenue streams, distribution of revenues, and recipients.
6 – Social and economic spending.	Met	Online data portal provides details on extractive sector contributions to the economy.

OIG Assessment of DOI EITI Implementation		
Requirement	Status	Comments
7 – Outcomes and impact.	Met	<p>Online data portal contains recommendations for addressing reconciliation discrepancies and improving the EITI process.</p> <p>To illustrate extractive industry impacts on local communities, the annual report includes 12 county case studies from across the country, as well as data from 18 states, in an effort to increase public awareness.</p> <p>MSG has actively solicited input from the general public concerning U.S. involvement in EITI. Public interest in EITI is not yet strong, but MSG efforts to obtain outside input and to publish meeting minutes promote EITI's principles of openness and transparency.</p>
8 – Compliance and deadlines for implementing countries.	Met	Deadlines for annual progress reports met, and deadlines for EITI reports surpassed.

Figure 2: OIG's assessment of DOI implementation of EITI requirements.

Challenges in Complying with EITI Revenue Collection Requirement

DOI faces numerous difficulties in trying to meet Requirement 4. Some are less challenging than others, providing opportunities for solutions, while others may offer no alternative course of action.

Voluntary initiative

The voluntary nature of EITI makes full company participation in nontax and tax revenue disclosures difficult to obtain. Companies are not compelled to report revenue and tax data, and do not see the benefit of participation. Consequently, a significant number have chosen not to participate.

U.S. privacy laws

Section 6103 of the Internal Revenue Code (26 U.S.C.) provides for the confidentiality of tax returns and return information. It prevents the U.S. Internal

Revenue Service (IRS) from disclosing returns and return information unless the taxpayer authorizes the release or one of several exceptions are met.

Low company participation

EITI Requirement 4 calls for comprehensive disclosure and reconciliation of company payments and Government revenues from extractive industries. Companies make payments to the U.S., and the payments are considered revenues when collected.

In the U.S., revenues associated with extractive industries consist of two categories—nontax and tax. Nontax revenues are comprised of 11 revenue streams (e.g., royalties, bonuses, rents, inspection and permit fees, and civil penalties), whereas tax revenues represent corporate income tax payments reported to the IRS.

Requirement 4 presents a major challenge for the U.S. because of the numerous companies that operate on Federal lands and large sums of revenue involved. Specifically, more than 3,000 companies paid the Federal Government \$12.64 billion and \$7.80 billion in nontax extractive revenue for the 2015 and 2016 reports, respectively. Since full company participation in the initiative would have been too time consuming and costly to accomplish, the MSG decided to select a manageable sample of companies. This required establishing materiality thresholds, as the standard allows, for company reporting and subsequent reconciliation. The MSG found that a significant and achievable sample of companies could be selected by setting the threshold at \$50 million and \$37.5 million of total annual revenue reported to ONRR by a parent company, including its subsidiaries, for 2015 and 2016. The threshold amount varies yearly due to changes in commodity prices, which in turn affects the amount of payments made to ONRR. For nontax revenues, this reduced the 3,000 company universe to 45 companies for the 2015 annual report, and 41 companies for the 2016 report. For tax revenues, the sample became 41 companies for the 2015 report, and 38 companies for the 2016 report. The number of companies can change from year to year due to factors such as mergers, acquisitions, and bankruptcies.³

Unfortunately, a significant number of companies that were asked to participate declined the request, and so the amount of revenues actually reported and reconciled were far less than the 80 percent target (see Figure 3).⁴ We determined the U.S. has only partially met Requirement 4. Since the EITI standard requires comprehensive company disclosure, this low level of company participation is of concern as the U.S. seeks validation.

³ Companies chosen for participation represent the largest producers of oil, gas, coal, and hard rock in the U.S., including, among others, ExxonMobil Corporation, Chevron Corporation, Shell E&P Company, Arch Coal, Inc., and Peabody Energy Corporation.

⁴ Although the target for reconciling tax revenue was all the companies asked to participate in EITI, the U.S. did not report the total amount of tax revenue because companies are not required to disclose this information.

Results From Companies Subject To Reconciliation (Dollars in Billions)				
Report Year	Nontax		Tax	
	Target	Achieved	Target	Achieved
2015				
Number of Companies Disclosed	45	31 (69%)	41	12 (29%)
Number of Companies Reconciled	45	31 (69%)	41	5 (12%)
Revenues Reconciled	\$10.44	\$8.50 (81%)		
2016				
Number of Companies Disclosed	41	25 (61%)	38	12 (32%)
Number of Companies Reconciled	41	25 (61%)	38	7 (18%)
Revenues Reconciled	\$6.11	\$4.83 (79%)		

Figure 3. Information about companies not disclosing their payments. In the tax column, the target for revenues reconciled could not be established and reconciled because most companies did not report tax data. The independent administrator reconciled all of the revenue that companies reported, but the reconciliation did not reflect the target revenues.

Subnational reporting

The EITI standard requires that MSG establish whether or not direct payments from companies to subnational government entities (states and tribes in the U.S.) are significant.⁴ If significant, then disclosure and reconciliation of payments to these entities are included in the EITI report. Given significant practical barriers to collecting data from all 50 states, the MSG focused its efforts on 18 states with the most extractive revenue.

To date, only three of these 18 states have chosen to disclose data about their extractive industries. These three still have not agreed to reconcile company payments to Government receipts. Further, since U.S. law recognizes tribes as

⁴ Subnational is defined as below the national Government level—in the U.S. this refers primarily to state and tribal governments.

sovereign nations, they are not bound to participate in EITI, and no tribes have volunteered for this purpose.

Although the U.S. received approval from the EITI international board to deviate from full subnational reporting for past reports, it has no guarantee that this approval will continue in the future. The U.S. EITI MSG endorsed a renewed request to deviate from subnational reporting, which it submitted to the international board in December 2016.

Beneficial ownership

As of January 2020, the standard requires disclosure of beneficial ownership information in the EITI report. Beneficial ownership refers to individuals who directly or indirectly own or control a corporate entity.

In December 2016, the U.S. published its “roadmap” or plan for meeting the future beneficial ownership disclosure requirement. Collection and disclosure of this information may prove problematic, however, since the U.S. does not have an institutional structure for public disclosure of beneficial ownership, and voluntary participation may produce limited results. For example, DOI does not have any mechanism to collect beneficial ownership information when conducting lease sales related to extractive industry operating rights on U.S. Federal lands or for regulating extractive operations, as well as collecting production related fees and royalties.

Mainstreaming

Mainstreaming is a mechanism through which countries disclose revenue collection, accounting, and disbursement as part of routine Government operations. It is advantageous for two reasons – first, it highlights countries that make transparency an integral and routine feature of their management systems. Second, countries that achieve mainstreaming do not have to undergo the reconciliation process. To achieve mainstreaming, the U.S. must submit to a rigorous application process, which is subject to approval by the international board.

We found the U.S. is actively pursuing mainstreaming to satisfy Requirement 4 by reporting that it routinely discloses 100 percent of all nontax revenue streams. In addition, the U.S. is preparing a thorough description of its robust audit processes and procedures for the 2017 annual report. Among these are the following—

- ONRR and its State and tribal partners help ensure that companies pay correctly through the use of audits, compliance reviews, data mining, and an enforcement program;
- ONRR accounts for nontax revenues using company-submitted royalty reports—more than 150 up-front automated edits of these reports help detect irregularities;
- Bureau of Land Management and Bureau of Safety and Environmental Enforcement conduct physical inspections of lease operations;

- An independent accounting firm annually audits DOI's financial statements, which include extractive revenue;
- DOI and DOI's bureaus are independently audited by the Office of Inspector General, and IRS receives audit oversight from the Treasury Inspector General for Tax Administration; and
- IRS verifies tax payments made by companies.

These processes and procedures ensure accountability for 100 percent of natural resource revenues. Accordingly, the U.S. could be in compliance with Requirement 4, even if full reporting and reconciliation from the EITI international board is considered questionable. Although mainstreaming could be a possible solution to demonstrate that the U.S. has complied with Requirement 4, the request has not yet been approved by the international board. Further, it is questionable whether or not the international board would grant such approval. Also, the U.S. still has work left to accomplish in order to develop the contextual narrative of its audit processes and procedures in a manner that fully demonstrates compliance with Requirement 4.

At the close of our field work, Government senior officials disclosed that the U.S. is considering all options regarding validation. It expects to produce its third annual report in December 2017 and undergo validation in April 2018. Although it has met 7 out of 8 requirements it expects not to be found in compliance with the EITI standard until companies follow through on EITI reporting requirements outlined in Requirement 4. Instead, the U.S. will move from being an implementing country to only a supporting country of EITI. Nevertheless, the U.S. intends to continue its efforts to disclose revenue and maintain the online data portal, thus institutionalizing EITI processes.

Appendix I: Scope and Methodology

Scope

Our inspection examined the activities of the United States' implementation of the Extractive Industry Transparency Initiative (EITI) since 2011.

Methodology

We conducted this review from June 2016 through March 2017. During our inspection, we—

- reviewed relevant laws, regulations, policies and procedures concerning U.S. EITI implementation;
- reviewed and analyzed data and documents, both hardcopy and electronic;
- reviewed the EITI standard and requirements;
- attended two multi-stakeholder group meetings;
- interviewed representatives from the EITI international board's secretariat and U.S. Department of State;
- interviewed key members of Government, industry, and civil society sectors;
- interviewed the Director of the Office of Natural Resources Revenue (ONRR) and key agency staff with EITI responsibilities; and
- interviewed key representatives from the independent administrator, Deloitte Touche, LLP.

We visited—

- ONRR offices in Washington, D.C., and Lakewood, CO; and
- Deloitte Touche, LLP, in Arlington, VA.

We did not test operation and reliability of internal controls related to U.S. EITI. We were provided with computer-generated data related to EITI expenditures, which we used but did not test for completeness and accuracy.

We conducted this inspection in accordance with the Quality Standards for Inspection and Evaluation as put forth by the Council of the Inspectors General on Integrity and Efficiency. We believe that the work performed provides a reasonable basis for our conclusion.

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Jim Steward
Office of Natural Resources Revenue
PO Box 25165
Denver, CO 80225

Dear Mr. Steward:

Thank you for participating in the United States Extractive Industries Transparency Initiative (USEITI) Advisory Committee. Your work helped to make the public more aware of the contributions of the extractive industries to the U.S. economy and jobs.

This journey began in September 2011, when as part of the U.S. Open Government Partnership, the Office of Natural Resources Revenue (ONRR) began collaborating with other government Agencies, Departmental Bureaus and offices, and industry and civil society stakeholders to implement USEITI. Since the first public meeting in 2013, through to the 20th meeting in 2017, the USEITI Multi-stakeholder Group worked collaboratively to successfully reach consensus on how to implement USEITI.

Highlights of our joint commitment to transparency and good governance of U.S. extractive sector revenues include:

- Becoming the first G7 and second Organization for Economic Cooperation and Development (OECD) country to achieve Candidate Country status and become an EITI implementing country. U.S. leadership has played a crucial role in the endorsement of the EITI by the G-7, the G-20, and the United Nations Security Council.
- Disclosing unilaterally in 2014, for the first time, Department of the Interior (DOI) production data and calendar year revenue data by company, revenue type, and commodity. And now, DOI has unilaterally disclosed for calendar years 2013-2015, \$33.1 billion in revenues paid by companies for extraction on federal lands and waters.
- Publishing in December 2015, the first online Report and Executive Summary on the DOI data portal <https://useiti.doi.gov/>, and the second online Report and Executive Summary in November 2016. Building on your direction, ONRR will complete a third online report in December 2017.

- Demonstrating zero unresolved discrepancies between Federal government disclosed revenues received from oil, gas, and mining companies, with parallel disclosure by companies of what they have paid to the government in royalties, rents, bonuses, taxes, and other payments.
- Demonstrating the Department, as managed by ONRR, has robust audit and assurances practices in place to assure accountability for the revenues paid and received for our country's oil, gas, and mineral resources.
- Building the DOI data portal with modern, open-source technologies so that techniques and tools can be shared and replicated throughout the U.S. and in other EITI countries around the world. The website's open data sets and visualizations can be reused for strategic reporting and reposted and sent through social media, thus further informing the public and open debate on the extractives industry in the U.S. The portal is the new global standard in revenue governance transparency.
- Expanding public awareness of the role of extractive industries at the state and local level. The states of Montana, Wyoming, and Alaska collaborated with USEITI to allow for expanded State reporting of extractive revenues. The MSG also furthered local accountability and transparency by including 12 county case studies that depict the impact of specific extractive industries on local communities.

The EITI Standard fits within ONRR's guiding principles of accountability, professionalism, integrity, partnerships and innovation. We strive to be recognized as a world-class natural resources revenue management program, setting the standard for accountability and transparency. In the long term, extractive industry transparency should not be confined to EITI reporting, rather be recognized an integral part of how government manages. Therefore, at DOI we have initiated steps to move towards institutionalizing innovation in digital services and mainstreaming government extractives revenue data pipelines and end-user needs. Moving forward in this journey, institutionalizing EITI will continue to improve government revenue transparency in the U.S. and continue to serve as an example internationally.

Again, thank you for your contribution in promoting revenue transparency and accountability in the extractive sector.

Sincerely,

Judy Wilson
Acting Designated Federal Official, USEITI
Advisory Committee
Department of Interior

Bruce Barnett
Choctaw Nation
130 Jaron Drive
Pottsboro, TX 75076

Dear Mr. Barnett:

Thank you for participating in the United States Extractive Industries Transparency Initiative (USEITI) Advisory Committee. Your work helped to make the public more aware of the contributions of the extractive industries to the U.S. economy and jobs.

This journey began in September 2011, when as part of the U.S. Open Government Partnership, the Office of Natural Resources Revenue (ONRR) began collaborating with other government Agencies, Departmental Bureaus and offices, and industry and civil society stakeholders to implement USEITI. Since the first public meeting in 2013, through to the 20th meeting in 2017, the USEITI Multi-stakeholder Group worked collaboratively to successfully reach consensus on how to implement USEITI.

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Again, thank you for your contribution in promoting revenue transparency and accountability in the extractive sector.

Sincerely,

Judy Wilson
Acting Designated Federal Official, USEITI
Advisory Committee
Department of Interior

Marina Voskanian
California State Lands Commission
320 West Bixby Road
Long Beach, CA 90807

Dear Ms. Voskanian:

Thank you for participating in the United States Extractive Industries Transparency Initiative (USEITI) Advisory Committee. Your work helped to make the public more aware of the contributions of the extractive industries to the U.S. economy and jobs.

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Judy Wilson
Acting Designated Federal Official, USEITI
Advisory Committee
Department of Interior

Julie Lenoir
Blackfeet Nation
620 All Chiefs Road P.O. Box 2929
Browning, Montana 59417

Dear Ms. Lenoir:

Thank you for participating in the United States Extractive Industries Transparency Initiative (USEITI) Advisory Committee. Your work helped to make the public more aware of the contributions of the extractive industries to the U.S. economy and jobs.

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Again, thank you for your contribution in promoting revenue transparency and accountability in the extractive sector.

Sincerely,

Judy Wilson
Acting Designated Federal Official, USEITI
Advisory Committee
Department of Interior

Curtis Carlson
Office of Tax Analysis
1500 Pennsylvania Avenue NW
Washington, DC 20220

Dear Mr. Carlson:

Thank you for participating in the United States Extractive Industries Transparency Initiative (USEITI) Advisory Committee. Your work helped to make the public more aware of the contributions of the extractive industries to the U.S. economy and jobs.

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Sincerely,

Judy Wilson
Acting Designated Federal Official, USEITI
Advisory Committee
Department of Interior

Gould Gould
Office of Natural Resources Revenue
1849 C Street NW, MS 5134
Washington, DC 20240

Dear Mr. Gould:

Thank you for participating in the United States Extractive Industries Transparency Initiative (USEITI) Advisory Committee. Your work helped to make the public more aware of the contributions of the extractive industries to the U.S. economy and jobs.

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Sincerely,

Judy Wilson
Acting Designated Federal Official, USEITI
Advisory Committee
Department of Interior

Mike Matthews
State of Wyoming
5019 Atlantic Dr.
Cheyenne, WY 82001

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Judy Wilson
Acting Designated Federal Official, USEITI
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Mike Smith
Interstate Oil & Gas Compact Commission
P.O. Box 53127
Oklahoma City, OK 73152-3127

Dear Mr. Smith:

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Judy Wilson
Acting Designated Federal Official, USEITI
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Claire Ware
Shoshone & Arapaho Tribes
P.O. Box 506
Fort Washakie, WY 82514

Dear Ms. Ware:

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Judy Wilson
Acting Designated Federal Official, USEITI
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David Chambers
Center for Science in Public Participation
224 North Church Ave
Bozeman, MT 59715-3706

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Sincerely,

Judy Wilson
Acting Designated Federal Official, USEITI
Advisory Committee
Department of Interior

Daniel Dudis
Public Citizen
2231 California St NW, APT 401
Washington, DC 20008

Dear Mr. Dudis:

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Judy Wilson
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Lynda Farrell
Pipeline Safety Coalition
331 Norwood Rd.
Downington, PA 19335

Dear Ms. Farrell:

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Judy Wilson
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Zorka Milin
Global Witness
38 Crown Street, Apt 317
New Haven, Connecticut 06510

Dear Ms. Milin:

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Again, thank you for your contribution in promoting revenue transparency and accountability in the extractive sector.

Sincerely,

Judy Wilson
Acting Designated Federal Official, USEITI
Advisory Committee
Department of Interior

Jana Morgan
Publish What You Pay
1101 17th Street, NW
Washington, District of Columbia 20001

Dear Ms. Morgan:

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Sincerely,

Judy Wilson
Acting Designated Federal Official, USEITI
Advisory Committee
Department of Interior

Isabel Munilla
Oxfam America
1101 17th Street, NW, Suite 1300
Washington, District of Columbia 20036

Dear Ms. Munilla:

Thank you for participating in the United States Extractive Industries Transparency Initiative (USEITI) Advisory Committee. Your work helped to make the public more aware of the contributions of the extractive industries to the U.S. economy and jobs.

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Sincerely,

Judy Wilson
Acting Designated Federal Official, USEITI
Advisory Committee
Department of Interior

Rebecca Adamson
First Peoples Worldwide
877 Leeland Road
Fredericksburg, Virginia 22405

Dear Ms. Adamson:

Thank you for participating in the United States Extractive Industries Transparency Initiative (USEITI) Advisory Committee. Your work helped to make the public more aware of the contributions of the extractive industries to the U.S. economy and jobs.

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Judy Wilson
Acting Designated Federal Official, USEITI
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Department of Interior

Danielle Brian
Project on Government Oversight
1100 G St. NW, Suite 500
Washington, DC 20005

Dear Ms. Brian:

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Neil Brown
Lugar Center
1717 Rhode Island Avenue, NW, 9th Floor
Washington, District of Columbia 20036

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Judy Wilson
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Paul Bugala

(b) (6)

Seattle, WA 98117

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Judy Wilson
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Jennifer Krill
Earthworks
2216C Sacramento Street
Berkeley, CA 94702

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Judy Wilson
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Michael LeVine
Oceana
175 S. Franklin St. Suite 418
Juneau, AK 99801

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Judy Wilson
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Keith Romig
United Steelworkers
110 Kendall Ave.
Pittsburgh, PA 15202

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Again, thank you for your contribution in promoting revenue transparency and accountability in the extractive sector.

Sincerely,

Judy Wilson
Acting Designated Federal Official, USEITI
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Department of Interior

Michael Ross
Natural Resource Governance Institute
4289 Bunche Hall, Box 951472
Los Angeles, CA 90095-1472

Dear Mr. Ross:

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Judy Wilson
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Brian Sanson
United Mine Workers of America
18354 Quantico Gateway Drive
Triangle, Virginia 22172

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Judy Wilson
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Vernoica Slajer
North Star Group
203 Maryland Avenue, NE
Washington, District of Columbia 20002

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Judy Wilson
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Betsy Taylor
Lane Hall 112, Virginia Tech (227)
280 Alumni Mall
Blacksburg, Virginia 24061

Dear Ms. Taylor:

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Stella Alvarado
Anadarko Petroleum
1201 Lake Robbins
The Woodlands, Texas 77380

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Michael Gardner
Rio Tinto
5769 W Maddie Lane
Highland, UT 84003

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Edwin Mongan
BHP Billiton Petroleum
13690 Post Oak Road Building 1330, Room 1716
Houston, Texas 77056

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Nicholas Welch
Noble Energy Inc.
1776 I Street, NW, Suite 890
Washington, D.C. 20006

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Chris Chambers
Freeport-McMoRan Copper & Gold Inc.
333 North Central Ave.
Phoenix, AZ 85004

Dear Mr. Chambers:

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Again, thank you for your contribution in promoting revenue transparency and accountability in the extractive sector.

Sincerely,

Judy Wilson
Acting Designated Federal Official, USEITI
Advisory Committee
Department of Interior

Nicholas Cotts
Newmont Mining
6363 S. Fiddlers Green Circle
Greenwood Village, Colorado 80111

Dear Mr. Cotts:

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Sincerely,

Judy Wilson
Acting Designated Federal Official, USEITI
Advisory Committee
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Phil Denning
Shell Oil & Gas
2227 Braer Ridge Drive
Katy, TX 77494

Dear Mr. Denning:

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Sincerely,

Judy Wilson
Acting Designated Federal Official, USEITI
Advisory Committee
Department of Interior

Susan Ginsberg
Independent Petroleum Association of America
1201 15th Street NW, Suite 300
Washington, District of Columbia 20005

Dear Ms. Ginsberg:

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Judy Wilson
Acting Designated Federal Official, USEITI
Advisory Committee
Department of Interior

Veronika Kohler
National Mining Association
101 Constitution avenue NW
Washington, District of Columbia 20005

Dear Ms. Kohler:

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Aaron Padilla
API
19 E. Oak St.
Alexandria, VA 22301

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David Romig
Freeport-McMoRan Oil & Gas
700 Milam, Suite 3100
Houston, TX 77002

Dear Mr. Romig:

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Judy Wilson
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Johanna Nesseth
Chevron
1401 I Street, NW
Washington, DC 20005

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Judy Wilson
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Michael Blank
Peabody Energy
8502 Cottage St.
Vienna, VA 22180

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Highlights of our joint commitment to transparency and good governance of U.S. extractive sector revenues include:

- Becoming the first G7 and second Organization for Economic Cooperation and Development (OECD) country to achieve Candidate Country status and become an EITI implementing country. U.S. leadership has played a crucial role in the endorsement of the EITI by the G-7, the G-20, and the United Nations Security Council.
- Disclosing unilaterally in 2014, for the first time, Department of the Interior (DOI) production data and calendar year revenue data by company, revenue type, and commodity. And now, DOI has unilaterally disclosed for calendar years 2013-2015, \$33.1 billion in revenues paid by companies for extraction on federal lands and waters.
- Publishing in December 2015, the first online Report and Executive Summary on the DOI data portal <https://useiti.doi.gov/>, and the second online Report and Executive Summary in November 2016. Building on your direction, ONRR will complete a third online report in December 2017.
- Demonstrating zero unresolved discrepancies between Federal government disclosed revenues received from oil, gas, and mining companies, with parallel disclosure by

companies of what they have paid to the government in royalties, rents, bonuses, taxes, and other payments.

- Demonstrating the Department, as managed by ONRR, has robust audit and assurances practices in place to assure accountability for the revenues paid and received for our country's oil, gas, and mineral resources.
- Building the DOI data portal with modern, open-source technologies so that techniques and tools can be shared and replicated throughout the U.S. and in other EITI countries around the world. The website's open data sets and visualizations can be reused for strategic reporting and reposted and sent through social media, thus further informing the public and open debate on the extractives industry in the U.S. The portal is the new global standard in revenue governance transparency.
- Expanding public awareness of the role of extractive industries at the state and local level. The states of Montana, Wyoming, and Alaska collaborated with USEITI to allow for expanded State reporting of extractive revenues. The MSG also furthered local accountability and transparency by including 12 county case studies that depict the impact of specific extractive industries on local communities.

The EITI Standard fits within ONRR's guiding principles of accountability, professionalism, integrity, partnerships and innovation. We strive to be recognized as a world-class natural resources revenue management program, setting the standard for accountability and transparency. In the long term, extractive industry transparency should not be confined to EITI reporting, rather be recognized an integral part of how government manages. Therefore, at DOI we have initiated steps to move towards institutionalizing innovation in digital services and mainstreaming government extractives revenue data pipelines and end-user needs. Moving forward in this journey, institutionalizing EITI will continue to improve government revenue transparency in the U.S. and continue to serve as an example internationally.

Again, thank you for your contribution in promoting revenue transparency and accountability in the extractive sector.

Sincerely,

Judy Wilson
Acting Designated Federal Official, USEITI
Advisory Committee
Department of Interior

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Beneficial Ownership Roadmap



The United States Extractive Industries
Transparency Initiative

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4.1 Consider how beneficial ownership disclosure can support national reform priorities

The U.S. has focused on beneficial ownership disclosure efforts both domestically and internationally. The U.S. has led efforts within the major economic powers of the G-8, and the Financial Action Task Force (FATF), to strengthen international standards on combatting money laundering and terrorist financing and to facilitate their implementation. As part of the U.S. G-8 Action Plan for Transparency of Company Ownership and Control, the G-8 has called for law enforcement's access to accurate and current beneficial ownership information at the time of company formation.

The FATF is the international standard-setting body for safeguarding against money laundering and combatting the financing of terrorism. The FATF initially set international standards on beneficial ownership in 1990. In 2012, FATF strengthened its standards, which now focus on the collection of beneficial ownership information and making the information available to competent authorities. The U.S. is committed to—and strongly supports other countries—working toward developing and effectively implementing the legal frameworks that facilitate access to beneficial ownership information in accordance with the FATF standards.

Domestically, since President Obama signed the Foreign Account Tax Compliance Act (FATCA), the precursor of the Common Reporting Standard, into law in 2010, the U.S. has negotiated agreements with more than 100 countries that help these countries implement FATCA. FATCA's pioneering approach to automatic information sharing on tax matters is the template for the development of international standards that the G-20 nations have endorsed and are being deployed around the world.

Further, the Administration recently made efforts to compel the collection of and access to beneficial ownership information. On May 6, 2016, the Department of the Treasury (Treasury), on behalf of the Administration, sent beneficial ownership legislation to Congress. This proposed legislation would require companies that are formed within the U.S. to file beneficial ownership information with Treasury, or else they will face penalties for failing to comply. This proposal would increase the transparency into "beneficial ownership" of companies formed in the U.S. by requiring companies to know and report their true owners and to provide additional law enforcement tools to combat corruption and money laundering. Treasury remains committed to working with Congress to pass beneficial ownership legislation.

See <https://www.treasury.gov/press-center/press-releases/Documents/20160506%20BO%20Legislation.pdf> for the draft legislation. `

While obtaining beneficial ownership information at the time of company formation is important, obtaining beneficial ownership information at the time of the account opening is also key. To that end, on May 11, 2016, Treasury issued a final customer due diligence rule (CDD Rule), which was a four-year effort that included a significant comment period. The CDD Rule streamlines and clarifies several components of customer due diligence under the Bank Secrecy Act to promote consistency. The CDD Rule also adds a key new requirement for U.S. financial institutions to know the real people who own, control, and profit from companies (the "beneficial owners") and verify their identities. When companies open a new account at covered financial institutions, the customer will be required to disclose the identity of (1) each individual who owns 25 percent or more of the company and (2) an individual who controls the company. These requirements are consistent with FATF standards.

The CDD Rule will apply to over 29,000 institutions in the U.S., and it is the first of two steps to ensure financial transparency. The CDD Rule clarifies and strengthens customer due diligence requirements for banks; brokers or dealers in securities; mutual funds; futures commission merchants; and introducing brokers in commodities. As demonstrated through the Panama Papers, companies formed in one jurisdiction may bank in a different jurisdiction. For example, a person can form a company abroad and

use that company to open a bank account in the U.S., or a person can form a company in the U.S. and use the company to open an account abroad. As such, it is important to have both the CDD Rule as well as beneficial ownership legislation to capture information at both company formation and at the account opening.

The Administration is also focused on beneficial ownership for tax compliance. Toward those efforts, also in May 2016, Treasury and the Internal Revenue Service (IRS) issued foreign-owned single-member Limited Liability Companies (LLC) proposed regulations that would close a loophole in U.S. laws that has allowed foreign persons to hide assets or financial activity behind anonymous entities established in the U.S. The rule will require foreign-owned entities that are “disregarded entities” for tax purposes, including foreign-owned single-member LLCs, to obtain an Employer Identification Number (EIN) with the IRS and annually report transactional information with their owners to the IRS. These entities represent a narrow class of foreign-owned U.S. entities that have previously had no obligation to report information to the IRS or to get a tax identification number and, thus, could be used to shield the foreign-based owners of non-U.S. assets or non-U.S. bank accounts. The proposed rule will strengthen the IRS’s ability to prevent the use of these entities for tax avoidance purposes, and it will build on the success of other efforts to curb the use of foreign entities and accounts to evade U.S. tax.

Along with the Treasury proposals, the Department of Justice sent several pieces of draft legislation to Congress to combat transnational corruption. This legislation would enhance law enforcement’s ability to prevent bad actors from concealing and laundering illegal proceeds of transnational corruption. It would also allow U.S. prosecutors to more effectively pursue kleptocracy cases and prosecute money laundering as part of foreign corruption. The proposals would assist investigators and prosecutors in gathering evidence, which can be used in prosecuting those who seek to hide and move illegal funds. For a list of the various legislations, see <https://www.justice.gov/opa/pr/justice-department-proposes-legislation-advance-anti-corruption-efforts>.

Also in May 2016, through a letter from Treasury Secretary Lew, the Administration called upon the U.S. Senate to approve tax treaties that have been pending for several years, and that would help crack down on offshore tax evasion. There are eight such tax treaties with other countries, including amendments to our existing treaties with Switzerland and Luxembourg that would better equip the U.S. to obtain information about U.S. taxpayer activity in those countries. The inability to obtain this information has impeded investigations and enforcement relating to offshore tax evasion. The Administration also renewed its call for Congress to act to strengthen authorities and to close the gaps in U.S. laws that can be abused by bad actors and would keep the U.S. at the forefront of international efforts to combat financial crimes. For Secretary Lew’s letter to Congress, see <https://www.treasury.gov/press-center/press-releases/Documents/Lew%20to%20Ryan%20on%20CDD.PDF%20%20>.

The President has proposed providing full “reciprocity” under FATCA in the last three budgets he submitted to Congress. Secretary Lew’s letter reiterates that Congress should act on the Administration’s legislative proposal as soon as possible in order to ensure that the U.S. meets international standards. Any increase in availability of beneficial ownership in extractive industry companies would be supportive of this active and ongoing larger U.S. government effort both domestically and internationally.

4.2 Consider the institutional framework for beneficial ownership disclosure

There is no institutional framework for public disclosure of beneficial ownership disclosure information in the U.S. There is, however, a substantial and growing framework for the collection on beneficial

ownership information from both public and private companies operating in the U.S. Below is a discussion of the various U.S. mechanisms to collect beneficial ownership information.

State Government Requirements Related to Legal Entity Formation

States manage the corporate formation process, and information gathering requirements vary widely from State to State. No State requires persons forming corporations to name beneficial owners at the time of corporate formation.

While no State registries consistent with the EITI Standard exist, there is an existing framework at the State level (the incorporation system), which collects much of this data and, in some cases, makes it public upon request. Examples of States that make certain data on incorporated companies accessible to the public through online systems include Alabama¹, Connecticut², Massachusetts³, Nebraska⁴, North Carolina⁵, Texas⁶, and Virginia⁷.

Requirements to Obtain an Employer Identification Number from the Internal Revenue Service

U.S. law requires all legal entities that have a Federal tax filing requirement obtain an EIN for tax administration purposes. Further, an entity is required to obtain an EIN if it has employees, or is required to file documents other than tax returns, with the IRS. An EIN is also required by all legal entities, under the Banking Secrecy Act, to open a bank account. In order to obtain an EIN, an entity must file a Form SS-4, which was amended in 2010 to require that a “responsible party” be named. The responsible party is generally defined as “the person who has a level of control over, or entitlement to, the funds or assets in the entity that, as a practical matter, enables the individual, directly or indirectly, to control, manage, or direct the entity and the disposition of its funds or assets.” Additionally, any changes in the “responsible party” identified on Form SS-4 must be reported to the IRS within 60 days using a Form 8822-B.

Public Company Disclosure Requirements Implemented by SEC under the Exchange Act

Section 13(d) of the Securities Exchange Act of 1934 requires any person or group that acquires more than five percent “beneficial ownership” of public company equity securities to disclose its position within 10 days of crossing the threshold. SEC rules currently define “beneficial owner” to include any person who directly or indirectly shares voting or investment power in (the power to sell) the security, even if the shares are held by somebody else.

Possible Department of the Interior Mechanisms

The Department of the Interior (DOI) does not currently receive or have any mechanism to collect beneficial ownership information to fulfill its regulatory mandate to conduct lease sales for extractive industry operating rights on U.S. Federal lands or for regulating extractive operations and collecting production related fees and royalties. However, DOI is in contact with many of the entities for which beneficial ownership data is sought through its bidding and payment collection processes.

The EITI Standard requires that the Multi-Stakeholder Group (MSG) publish a roadmap for disclosing beneficial ownership information, determine all milestones and deadlines in the roadmap, evaluate

¹ <http://www.sos.alabama.gov/government-records/business-entity-records>

² <http://www.ct.gov/sots/site/default.asp>

³ <https://www.sec.state.ma.us/cor/>

⁴ <https://www.nebraska.gov/sos/corp/corptestsearch.cgi>

⁵ <https://www.sosnc.gov/corporations/>

⁶ <http://www.sos.state.tx.us/Corp/sosda/index.shtml>

⁷ <https://www.scc.virginia.gov/clk/bussrch.aspx>

implementation of the roadmap, discuss and agree on a definition of beneficial ownership and the relevant identifying information to be disclosed, and agree to an approach for assuring the accuracy of the beneficial ownership information participating companies provide. The USEITI MSG, which DOI convened, will undertake these discussions, which will inform further steps to implement the EITI Standard in the U.S., including potential DOI mechanisms.

There is a statutory prohibition against agencies taking action that is outside their statutory authority. "To the extent necessary to decision and when presented, the reviewing court shall decide all relevant questions of law, interpret constitutional and statutory provisions, and determine the meaning or applicability of the terms of an agency action. The reviewing court shall -- (2) hold unlawful and set aside agency action, findings, and conclusions found to be -- (C) in excess of statutory jurisdiction, authority, or limitations, or short of statutory right [or] (D) without observance of procedure required by law[.]" 5 U.S.C. 706.

4.3 Consider how to develop a definition of beneficial ownership

First, it is helpful to reiterate EITI guidance (Section 2.5 (f)) for definition of beneficial ownership:

- i. A beneficial owner in respect of a company means the natural person(s) who directly or indirectly ultimately owns or controls the corporate entity.
- ii. The multi-stakeholder group should agree on an appropriate definition of the term beneficial owner. The definition should be aligned with (f)(i) above and take international norms and relevant national laws into account, and should include ownership threshold(s). The definition should also specify reporting obligations for politically exposed persons.

Second, as noted above, the U.S. does not have a single definition of beneficial ownership, so looking at the various definitions is instructive.

As described above, the CDD Rule includes a definition of beneficial ownership. More specifically the rule states:

(d) Beneficial owner. For purposes of this section, beneficial owner means each of the following:

(1) Each individual, if any, who, directly or indirectly, through any contract, arrangement, understanding, relationship or otherwise, owns 25 percent or more of the equity interests of a legal entity customer; and (2) A single individual with significant responsibility to control, manage, or direct a legal entity customer, including: (i) An executive officer or senior manager (e.g., a Chief Executive Officer, Chief Financial Officer, Chief Operating Officer, Managing Member, General Partner, President, Vice President, or Treasurer); or (ii) Any other individual who regularly performs similar functions.

Additionally, as mentioned above, the EIN form includes the responsible party, which is similar, although not equivalent to, a beneficial owner. The term "responsible party" is defined for non-publicly traded companies as:

The person who has a level of control over, or entitlement to, the funds or assets in the entity that, as a practical matter, enables the individual, directly or indirectly, to control, manage, or direct the entity and the disposition of its funds or assets.

As discussed above, the SEC has a definition of beneficial ownership for purposes of investor protection: (Exchange Act Section 13d). Specifically, Section 13(d) of the Securities Exchange Act of 1934 requires:

...any person or group that acquires more than five percent “beneficial ownership” of public company equity securities to disclose its position within 10 days of crossing the threshold. SEC rules currently define “beneficial owner” to include any person who directly or indirectly shares voting or investment power in (the power to sell) the security, even if the shares are held by somebody else.

Internationally, the U.S. issued an action plan released after the G-8 agreed to beneficial ownership principles in June 2013. The action plan included the following definition:

...a natural person who, directly or indirectly, exercises substantial control over a covered legal entity or has a substantial economic interest in, or receives substantial economic benefit from, such legal entity, subject to several exceptions.

4.4 Consider reporting obligations for politically exposed persons

The February 2012 FATF definition of Politically Exposed Persons (PEP), revised from 2003, is as follows:

- Foreign PEPs: individuals who are or have been entrusted with prominent public functions by a foreign country; for example, Heads of State or of government, senior politicians, senior government, judicial or military officials, senior executives of state owned corporations, important political party officials
- Domestic PEPs: individuals who are or have been entrusted domestically with prominent public functions; for example, Heads of State or of government, senior politicians, senior government, judicial or military officials, senior executives of state owned corporations, important political party officials

U.S. law, specifically Section 312 of the USA Patriot Act and its implementing regulations, provides for enhanced due diligence for Senior Foreign Political Figures (SFPF), defined as: "a current or former senior official in the executive, legislative, administrative, military, or judicial branches of a 'foreign' government...a senior official of a major 'foreign' political party; and a senior executive of a 'foreign' government-owned commercial enterprise." The term “PEP” is not included in the U.S. regulations.

Below is a summary of relevant U.S. statutes and regulations that restrict employee ownership of certain financial interests, require employee reporting of certain financial interests, and restrict employee participation in certain official Government matters that would affect an employee’s personal or imputed financial interests or that might affect an employee’s personal or business relationships.

5 CFR § 3501.103(c) prohibits, with limited exceptions, all DOI employees, their spouses, and their minor children from acquiring or retaining any claim, permit, lease, small tract entries, or other rights that are granted by DOI in Federal lands. This prohibition does not restrict the recreational or other personal or non-commercial use of Federal lands by an employee, or the employee's spouse or minor children, on the same terms available to the general public.

5 CFR § 3501.103(b), with limited exceptions, prohibits the Secretary of the Interior and employees of the Office of the Secretary and other Departmental offices that report directly to a Secretarial officer who are in positions classified at GS-15 and above from acquiring or holding any direct or indirect financial interest in Federal lands or resources that the Department administers. This generally includes stock or

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bond interests in most oil, gas, and mining companies that hold leases on Federal lands to conduct their operations.

43 USC § 11, implemented by 43 CFR § 20.401, prohibits Bureau of Land Management (BLM) employees from voluntarily acquiring direct or indirect financial interests in Federal lands. Prohibited interests include stocks and bonds in oil, gas, geothermal, and mining companies that hold leases or other property rights on Federal lands, as well as companies that hold substantial rights-of-way on Federal lands. BLM employees may not be members or employees of a business that has interests in Federal lands. Additionally, BLM employees may not occupy or use Federal lands (other than for recreational or other personal and non-commercial use on the same terms as use of Federal lands is available to the general public), or take any benefits from Federal lands, based upon a contract, grant, lease, permit, easement, rental agreement, or application.

43 USC § 31(a), implemented by 43 CFR § 20.401(b), prohibits U.S. Geological Survey (USGS) employees from holding financial interests in Federal lands which DOI administers or controls. Prohibited interests include stocks and bonds in oil, gas, and other mining companies that hold significant leases on such lands. Additionally, 5 CFR § 3501.104 sets limits on investments in entities engaged in mining activities on private land in the U.S. The ability of USGS employees to own oil, gas, or other mineral leases or to receive royalties from those leases is extremely limited.

30 USC § 1211(f), implemented by 30 CFR Part 706 and 43 CFR § 20.402, prohibits all Office of Surface Mining Reclamation and Enforcement (OSMRE) employees and any other Federal employee who performs functions and duties under the Surface Mining Control and Reclamation Act of 1977 from having any direct or indirect financial interests in underground or surface coal mining operations. Prohibited financial interests under this law include interests in companies that are involved in developing, producing, preparing, or loading coal or reclaiming the areas upon which such activities occur. Additionally, 30 USC § 1267(g), as implemented by 30 CFR Part 705, provides that no employee of a State regulatory authority performing any function or duty under the Surface Mining Control and Reclamation Act of 1977 shall have a direct or indirect financial interest in any underground or surface coal mining operations.

The Ethics in Government Act of 1978, as amended (5 USC app. § 101), implemented by 5 CFR Part 2634, requires senior officials in the executive, legislative, and judicial branches to file public reports of their finances, as well as other interests outside the Government. Executive branch personnel file such reports using the OGE Forms 278e (previously the OGE Form 278) and 278-T. Unlike confidential financial statements that some mid-level employees file, the OGE Forms 278e and 278-T are available to the public. Ethics officials within each executive branch agency review, certify, and maintain these reports. Executive branch agencies also forward OGE Forms 278e and 278-T that Presidential appointees, which the Senate confirms, submit to the Office of Government Ethics (OGE) for additional review and certification. The primary purpose of the public disclosure program is to prevent conflicts of interest and to identify potential conflicts of interest of current and prospective employees. If a reviewing official identifies a potential conflict of interest, several remedies are available to avoid an actual or apparent violation of Federal ethics laws and regulations, which include recusal, reassignment, and divestiture of the financial interest(s). 28 USC § 535 requires executive branch agencies to report to the Attorney General any information, allegations, or complaints relating to violations of title 18 of the U.S. Code involving Government officers and employees.

5 USC app. § 107, implemented by Subpart I of 5 CFR Part 2634, also provides that certain executive branch employees who are not required to file a public financial disclosure report but whose duties involve the exercise of discretion in sensitive areas, such as contracting, procurement, administration of grants and licenses, and regulating or auditing non-Federal entities, are required to file confidential

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financial disclosure reports (OGE Form 450). This reporting system generally tracks the approach of the public financial disclosure system with some differences. For example, asset values and income amounts are not required to be reported, nor are interests in or income from bank accounts, money market mutual funds, U.S. obligations, and Government securities. The most notable difference between public and confidential reports, however, is that confidential financial disclosure reports are not available to the public.

30 USC § 1211(f), implemented by 30 CFR Part 706, requires that each OSMRE employee and any other Federal employee who performs any function or duty under the Surface Mining Control and Reclamation Act of 1977 must file a statement of employment and financial interests upon entrance to duty and annually thereafter. 30 USC § 1267(g), as implemented by 30 CFR Part 705, also requires State regulatory authority employees performing any duties or functions under the Act to file a statement of employment and financial interest upon entrance to duty and annually thereafter.

A Federal criminal conflict of interest statute, 18 USC § 208, prohibits executive branch employees from participating personally and substantially, in an official capacity, in any “particular matter” that would have a direct and predictable effect on the employee’s own financial interests or on the financial interests of,

- The employee’s spouse or minor child
- A general partner of a partnership in which the employee is a limited or general partner
- An organization in which the employee serves as an officer, director, trustee, general partner, or employee
- A person with whom the employee is negotiating for or has an arrangement concerning prospective employment

A “particular matter” is virtually any Government matter to which an employee might be assigned, including policy matters and matters involving specific parties, such as contracts or grants. (A few matters in Government, however, may be so broad in scope that the conflict of interest law does not require an employee’s disqualification even though the employee’s own or “imputed” financial interests are among those affected by the matter.) Disqualification (“recusal”) is mandatory in the circumstances specified in the statute. Moreover, disqualification is often the appropriate way to prevent a conflict of interest in the long term, unless an “exemption” applies or the circumstances warrant the use of other means of resolving the conflict of interest.

An executive branch-wide regulation, 5 CFR § 2635.502, recognizes that a reasonable person may believe that an employee’s impartiality can be influenced by interests other than the employee’s own or those that are imputed to the employee by the conflict of interest laws. Under 5 CFR § 2635.502, employees are required to consider whether their impartiality would be questioned whenever their involvement in a “particular matter involving specific parties” might affect certain personal or business relationships. The term “particular matter involving specific parties” refers to a subset of all “particular matters” and includes Government matters, such as a contract, grant, permit, license, or loan. If a particular matter involving specific parties is likely to have a direct and predictable effect on the financial interests of a member of the employee’s household, or if a person with whom the employee has a “covered relationship” is or represents a party to such matter, the employee must consider whether a reasonable person would question the employee’s impartiality in the matter. An employee has a covered relationship with,

- A person with whom the employee has or seeks a business, contractual, or other financial relationship

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- A person who is a member of the employee's household or is a relative with whom the employee has a close personal relationship
- A person for whom the employee's spouse, parent, or dependent child serves or seeks to serve as an officer, director, trustee, general partner, agent, attorney, consultant, contractor, or employee
- Any person for whom the employee has, within the last year, served as an officer, director, trustee, general partner, agent, attorney, consultant, contractor, or employee
- Any organization (other than a political party) in which the employee is an active participant

If the employee concludes that participation in such a matter would cause a reasonable person to question the employee's impartiality, the employee should not work on the matter pending possible authorization from the appropriate agency official. Moreover, an employee should not work on any matter if the employee is concerned that circumstances other than those expressly described in the regulation would raise a question regarding the employee's impartiality. The employee should follow agency procedures so that the agency can determine whether participation is appropriate.

4.5 Consider the level of detail to be disclosed

The U.S. does not have one specific framework for disclosing beneficial ownership information.

Treasury's CDD rule requires the following information from legal entities when they open new accounts:

- Name and title of natural person opening account
- Name and address of legal entity for which the account is being opened
- For each individual, if any, who, directly or indirectly, through any contract, arrangement, understanding, relationship or otherwise, owns 25 percent or more of the equity interests of the legal entity listed above: name, date of birth, address (residential or business street address), for U.S. persons – Social security Number, for foreign persons – a passport number and country of issuance; this information is not publicly available
- For one individual with significant responsibility for managing the legal entity listed above, such as an executive officer or senior manager (for example, a Chief Executive Officer, Chief Financial Officer, Chief Operating Officer, Managing Member, General Partner, President, Vice President, or Treasurer) or any other individual who regularly performs similar functions: name/title, date of birth, address (residential or business street address), for U.S. persons – social security number, for foreign persons – a passport number and country of issuance

Legal entities with a federal tax obligation or opening an account at a financial institution subject to CDD rules are required to have an EIN. The vast number of legal entities in the U.S. already have a tax identification number, which would include both EINs, as well as social security numbers (SSNs). For tax year 2014, 27.6 million Schedule C's were filed, and 1.9 million Schedule F's were filed with individual tax returns reporting profit or loss from a sole proprietorship and farming. C corporations filed 2.2 million returns, S corporations filed 4.6 million returns, and partnerships filed 3.8 million returns. Individual filers, who must list their social security number on their tax return, may not be required to obtain an EIN. However, a sole proprietorship or self-employed farmer who establishes a qualified retirement plan, or is required to file excise, employment, alcohol, tobacco, or firearms returns, must have an employment identification number. A partnership, corporation, REMIC (real estate mortgage investment conduit), nonprofit organization (church, club, etc.), or farmers' cooperative must use an EIN for any tax-related purpose even if the entity does not have employees. For more information, see the [2015 Internal Revenue Service Data Book and IRS Statistics of Income \(SOI\), Individual Income Tax Returns Line Item Estimates, 2014](#). Safeguarding personally identifiable information in possession of the government and preventing its breach are essential to ensure that the government retains the American public's trust. This is a

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responsibility shared by officials accountable for administering operational and privacy and security programs, legal counsel, Agencies' Inspectors General and other law enforcement, and public and legislative affairs. It is also a function of applicable laws, such as the Federal Information Security Management Act of 2002 and the Privacy Act of 1974.

The Mineral Leasing Act of 1920 (MLA) requires that companies holding onshore Federal mineral leases meet citizenship and acreage requirements (30 USC 181 and 184). The regulations for different types of minerals implement citizenship and acreage disclosures in different ways. From most to least disclosing, the regulations are as follows: coal (43 CFR 3472.2-2 and 3422.3-4), solid minerals (43 C.F.R. 3502.27, .28, .29, and .34), oil and gas (43 CFR 3102.5-2 and .5-3), and geothermal (43 CFR 3202.11).

When disclosures are required, they must be made before the companies obtain a lease (around the time of the bidding process). For coal, 10% ownership in a partnership or association must be disclosed to ensure compliance with the MLA acreage and citizenship requirements (see 43 CFR 3472.2-2(b)). For leaseable solid minerals other than coal, 10% ownership in a partnership or association must also be disclosed (see 43 CFR 3502.27 - individuals must disclose when they own 10% or more of a partnership - and 43 CFR 3502.28 - partnerships themselves must disclose). For oil and gas, publicly traded partnerships and associations must certify that their constituent members who own more than 10% are in compliance with the MLA (see 43 CFR 3102.5-2).

Per BLM, execution and submission of an offer, competitive bid form, or request for approval of a transfer of record title or of operating rights (sublease) constitutes certification of compliance. All lease offers, competitive bid forms, or requests for approval of a transfer of record title or of operating rights (sublease), are made part of and tracked in the official case file maintained at the appropriate BLM State Office. For geothermal, there is no 10% threshold for either partnerships or corporations.

Regulations applicable to locatable minerals on Federal lands (such as gold or copper) provide that mining claims may be located only by U.S. citizens, legal immigrants who have filed for citizenship, business entities (which may include, but are not limited to, corporations and partnerships) organized under the laws of a State, and agents of persons or entities falling into any of these three categories (43 CFR 3830.3). Mining claims and the names of the locators must be recorded with BLM; however, there is no requirement to record the names of the underlying owners of a business entity (43 CFR 3833.11). Claimants must "record" their claims with BLM within 90 days after they locate their claim. The required information is extracted from a location notice that the claimant fills out and files with BLM. This information is filed in the BLM State Office of the State where the claim is located and is added to their automated data base, LR2000 (<http://www.blm.gov/lr2000/index.htm>). As of 9/30/2015, there were about 341,000 active mining claims.

43 USC 1337 requires that leases be issued to the highest responsible qualified bidder. The regulations governing each of the three resource types are (1) oil, gas, and sulfur; (2) other minerals; and (3) renewables – leased under the Outer Continental Shelf Leasing Act (OCSLA), and these regulations specify how bidders demonstrate that they are qualified. All three sets of regulations require that (1), if an individual, the person must be a citizen or national of the U.S. or an alien lawfully admitted for permanent residence; (2), if a corporation, the corporation must be organized under the laws of a State or territory; and, (3) if an association, the association's members must be qualified individuals or corporations (30 CFR 556.401; 30 CFR 581.4; and 30 CFR 585.106 respectively). For oil, gas, sulfur, and renewables, the regulations 30 CFR 556.402; 30 CFR 585.107 require the bidder to submit evidence showing that the bidder is qualified and meets other criteria (such as not having been debarred from doing business with the Department). For corporations and associations, there is no requirement to disclose the underlying owners (30 CFR 585.107).

4.6 Consider data collection procedures

As discussed above, under the CDD Rule, the Certification of Beneficial Owner(s) must be completed by the person opening a new account on behalf of a legal entity (or such person must otherwise certify the beneficial ownership information) with any of the following U.S. financial institutions: (1) a bank or credit union; (2) a broker or dealer in securities; (3) a mutual fund; (4) a futures commission merchant; or (5) an introducing broker in commodities.

Also, as discussed above, entities with filing obligations under the U.S. Federal tax law or opening an account at a financial institution subject to CDD requirements are required to have an EIN, which is issued by the IRS and requires companies to identify the responsible party. The IRS collects and keeps this information.

All of the information on the EIN application is subject to strict confidentiality provisions accorded to all U.S. Federal tax information under U.S. law (26 U.S.C. 6103) that prevents such information from being disclosed or used for any purpose other than U.S. Federal tax administration, except as permitted under specifically delineated statutory provisions under U.S. Federal internal revenue laws.

4.7 Consider how to develop a methodology for assuring the accuracy of the data

Verification under the CDD Rule⁸ is as follows:

- Under the CDD Rule, covered financial institutions are required to establish and maintain written procedures that are reasonably designed to identify and verify beneficial owners of legal entity customers. Customer due diligence procedures will enable the institution to:
 - Identify the beneficial owner(s) of each legal entity customer at the time when a new account is opened, unless the customer is otherwise excluded pursuant to paragraph (e) of this section, or the account is exempted pursuant to paragraph (h) of this section. A covered financial institution may accomplish this either by obtaining a certification in the form of a Certification of Beneficial Owner from the individual opening the account on behalf of the legal entity customer, or by obtaining from the individual the information required by the form by another means, provided that the individual certifies, to the best of the individual's knowledge, the accuracy of the information.
 - Verify to the covered financial institution the identity of each beneficial owner identified, according to risk-based procedures to the extent reasonable and practicable. At a minimum, these procedures must contain the elements required for verifying the identity of customers that are individuals and in the case of document verification, the financial institution may use photocopies or other reproductions. A covered financial institution may rely on the information supplied by the legal entity customer regarding the identity of its beneficial owner or owners, provided that it has no knowledge of facts that would reasonably call into question the reliability of such information. Additionally, in line with Customer Identification Program (CIP) rule requirements, financial institutions are expected to implement procedures for collecting and verifying beneficial ownership information “appropriate for [their] size and type of business.” Regulators regularly examine financial institutions for the quality of their CIP.

Penalties for Failure to Comply with Section 13d of the Securities and Exchange Act are as follows: as previously discussed, Section 13(d) requires any person or group that acquires more than five percent

⁸ See 31 C.F.R. § 1010.230(b) <https://www.federalregister.gov/documents/2016/05/11/2016-10567/customer-due-diligence-requirements-for-financial-institutions>

“beneficial ownership” of public company equity securities to disclose its position within 10 days of crossing the threshold. Failure to disclose the information requested by this schedule may result in civil or criminal action against the persons involved for violation of the federal securities laws and rules promulgated thereunder.

4.8 Consider data timeliness

Covered financial institutions have two years (May 11, 2018) to make changes to their account opening and anti-money laundering compliance systems to implement the CDD Rule. The CDD Rule does not impose a categorical requirement that financial institutions must update customer information, including beneficial ownership information, on a continuous or periodic basis. Rather, the updating requirement is event-driven and occurs as a result of normal monitoring as required by the Bank Secrecy Act. When a financial institution detects information (including a change in beneficial ownership information) about the customer in the course of its normal monitoring that is relevant to assessing or reevaluating the risk posed by the customer, it must update the customer information, including beneficial ownership information.

Exchange Action Section 13d

The SEC requires beneficial ownership reporting to be updated whenever there is a change in status.

4.9 Consider data accessibility

In the U.S., there is no authoritative source for beneficial ownership information of legal entities, as there is no requirement for U.S. States to collect this information at the time when a company is formed. However, as discussed above, any legal entity that has income or employees, or is otherwise required to file any documents with the IRS or opens an account at a financial institution, is required to have an EIN and requires companies to disclose the responsible party. The IRS collects and keeps this form, and they make it available to law enforcement upon receipt of a subpoena court order.

CDD Rule: Covered financial institutions are required to establish and maintain written procedures that are reasonably designed to identify and verify beneficial owners of legal entity customers.

SEC Rule: Under Section 13d, the beneficial ownership information is publicly available, as the primary purpose of this information is investor protection.

With respect to publicly traded and privately owned companies on Federal land, there were approximately 7,500 companies or private individuals that paid DOI \$7.8 billion in calendar year 2015. The Office of Natural Resources Revenue (ONRR) received \$7.5 billion from royalties, bonuses, rents, etc.; BLM received \$100 million from permit fees; and OSMRE received \$200 million from Abandoned Mine Land fees. Of the approximately 2,400 entities making payments to ONRR, initial research estimates are that about 10 percent are publicly traded companies (U.S. or Foreign stock exchanges) and account for about 80 percent of total payments.

4.10 Consider capacity building needs

A gap analysis of U.S. beneficial ownership practices and standards should be conducted, which compares these to international standards and the EITI Standard (as indicated in Section 2.5 (f)(ii) of the EITI Standard). This gap analysis will improve the MSG’s ability to assess further needs and to implement the roadmap.

4.11 Consider needs for technical and financial assistance

At this time, there are no technical and financial needs necessary in order to implement the roadmap.

4.12 Consider deadlines and responsibilities for roadmap activities

The USEITI MSG agreed to the formation of a Beneficial Ownership Roadmap Workgroup to oversee the development of the Roadmap. The Workgroup, which has members from each of the three sectors, began meeting in July 2016. The Workgroup will present a draft Roadmap for MSG consideration at the November 2016 MSG meeting.

Preliminary Proposed Timeline and Objectives:

- January 2017: USEITI Beneficial Ownership Roadmap Submitted to EITI International Board
- 2017: The MSG agrees to the working definition of Beneficial Owner
- 2017: Conduct a legal review of the legal barriers and enablers to public disclosure of beneficial ownership information under U.S. law
- 2017 USEITI Reporting Season: The MSG explores the possibility of requesting beneficial ownership information through the USEITI reporting template and collection of data for disclosure in the 2018 report (public companies may have the opportunity to indicate that beneficial ownership is done through periodic filings with the SEC, where appropriate, and, if it is determined, this disclosure is sufficient)
- 2017 and 2018: DOI and other relevant parties explore possibilities to request beneficial ownership information from companies engaged in bidding processes or otherwise operating in lands under its jurisdiction consistent with MLA, OCSLA, and/or other regulatory action within the power of the agency
- January 2018: Assuming that the preceding was successful, USEITI report with 2017 data including results of beneficial ownership query is released
- 2018 USEITI Reporting Season: Assuming that the preceding was successful, a request for beneficial ownership information is included in the USEITI reporting template, and results will be included in the 2019 USEITI report
- 2018: The USEITI MSG explores the possibility of regulatory/legislation action related to the “invest in” provision of the beneficial ownership requirement
- 2019 USEITI Reporting Season: Assuming that preceding efforts were successful, a request for beneficial ownership information is included in the USEITI reporting template, and results will be included in 2020 USEITI report
- 2019: Assuming that preceding efforts were successful, DOI and other relevant parties seek to request beneficial ownership information from companies engaged in bidding processes or otherwise operating in lands under its jurisdiction consistent with the MLA, the OCSLA, and/or other regulatory action within the power of the agency

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- 2019: The USEITI MSG explores the possibility of regulatory/legislation action related to the “invest in” provision of the beneficial ownership requirement
- 2020: Assuming that the preceding was successful, reporting by entities bidding for activities and operating on lands in the jurisdiction of the MLA, the OCSLA, and/or other regulatory action within the power of DOI commences
- 2020: Assuming that preceding efforts were successful, reporting related to the “invest in” provision commences

Data Portal Publication Plan

Dataset	Agency	Dates Range	Portal visualized or download only	Dataset provided by	FY18 Due Date (proposed)	FY17 Due Date	Delivery Shortened	Update Frequency
Disbursement Data	ONRR	FY 2017	download only	FM/AP	11/30/2017	11/30/2016	Same	TBD
Reported Federal Revenue ¹	ONRR	FY 2017	download only	IDM - DR	11/30/2017	3/31/2017	4 Months	TBD
Reported Indian Revenue ⁵	ONRR	FY 2017	download only	IDM - DR	11/30/2017	1/31/2017	2 Months	TBD
Reported Federal Production ²	ONRR	FY 2008-2017	both	IDM - DR	12/31/2017	7/31/2017	7 Months	TBD
Reported Indian Production ⁴	ONRR	FY 2017	download only	IDM - DR	12/31/2017	1/31/2017	7 Months	TBD
Reported Federal Revenue ¹	ONRR	CY 2017	both	IDM - DR	1/31/2018	3/31/2017	2 Months	TBD
Unilateral Disclosure Report - State Level ⁶	ONRR, BLM, OSM	CY 2017	TBD	IDM - DR, BLM, OSM	2/28/2018	3/10/2017	Same	TBD
Reported Federal Production ²	ONRR	CY 2008-2017	both	IDM - DR	3/31/2018	7/31/2017	4 Months	TBD

¹ **Reported Revenue:** Revenue reported to ONRR (by Accounting Year, Federal only) - Add most recent year

² **Reported Production:** Reported to ONRR (OGOR-A and P&R volumes allocated - Federal leases only; non-royalty-bearing volumes) - Update most recent 10 years

³ **Unilateral Disclosure Report (UDR):** ONRR, BLM, and OSM revenue streams by Parent Company - Feb 1st only ONRR. File will incorporate BLM & OSM data when received

⁴ **Reported Indian Production:** Reported to ONRR (OGOR-A and P&R volumes allocated - Indian leases only; non-royalty-bearing volumes) - Update most recent 10 years

⁵ **Reported Revenue:** Revenue reported to ONRR (by Accounting Year, Indian only) - Add most recent year

⁶ **UDR by State:** New dataset requirement added for FY2017

Revenue reported to ONRR (Accounting Year data - Federal only)

Production reported to ONRR (OGOR-A and P&R volumes allocated to Federal leases only; total production, not royalty-bearing volumes)

Unilateral Disclosure Report (UDR): ONRR, BLM, and OSM revenue streams by Parent Company

ONRR Disbursements

Only need to run newest year (2014/2015) for the 10-yr rolling window and add to previous dataset.

Need to rerun every year for 10-yr. rolling window.

Feb 1st only ONRR. File will incorporate BLM & OSM data when received

LWCF & NHPA datasets from Park Service

OFFICE OF NATURAL RESOURCES REVENUE
(ONRR)

PRE-DECISIONAL and DELIBERATIVE
Please do not distribute.

**U.S. EITI Withdrawal
Communication Plan**

(This announcement is internal and not intended as a press release)

As of October 16, 2017

BACKGROUND

The U.S. EITI (Extractive Industries Transparency Initiative) Federal Advisory Committee was established in August 2012. The Committee's purpose was to serve as the initial EITI Multi-stakeholder Group (MSG), and its duties included consideration and fulfillment of the tasks required to achieve candidate and compliant status in the EITI. The Committee's Charter was renewed in 2014, and again in 2016. The MSG each year developed and recommended to the Secretary a fully-costed work plan, containing measurable targets and a timetable for implementation, and an assessment of capacity constraints. Each year the MSG developed and recommended to the Secretary an Annual Activity Report documenting the decisions, accomplishments and progress in meeting the EITI International Standard. The MSG advised the Secretary on long-term oversight and other activities necessary to achieve EITI candidate and compliant status.

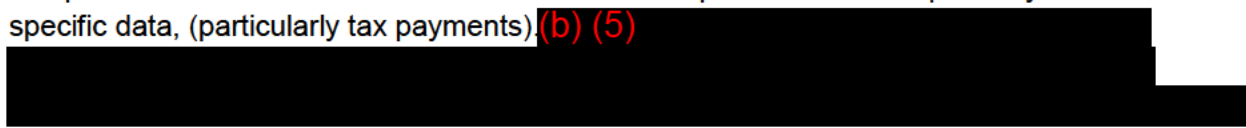
(b) (5)



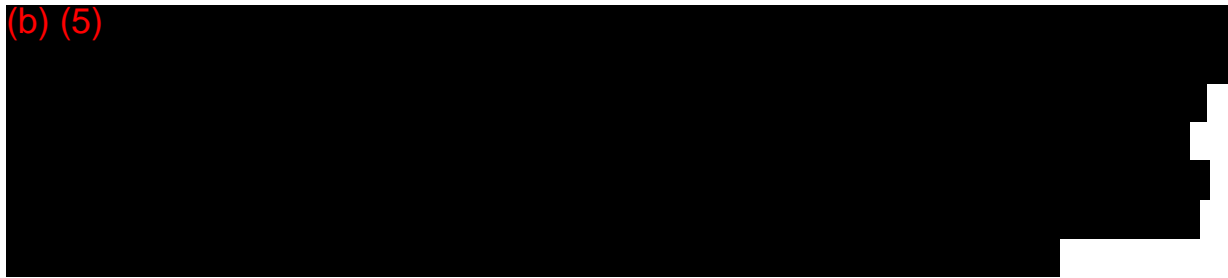
(b) (5)



In May 2017, the DOI Office of the Inspector General released a final inspection report on the U.S. implementation of the EITI. The report included observations and no recommendations. Their review found the U.S. has met 8 of the 9 elements of the standard but will not be found in compliance with the EITI standard because U.S. companies are not required by law to disclose specific data, (particularly tax payments) (b) (5)



(b) (5)



COMMUNICATIONS OBJECTIVES

- The purpose of this Communication Plan is to inform the Department and U.S. EITI stakeholders that the U.S. EITI Multi-stakeholder group has fulfilled its responsibilities to the Secretary as documented in the Charter. The U.S. met 8 of the 9 elements of the EITI Standard, but will not be deemed in full compliance with the Standard, due to laws prohibiting certain data disclosures by companies in regard to taxes. As a result, the U.S. EITI plans to withdraw from the EITI Standard by November 6, 2017. The U.S. will continue to maintain the ~~U.S. EITI~~ Data Portal and implement [the principles of the EITI standard](#) within our domestic statutory and regulatory context.
- ***This Communication Plan is not intended as a public Press Release.***

KEY STAKEHOLDERS AND AUDIENCES

Internal Stakeholders:

- Executive Office of the President –
 - National Security Council
 - Office of Science and Technology Policy
- DOI Bureaus and Offices
 - OS, BLM, BOEM, BSEE, OSMRE, BIA, OST
- Other Federal Agencies
 - State, Treasury
- ONRR Employees
- ONRR's State and Tribal Royalty Audit Committee (STRAC)

External Stakeholders:

- Members of the U.S. EITI Multi-Stakeholder Group
- Congressional Officials (OCL)
- Securities and Exchange Commission (SEC)
- Civil Society Stakeholders
- ~~State Officials~~
- [EITI Implementing and Supporting Countries](#)

KEY MESSAGES/TALKING POINTS

U.S. Commitment and USEITI:

- The United States remains committed to the EITI and transparency and good governance of the extractive sectors.
- The United States has led the global initiative in providing revenue related data and information in an interactive, open-source data portal and by regularly engaging with other implementing countries to share our best practices.
- USEITI's second report demonstrated for the second year in a row the government's robust audit and assurance practices within the United States finding zero unresolved discrepancies, but also spotlighted the challenge posed by voluntary company reporting.
- The United States will mainstream transparency of non-tax revenue data through the work already underway within the Office of Natural Resource Revenue including on the data portal.
- The Department of the Interior Inspector General report issued on May 18 demonstrates the United States' "significant progress" towards implementation including meeting eight of the nine implementation indicators and partially meeting the requirement on company reporting.
- The United States has over the past decade been one of the strongest supporters of this initiative, providing over \$32 million to World Bank and mission-level assistance to EITI implementation, serving on the International Board, and this year considering for the first time a direct financial contribution to the Secretariat.
- However, the challenges facing United States implementation, as detailed in the International EITI Implementation Progress Report, are ~~very~~ significant. We have not taken those difficulties lightly. We have worked deliberately through a process to identify a path to feasibly implement the Standard. We have not found a solution that is feasible or practical. ~~We expect to announce a final decision on EITI implementation within the next two weeks.~~
- It is important to note that we willingly took on a very ambitious task and have not asked to change the rules or move the goalposts in order to accommodate the American system, which is highly transparent and efficient but which does not permit the kinds of disclosure required by the Standard.
- IF PRESSED ON DODD-FRANK 1504: Section 1504 of the Dodd-Frank Wall Street Reform Act remains U.S. law and the Securities and Exchange Commission is responsible for promulgating an implementing rule. The Administration supported the passage of House Joint Resolution 41, which vacated the previous rule, as a necessary rulemaking action to increase American competitiveness. We cannot comment on any pending or future legislative action regarding transparency in the extractive industries.
- The OIG reviewed the EITI and found that the U.S. met seven of the eight EITI requirements. The OIG FINAL Report can be found at:
https://www.doioig.gov/sites/doioig.gov/files/AIE_EITI_FinalInspectionReport_Public.pdf
- The OIG recognizes that the U.S. will move from being an implementing country to only a supporting country of EITI; and the U.S. intends to continue its efforts to disclose revenue and maintain the online data portal, thus institutionalizing EITI processes.

U.S. EITI QUESTIONS & ANSWERS

What is the EITI?

EITI is a voluntary, international standard for transparency in reporting revenues paid and received for natural resource extraction. The design of each EITI framework is country-specific, and is developed through a multi-year, consensus-based process by a multi-stakeholder group (MSG) composed of representatives from government, industry and civil society. The main product of the USEITI will be annual reports.

What is an EITI Report?

To comply with the EITI Standard, an EITI country must publish annual reports, produced by an Independent Administrator and approved by the MSG. The EITI Report documents the parallel reporting and reconciliation of revenues paid by the extractives industry to government and the revenues received and disbursed by the government. The EITI Report is also a compilation of publicly available contextual, legal, and current fiscal information about the extractives industries.

Where are the USEITI Reports and what did they actually disclose?

DOI published the 2015 and 2016 USEITI Annual Reports on an open source, open code interactive web-based data portal (<https://useiti.doi.gov>). On this portal, the Department of the Interior unilaterally discloses 2013, 2014, 2015, 2016 revenues by company, commodity, and revenue type as well as production data across all commodities. The Annual Reports provide clarity and transparency of the revenues generated by energy development on public lands and waters—a significant source of financial support for local communities, States, Tribes, and the Federal Government.

Will the Department of the Interior continue to issue USEITI reports?

The Department of the Interior will continue to disclose revenues by company, commodity, and revenue type as well as production data across all commodities on the data portal. The content on the Data Portal will reflect the Office of Natural Resources Revenue's activities for 2017 undertaken as a part of the United States' involvement in the Extractive Industries Transparency Initiative. Unlike previous years, the content has not been approved by the full USEITI Multi-Stakeholder Group., given the MSG did not meet following the February session. However, the content provided here and included in the online report has been informed by MSG feedback and the MSG had an opportunity to review all additional content.

What is a Data Portal?

The Data Portal is a web-based resource for data and information about U.S. extractive industries on Federal land and waters. It provides interactive visualizations that can be readily understood and accessed by the public for reuse through other media and applications. The Data Portal has been facilitating national and international conversation around U.S. extractive industries revenue and is designed to present this data in a format that is most accessible to the average citizen. The portal has set a global standard in revenue governance transparency. You can view the Data Portal at: <https://useiti.doi.gov>.

Who is the USEITI Multistakeholder Group?

The Secretary of the Interior established the USEITI Federal Advisory Committee in August 2012. The Committee's purpose was to serve as the initial EITI Multistakeholder Group (MSG)

and its duties included consideration and fulfillment of the tasks required to achieve candidate and compliant status in the EITI. The Multistakeholder Group or MSG is comprised of representatives from government, industry and civil society. The Committee's Charter was renewed in 2014, and again in 2016. The MSG met 20 times in a public meeting between 2012 and February 2017.

Why are you terminating the USEITI Multistakeholder Group?

The Federal Advisory Committee serves at the Secretary of the Interior's discretion. The MSG each year developed and recommended to the Secretary a fully-costed work plan, containing measurable targets and a timetable for implementation, and an assessment of capacity constraints. Each year the MSG developed and recommended to the Secretary an Annual Activity Report documenting the decisions and accomplishment, and progress in meeting the EITI Standard. The MSG advised the Secretary on long-term oversight and other activities necessary to achieve EITI candidate and compliant status. The MSG oversaw publishing the 2015 and 2016 USEITI Annual Reports on an open source, open code interactive web-based data portal (<https://useiti.doi.gov>). Given the current challenges to fully implementing the EITI Standard and a thoughtful review of the many accomplishments of the MSG, the Secretary determined the MSG had accomplished its work.

Why are you withdrawing from the EITI Standard?

The U.S. has met 8 of the 9 elements of the standard. USEITI has been implementing within U.S. statutory mandates and in a voluntary reporting system. Given the ongoing uncertainty about corporate income tax reporting as part of USEITI, as well as the recent decision by the USEITI MSG to rely on the government's existing audit and assurance processes, USEITI would be deviating in two significant respects from the EITI Standard. Therefore the decision was made that the U.S. would no longer formally implement the Standard. However, the Department, as managed by ONRR, has robust audit and assurances practices in place to demonstrate accountability for the revenues paid and received for our country's oil, gas, and mineral resources. The Department, through ONRR will continue to mainstream (publicly disclose) DOI revenue reporting in lieu of redundant company reporting and Independent Administrator reconciliation.

Explain what the challenges were for the U.S. to implement the EITI Standard

Domestic implementation of EITI is subject to existing laws and regulations. For example, the Trade Secrets Act and the Federal Oil and Gas Royalty Management Act (FOGRMA) of 1982, prohibit the Federal government from releasing company pricing information and Federal employees are subject to criminal penalties if they violate these laws. Another example is Section 6103 of the Internal Revenue Code (IRC) provides that tax returns and tax return information are confidential and prohibited from disclosure, unless an exception identified in the IRC is applicable. The IRC imposes civil and criminal penalties for violations of the disclosure prohibitions.

What does it mean to mainstream revenue data?

The EITI governing Board in its 2016 revised Standard included allowing for two possible procedures for EITI disclosures: (1) the "conventional" agreed upon procedure for EITI Reports, which is already in use (company and government parallel disclosure to an Independent Administrator for reconciliation); and (2) the agreed upon procedure for mainstreamed disclosures. The mainstreaming transparency option enables countries to refer directly to existing public information about the extractive sector where available, comprehensive, reliable,

and consistent with the requirements of the EITI Standard. We welcome the idea of mainstreamed EITI disclosures in lieu of company reporting and Independent Administrator reconciliation.

What domestic benefits of adopting the EITI Standard are you giving up?

The Department of the Interior will continue to highlight industry's financial contributions to the U.S. Government and the national and state level distribution of those resources, including the revenues generated by royalties, rents, bonuses and taxes. The Department will continue to provide enhanced and user friendly access to reliable information that can be used to hold the government and [industry] to account. Increasing the public's awareness and understanding of how extractive revenues are collected and disbursed enhances our accountability and facilitates the full and fair return to the American people for these resources.

What were the international benefits to the U.S. of adopting EITI?

The United States will continue to be one of seventeen supporting countries of the EITI. The United States remains a strong supporter of good governance and transparency, including the principles of transparency in the extractive sector represented by EITI. EITI is an important tool to promote transparency, increase competitiveness and combat corruption globally. We have taken a leading role in EITI since its founding in 2003, and we will continue to support the international EITI initiative and country level implementation. Attempting to implement the EITI Standard in the United States was a proactive step in the mainstreaming of EITI principles. It demonstrated that a strong commitment to transparency and accountability principles applies equally to developed and developing countries, providing an example for other OECD economies. Despite the infeasibility of implementing the Standard domestically, the United States remains committed to these same transparency and accountability principles.

How much does the government gain in revenue from the extractive industries?

The U.S. is a major developer of natural resources. The Department of Interior collects on average approximately \$10 to \$12 billion in annual revenues from the development of oil, gas and minerals on Federal lands and offshore in the Outer Continental Shelf. The bulk of these revenues are disbursed to the U.S. Treasury, with smaller portions distributed to five Federal agencies, more than 30 states, 41 American Indian tribes, and approximately 34,000 individual Indian mineral owners. In addition, the U.S. receives federal taxes related to resource extraction.

CONTACTS and TIMING MATRIX

ITEM/ACTION	RESPONSIBLE	Reviewer/AUDIENCE	DELIVERY/Time
DRAFT Comms Plan to Judy Wilson, ONRR	Heidi Badaracco, Program Manager for Public Affairs, ONRR	Internal to ONRR – Judy Wilson for review	Email by 10/13/17
DRAFT to DOI for review	Heidi Badaracco, Program Manager for Public Affairs, ONRR	Frank Quimby, DOI, Reviews Press Releases	Email by 10/13/17
DRAFT to Director, ONRR	Heidi Badaracco, Program Manager for Public Affairs, ONRR	Director to review; (Greg Gould requested that Frank Quimby review	Email by 10/17/17

		first)	
FINAL DRAFT, excluding MATRIX, to State for review	Heidi Badaracco, Program Manager for Public Affairs, ONRR	Micah Watson, State Once State is OK with the DRAFT, work with NSC.	Email by 10/19/17
FINAL DRAFT, excluding MATRIX, to NSC	Heidi/Judy Wilson	James Mazarella, National Security Council (NSC)	Email by 10/20/17
FINAL Courtesy Copy, excluding MATRIX, to USAID	Heidi/Judy Wilson	Jen Lewis, USAID	Email by 10/20/17
FINAL Date to Withdraw from USEITI: November 2, 2017			
FINAL, excluding MATRIX, to DOI Communications and Public Affairs	Heidi Badaracco, Program Manager for Public Affairs, ONRR	Russell Newell, Dep Director, Comms; CC: Frank Quimby	Email by 10/20/17
FINAL excluding MATRIX, to DOI Intergovernmental Team	Judith Wilson, Program Manager for U.S. EITI, ONRR	Jason Funes, DOI Intergovernmental Team	Email by 10/20/17
FINAL, excluding MATRIX, to other agencies	Judith Wilson, Program Manager for U.S. EITI, ONRR	Treasury, Energy & Commerce	Email by 10/20/17
FINAL excluding MATRIX to OCL	Anita Gonzales, Legislative Liaison for ONRR	Joseph Nevills, OCL Leg. Summary and Audrey Haskens, OCL Report	Email by 10/20/17
FINAL excluding MATRIX to STRAC	Bruce Rumburg, Agreements Officer's Representative	STRAC	Email by 10/20/2017

OFFICE OF NATURAL RESOURCES REVENUE
(ONRR)

PRE-DECISIONAL and DELIBERATIVE
Please do not distribute.

**U.S. EITI Withdrawal
Communication Plan**

(This announcement is internal and not intended as a press release)


As of October 16, 2017

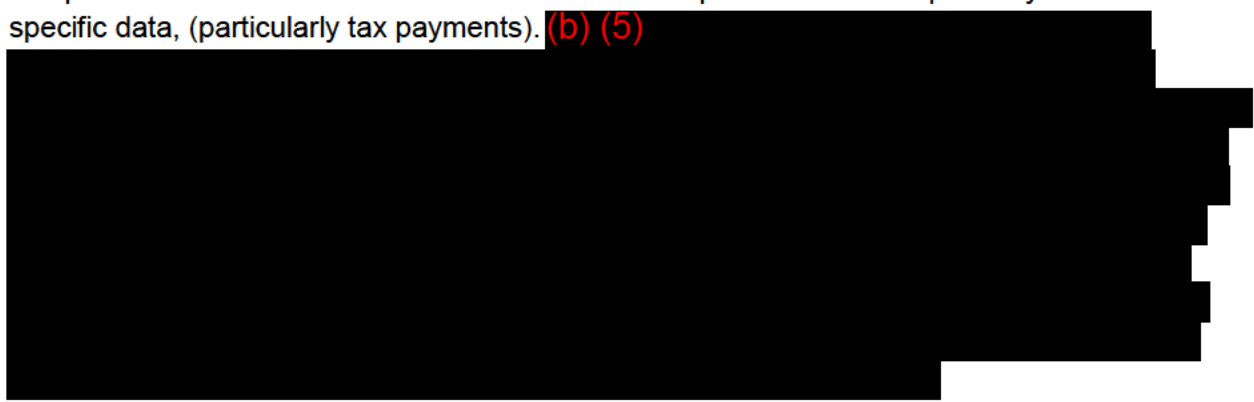
BACKGROUND

The U.S. EITI (Extractive Industries Transparency Initiative) Federal Advisory Committee was established in August 2012. The Committee's purpose was to serve as the initial EITI Multi-stakeholder Group (MSG), and its duties included consideration and fulfillment of the tasks required to achieve candidate and compliant status in the EITI. The Committee's Charter was renewed in 2014, and again in 2016. The MSG each year developed and recommended to the Secretary a fully-costed work plan, containing measurable targets and a timetable for implementation, and an assessment of capacity constraints. Each year the MSG developed and recommended to the Secretary an Annual Activity Report documenting the decisions, accomplishments and progress in meeting the EITI International Standard. The MSG advised the Secretary on long-term oversight and other activities necessary to achieve EITI candidate and compliant status.

(b) (5)



 In May 2017, the DOI Office of the Inspector General released a final inspection report on the U.S. implementation of the EITI. The report included observations and no recommendations. Their review found the U.S. has met 8 of the 9 elements of the standard but will not be found in compliance with the EITI standard because U.S. companies are not required by law to disclose specific data, (particularly tax payments). (b) (5)



COMMUNICATIONS OBJECTIVES

- The purpose of this Communication Plan is to inform the Department and U.S. EITI stakeholders that the U.S. EITI Multi-stakeholder group has fulfilled its responsibilities to the Secretary as documented in the Charter. If the Department should decide they want to do a press release, they have all the information they need. The Department should be aware that certain stakeholders may share information with the press.
- The U.S. met 8 of the 9 elements of the EITI Standard, but will not be deemed in full compliance with the Standard, due to laws prohibiting certain data disclosures by companies in regard to taxes. As a result, the U.S. EITI plans to withdraw from the EITI Standard by November 6, 2017. The U.S. will continue to maintain the Data Portal and implement the principles of the EITI standard within our domestic statutory and regulatory context.
- The ~~final 2017~~^{next} US EITI multi-stakeholder group meeting, ~~was~~ scheduled for November 15, 16, ~~will~~^{and is now be} cancelled.
- ***This Communication Plan is not intended as a public Press Release, rather to assist the Secretary's Office of Communications in their decision regarding a media release and response to media inquiries.***

KEY STAKEHOLDERS AND AUDIENCES

Internal Stakeholders:

- Executive Office of the President –
 - National Security Council
 - Office of Science and Technology Policy
 - Office of Management and Budget
- DOI Bureaus and Offices
 - OS, BLM, BOEM, BSEE, OSMRE, BIA, OST
- Other Federal Agencies
 - State, Treasury
- ONRR Employees
- ONRR's State and Tribal Royalty Audit Committee (STRAC)

External Stakeholders:

- Members of the U.S. EITI Multi-Stakeholder Group
- Congressional Officials (OCL)
- Securities and Exchange Commission (SEC)
- Civil Society Stakeholders
- State Officials
- EITI Implementing and Supporting Countries

KEY MESSAGES/TALKING POINTS

U.S. Commitment and USEITI:

- The United States remains committed to the EITI and transparency and good governance of the extractive sectors.
- The United States has led the global initiative in providing revenue related data and information in an interactive, open-source data portal and by regularly engaging with other implementing countries to share our best practices.
- USEITI's second report demonstrated for the second year in a row the government's robust audit and assurance practices within the United States finding zero unresolved discrepancies, but also spotlighted the challenge posed by voluntary company reporting.
- The United States will mainstream transparency of non-tax revenue data through the work already underway within the Office of Natural Resource Revenue including on the data portal.
- The Department of the Interior Inspector General report issued on May 18 demonstrates the United States' "significant progress" towards implementation including meeting eight of the nine implementation indicators and partially meeting the requirement on company reporting.
- The United States has over the past decade been one of the strongest supporters of this initiative, providing over \$32 million to World Bank and mission-level assistance to EITI implementation, serving on the International Board, and this year considering for the first time a direct financial contribution to the Secretariat.
- However, the challenges facing United States implementation, as detailed in the International EITI Implementation Progress Report, are significant. We have not taken those difficulties lightly. We have worked deliberately through a process to identify a path to feasibly implement the Standard. We have not found a solution that is feasible or practical.
- It is important to note that we willingly took on a very ambitious task and have not asked to change the rules or move the goalposts in order to accommodate the American system, which is highly transparent and efficient but which does not permit the kinds of disclosure required by the Standard.
- IF PRESSED ON DODD-FRANK 1504: Section 1504 of the Dodd-Frank Wall Street Reform Act remains U.S. law and the Securities and Exchange Commission is responsible for promulgating an implementing rule. The Administration supported the passage of House Joint Resolution 41, which vacated the previous rule, as a necessary rulemaking action to increase American competitiveness. We cannot comment on any pending or future legislative action regarding transparency in the extractive industries.
- The OIG reviewed the EITI and found that the U.S. met seven of the eight EITI requirements. The OIG FINAL Report can be found at:
https://www.doioig.gov/sites/doioig.gov/files/AIE_EITI_FinalInspectionReport_Public.pdf
- The OIG recognizes that the U.S. will move from being an implementing country to only a supporting country of EITI; and the U.S. intends to continue its efforts to disclose revenue and maintain the online data portal, thus institutionalizing EITI processes.

U.S. EITI QUESTIONS & ANSWERS

What is the EITI?

EITI is a voluntary, international standard for transparency in reporting revenues paid and received for natural resource extraction. The design of each EITI framework is country-specific, and is developed through a multi-year, consensus-based process by a multi-stakeholder group (MSG) composed of representatives from government, industry and civil society. The main product of the USEITI will be annual reports.

What is an EITI Report?

To comply with the EITI Standard, an EITI country must publish annual reports, produced by an Independent Administrator and approved by the MSG. The EITI Report documents the parallel reporting and reconciliation of revenues paid by the extractives industry to government and the revenues received and disbursed by the government. The EITI Report is also a compilation of publicly available contextual, legal, and current fiscal information about the extractives industries.

Where are the USEITI Reports and what did they actually disclose?

DOI published the 2015 and 2016 USEITI Annual Reports on an open source, open code interactive web-based data portal (<https://useiti.doi.gov>). On this portal, the Department of the Interior unilaterally discloses 2013, 2014, 2015, 2016 revenues by company, commodity, and revenue type as well as production data across all commodities. The Annual Reports provide clarity and transparency of the revenues generated by energy development on public lands and waters—a significant source of financial support for local communities, States, Tribes, and the Federal Government.

Will the Department of the Interior continue to issue USEITI reports?

The Department of the Interior will continue to disclose revenues by company, commodity, and revenue type as well as production data across all commodities on the data portal. The content on the Data Portal will reflect the Office of Natural Resources Revenue's activities for 2017 undertaken as a part of the United States' involvement in the Extractive Industries Transparency Initiative. Unlike previous years, the content has not been approved by the full USEITI Multi-Stakeholder Group., given the MSG did not meet following the February session. However, the content provided here and included in the online report has been informed by MSG feedback and the MSG had an opportunity to review all additional content.

What is a Data Portal?

The Data Portal is a web-based resource for data and information about U.S. extractive industries on Federal land and waters. It provides interactive visualizations that can be readily understood and accessed by the public for reuse through other media and applications. The Data Portal has been facilitating national and international conversation around U.S. extractive industries revenue and is designed to present this data in a format that is most accessible to the average citizen. The portal has set a global standard in revenue governance transparency. You can view the Data Portal at: <https://useiti.doi.gov>.

Who is the USEITI Multistakeholder Group?

The Secretary of the Interior established the USEITI Federal Advisory Committee in August 2012. The Committee's purpose was to serve as the initial EITI Multistakeholder Group (MSG) and its duties included consideration and fulfillment of the tasks required to achieve candidate

and compliant status in the EITI. The Multistakeholder Group or MSG is comprised of representatives from government, industry and civil society. The Committee's Charter was renewed in 2014, and again in 2016. The MSG met 20 times in a public meeting between 2012 and February 2017.

Why are you terminating the USEITI Multistakeholder Group?

The Federal Advisory Committee serves at the Secretary of the Interior's discretion. The MSG each year developed and recommended to the Secretary a fully-costed work plan, containing measurable targets and a timetable for implementation, and an assessment of capacity constraints. Each year the MSG developed and recommended to the Secretary an Annual Activity Report documenting the decisions and accomplishment, and progress in meeting the EITI Standard. The MSG advised the Secretary on long-term oversight and other activities necessary to achieve EITI candidate and compliant status. The MSG oversaw publishing the 2015 and 2016 USEITI Annual Reports on an open source, open code interactive web-based data portal (<https://useiti.doi.gov>). Given the current challenges to fully implementing the EITI Standard and a thoughtful review of the many accomplishments of the MSG, the Secretary determined the MSG had accomplished its work.

Why are you withdrawing from the EITI Standard?

The U.S. has met 8 of the 9 elements of the standard. USEITI has been implementing within U.S. statutory mandates and in a voluntary reporting system. Given the ongoing uncertainty about corporate income tax reporting as part of USEITI, as well as the recent decision by the USEITI MSG to rely on the government's existing audit and assurance processes, USEITI would be deviating in two significant respects from the EITI Standard. Therefore the decision was made that the U.S. would no longer formally implement the Standard. However, the Department, as managed by ONRR, has robust audit and assurances practices in place to demonstrate accountability for the revenues paid and received for our country's oil, gas, and mineral resources. The Department, through ONRR will continue to mainstream (publicly disclose) DOI revenue reporting in lieu of redundant company reporting and Independent Administrator reconciliation.

Explain what the challenges were for the U.S. to implement the EITI Standard

Domestic implementation of EITI is subject to existing laws and regulations. For example, the Trade Secrets Act and the Federal Oil and Gas Royalty Management Act (FOGRMA) of 1982, prohibit the Federal government from releasing company pricing information and Federal employees are subject to criminal penalties if they violate these laws. Another example is Section 6103 of the Internal Revenue Code (IRC) provides that tax returns and tax return information are confidential and prohibited from disclosure, unless an exception identified in the IRC is applicable. The IRC imposes civil and criminal penalties for violations of the disclosure prohibitions.

What does it mean to mainstream revenue data?

The EITI governing Board in its 2016 revised Standard included allowing for two possible procedures for EITI disclosures: (1) the "conventional" agreed upon procedure for EITI Reports, which is already in use (company and government parallel disclosure to an Independent Administrator for reconciliation); and (2) the agreed upon procedure for mainstreamed disclosures. The mainstreaming transparency option enables countries to refer directly to existing public information about the extractive sector where available, comprehensive, reliable, and consistent with the requirements of the EITI Standard. We welcome the idea of

mainstreamed EITI disclosures in lieu of company reporting and Independent Administrator reconciliation.

What domestic benefits of adopting the EITI Standard are you giving up?

The Department of the Interior will continue to highlight industry's financial contributions to the U.S. Government and the national and state level distribution of those resources, including the revenues generated by royalties, rents, bonuses and taxes. The Department will continue to provide enhanced and user friendly access to reliable information that can be used to hold the government and [industry] to account. Increasing the public's awareness and understanding of how extractive revenues are collected and disbursed enhances our accountability and facilitates the full and fair return to the American people for these resources.

What were the international benefits to the U.S. of adopting EITI?

The United States will continue to be one of seventeen supporting countries of the EITI. The United States remains a strong supporter of good governance and transparency, including the principles of transparency in the extractive sector represented by EITI. EITI is an important tool to promote transparency, increase competitiveness and combat corruption globally. We have taken a leading role in EITI since its founding in 2003, and we will continue to support the international EITI initiative and country level implementation. Attempting to implement the EITI Standard in the United States was a proactive step in the mainstreaming of EITI principles. It demonstrated that a strong commitment to transparency and accountability principles applies equally to developed and developing countries, providing an example for other OECD economies. Despite the infeasibility of implementing the Standard domestically, the United States remains committed to these same transparency and accountability principles.

How much does the government gain in revenue from the extractive industries?

The U.S. is a major developer of natural resources. The Department of Interior collects on average approximately \$10 to \$12 billion in annual revenues from the development of oil, gas and minerals on Federal lands and offshore in the Outer Continental Shelf. The bulk of these revenues are disbursed to the U.S. Treasury, with smaller portions distributed to five Federal agencies, more than 30 states, 41 American Indian tribes, and approximately 34,000 individual Indian mineral owners. In addition, the U.S. receives federal taxes related to resource extraction.

CONTACTS and TIMING MATRIX

ITEM/ACTION	RESPONSIBLE	Reviewer/AUDIENCE	DELIVERY/Time
DRAFT Comms Plan to Judy Wilson, ONRR	Heidi Badaracco, Program Manager for Public Affairs, ONRR	Internal to ONRR – Judy Wilson for review	Email by 10/13/17
DRAFT to DOI for review	Heidi Badaracco, Program Manager for Public Affairs, ONRR	Frank Quimby, DOI, Reviews Press Releases	Email by 10/13/17
DRAFT to Director, ONRR	Heidi Badaracco, Program Manager for Public Affairs, ONRR	Director to review; (Greg Gould requested that Frank Quimby review first)	Email by 10/17/17

FINAL DRAFT, excluding MATRIX, to State for review	Heidi Badaracco, Program Manager for Public Affairs, ONRR	Micah Watson, State Once State is OK with the DRAFT, work with NSC.	Email by 10/19/17
FINAL DRAFT, excluding MATRIX, to NSC	Heidi/Judy Wilson	James Mazarella, National Security Council (NSC)	Email by 10/20/17
FINAL Courtesy Copy, excluding MATRIX, to USAID	Heidi/Judy Wilson	Jen Lewis, USAID	Email by 10/20/17
FINAL Date to Withdraw from USEITI: November 2, 2017			
FINAL, excluding MATRIX, to DOI Communications and Public Affairs	Heidi Badaracco, Program Manager for Public Affairs, ONRR	Russell Newell, Dep Director, Comms; CC: Frank Quimby	Email by 10/20/17
FINAL excluding MATRIX, to DOI Intergovernmental Team	Judith Wilson, Program Manager for U.S. EITI, ONRR	Jason Funes, DOI Intergovernmental Team	Email by 10/20/17
FINAL, excluding MATRIX, to other agencies	Heidi Badaracco, Program Manager for Public Affairs, Judith Wilson, Program Manager for U.S. EITI, ONRR	Treasury, Energy & Commerce	Email by 10/20/17
FINAL excluding MATRIX to OCL	Anita Gonzales, Legislative Liaison for ONRR	Joseph Nevills, OCL Leg. Summary and Audrey Haskens, OCL Report	Email by 10/20/17
Federal Register Notice <u>to cancel November USEITI meeting</u>	<u>Kim Oliver, Program Analyst, ONRR with</u> Exec Sec. retary's Office, (because it is a FACA)	Exec Secretary's Office	Published 11/07/2017
FINAL excluding MATRIX to STRAC	Bruce Rumburg, Agreements Officer's Representative	STRAC	AOR shares letter to International Chair by Email to STRAC after (11/03 <u>2</u> /17).

**UNITED STATES EXTRACTIVE INDUSTRIES TRANSPARENCY INITIATIVE
MULTI-STAKEHOLDER GROUP ADVISORY COMMITTEE MEETING
FEBRUARY 1, 2017**

SUMMARY OF PROCEEDINGS

**U.S. DEPARTMENT OF THE INTERIOR
PREPARED: MARCH 2017**

I. Introduction

The U.S. Department of the Interior (DOI), with Judy Wilson presiding as acting Designated Federal Official (DFO), convened the nineteenth meeting of the U.S. Extractive Industries Transparency Initiative (USEITI) Multi-Stakeholder Group Advisory Committee (MSG) on February 1, 2017, in Washington, DC.

The purpose of the meeting was to receive updates from the Independent Administrator on various aspects of developing the online report and executive summary for the 2017 USEITI Report and how to move forward with these; receive updates on the work of the Implementation, Communications, and State and Tribal Opt-in Subcommittees; and discuss the prospects for proceeding with mainstreaming of USEITI reporting into US government processes and the inclusion of project-level reporting in USEITI Reports. The MSG opted not to cover all of these items after the Co-Chairs agreed to accelerate the MSG's work and adjourn the meeting after one day rather than hold a two-day meeting, as originally planned. Please see the "Adjustment of Meeting Schedule and Agenda" section on page 6 for additional information.

Please note that, throughout this meeting summary, comments made by presenters, Independent Administrator team members, other non-MSG members, and those directly pertaining to an MSG decision are attributed to specific speakers. Other comments are provided without attribution in order to foster open discussion among MSG members excepting final deliberations prior to specific MSG decisions.

Interested parties are asked to contact USEITI at useiti@ios.doi.gov or 202-208-0272 with any questions, comments, or concerns regarding the content of this meeting summary.

The following items are included in this meeting summary:

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II. Summary of Endorsements, Decisions, Approvals, and Action Items

A. Endorsements

- No endorsements were made by the MSG at the February 2017 MSG meeting.

B. Decisions

- The MSG decided to move forward with the Implementing Subcommittee's recommendation to forego independent reconciliation of revenues by the Independent Administrator for the 2017 USEITI Report. *(see page 9)*
- The MSG decided to use and move forward with the proposed reporting template for 2017. *(see page 10)*
- The MSG decided to have the USEITI Secretariat work to add material for the 2017 USEITI Report about US audit and assurance procedures and for the USEITI Secretariat to make a "good faith effort" to include information about "the life of a lease" in the 2017 USEITI Report. *(see page 13)*

C. Approvals

- The MSG approved the November 2016 MSG meeting summary. *(see page 5)*
- The MSG approved the motion to have the Implementation Committee decide on which dataset source (Bureau of Labor Statistics or Census Bureau) to use to provide information for employment by commodity. *(see page 12)*
- The MSG approved the motion to have the Implementation Committee decide on which two additional visualizations (between additional metals, forestry, and renewable energy) to include in the 2017 USEITI Report, along with a visualization about employment by commodity *(see page 13)*.

D. Confirmations

- No confirmations were made by the MSG at the February 2017 MSG meeting.

E. Action Items

- **Co-Chairs:**
 - Review and distribute meeting summary from the February 2017 MSG meeting to MSG members.
 - Develop agenda for the June 2017 MSG meeting.
- **Implementation Subcommittee**

- Decide on which dataset source (Bureau of Labor Statistics or Census Bureau) to use to provide information for employment by commodity. *(see page 12)*
- Decide on which two additional visualizations (between additional metals, forestry, and renewable energy) to include in the 2017 USEITI Report, along with a visualization about employment by commodity *(see page 13)*
- **USEITI Secretariat:**
 - Work to create supplemental material for the 2017 USEITI Report about US audit and assurance procedures. *(see page 13)*
 - Make a “good faith effort” to include information about “the life of a lease” in the 2017 USEITI Report. *(see page 13)*
 - MSG decisions will be recorded in an updated MSG Decision Matrix by the Secretariat. *(see page 15)*
- **Independent Administrator (Deloitte)**
 - Integrate the beneficial ownership reporting template into the main reporting form. *(see page 10)*
 - Flesh out the contours of the following topics: additional metals, forestry, and renewable energy, and present these to the Implementation Subcommittee for decision-making regarding which visualizations to include in the 2017 USEITI Report. *(see page 13)*
- **Acting Designated Federal Office**
 - Review the MSG terms of reference and consider how to ensure adherence to those in future MSG meetings. *(see page 15)*
- **USEITI Process Facilitator (Consensus Building Institute)**
 - Create a meeting summary for the February 2017 MSG meeting.

III. Presentations and Key Discussions

Judy Wilson, U.S. Department of the Interior (DOI), presiding as acting Designated Federal Official for the USEITI MSG, opened the meeting and welcomed participants. All individuals in attendance introduced themselves. A full attendance list can be found in Section VI – Meeting Participants, page 16.

A. Opening Remarks

Ms. Wilson provided opening remarks by noting that the transition to the new presidential administration had begun. Congressional consideration of the nomination for the new Secretary of the Interior, Ryan Zinke, is underway. She also noted that, although there has been discussion and media coverage about possible Congressional action on regulations under Section 1504 of the Dodd-Frank Act, at the time of the MSG meeting, the regulations are still in effect.

Danielle Brian, Project on Government Oversight and civil society organization (CSO) sector co-chair, also read out an opening statement on behalf of the CSO sector. In that

statement, Ms. Brian called on the industry and government sector representatives on the MSG to speak out publicly in favor of the Section 1504 rule in order to help persuade Congress to retain the rule. The CSO statement also formally requested that the DFO remove the American Petroleum Institute from holding a seat on the USEITI MSG. The full text of Ms. Brian's comments is provided in Appendix A, available on page 19 of this meeting summary.

B. USEITI MSG Business

The MSG conducted the following items of business during the course of the MSG meeting.

1. Terminology and USEITI December 2015 Meeting Summary

Judy Wilson, USEITI Secretariat, reminded meeting participants that the MSG has agreed to employ three terms to differentiate between different types of actions that the MSG takes:

- "Decisions" will indicate significant actions and agreements by the MSG key to meeting EITI international standards.
- "Approvals" will indicate lower-level decisions by the MSG, such as approving work plans, meeting summaries, process changes or additions, etc.
- "Confirmations" will confirm decisions that the MSG has previously made.

The MSG approved the meeting summary of the November 2016 MSG meeting, with some corrections provided by MSG members. A copy of the final, approved meeting summary is available online at: https://www.doi.gov/sites/doi.gov/files/uploads/useiti_msg_-_nov_2016_mtg_summary_0.pdf

- **Approval: The MSG approved the meeting summary from the November 2016 USEITI MSG meeting.**

2. Preview of March 2017 International EITI Board Meeting

Greg Gould, government sector co-chair, explained that the March 8-9 meeting of the EITI Board would cover a number of topics important for USEITI, including mainstreaming, the beneficial ownership roadmap that USEITI submitted in December 2016, and an open data policy for EITI. Mr. Gould invited Micah Watson of Department of State to provide additional comments about the upcoming EITI board meeting.

A MSG member from the civil society sector inquired of Mr. Gould about how mainstreaming would work without regulations in place under Section 1504 of the Dodd-Frank Act, by which companies would be required to disclose their corporate income tax payments.

Micah Watson, US Department of State, introduced himself and noted that he works under Ambassador Mary Warlick, a member of the EITI International Board. He explained that the EITI Board has spent much of the past year focusing on internal

governance and finances and that it would shift its focus to validation of EITI countries in 2017. Almost half of the implementing countries will be undergoing validation during the next 18 months. He added that a number of new countries would also be submitting their applications to join EITI during coming months.

A MSG member from the civil society sector inquired of Mr. Watson about the implications of the resource curse for US foreign policy as well as the reaction in other countries when the United States opts not to follow international norms. In response, Mr. Watson offered that the State Department does believe in the efficacy of EITI and other transparency initiatives in combating the resource curse in many countries. He also noted that there was broad support internationally for the regulations promulgated under Section 1504 and that there appears to be much concern globally about the direction that the US may be taking in the possible rescission of those regulations.

3. Adjustment of Meeting Schedule and Agenda

During the lunch break on February 1, the Co-Chairs and acting DFO conferred and agreed that the deliberations in Congress around the Section 1504 regulations and the prospect that these would be disapproved had introduced significant uncertainty and upheaval into the MSG meeting. Following lunch, Ms. Wilson, the acting DFO, announced that the remainder of the meeting on February 1 would focus on critical-path decisions that are required by the MSG for production of the 2017 USEITI Report. Additional agenda items, such as updates from the Communications and State and Tribal Opt-in Subcommittees, would be postponed and the second day of the MSG meeting would not be needed given the truncated agenda per unanimous decision of the Co-Chairs.

In response to a request from MSG members representing the CSO sector that MSG members from their sector who had called into the meeting be allowed to participate in MSG discussions, Ms. Wilson, acting DFO, clarified that the Federal Advisory Committee Act (FACA) requires that MSG members be physically present at the MSG meeting in order to be considered MSG members. Members of the MSG who call into the meeting over the phone are considered members of the public.

Ms. Wilson also announced that public comments would be accepted in writing in lieu of holding an open, verbal public comment period, as is permissible under the Federal Advisory Committee Act. She requested that commenters send their comments to the following email address: useiti@ios.doi.gov. The reason behind this decision was the agenda for the two day meeting was compressed to one day and because MSG discussion and decision making in the second half of the day would occur after the previously scheduled mid-day public comment period.

C. MSG Discussions Regarding Congressional Recission of Regulations under Section 1504 of the Dodd-Frank Act

MSG members discussed a variety of issues related to the Section 1504 regulations, their role in USEITI, and the implications for USEITI if Congress disapproves the regulations.

1. Relevance of Section 1504 Regulations for USEITI

CSO representatives stated that the rules promulgated by the Securities and Exchange Commission (SEC) under Section 1504 are fundamental to the future of the USEITI. Without this rule, there will be no possibility of corporate tax reporting and therefore no possibility for validation under the international EITI Standard. The MSG needs to address this issue head on.

An industry sector representative stated that the industry sector has worked very hard to help implement USEITI, resulting in the creation of a very useful website [the USEITI report]. The MSG's role is to provide information to the American public, not to litigate policy questions over which its members have no control. If the CSO sector feels that there is no value to USEITI beyond corporate tax reporting, then the MSG should discuss that.

Members of the CSO sector agreed that the USEITI website is an advancement and success, and that USEITI has important work together, but that USEITI will be far short of meeting the purpose of EITI, which is revenue transparency, without inclusion of information about corporate income tax payments and project-level reporting.

2. The Role of USEITI MSG Members in Decision-Making Around Section 1504 Regulations

CSO representatives suggested that there are serious questions and concerns about whether members of the industry sector are participating in USEITI in good faith around this particular issue of tax reporting. CSO members asked that members of the industry sector on the MSG need to speak up about whether they support Congressional efforts to repeal rulemaking under Section 1504. CSO members noted that they are frustrated that there are members of the industry sector who have been taking credit for corporate social responsibility and transparency efforts by virtue of their participation in USEITI while, in the CSO's view, behind the scenes they have been lobbying and litigating to undermine the Section 1504 rules.

Both industry and government sector representative voiced that USEITI MSG members could not influence Congressional decision-making around the Section 1504 regulations and that the USEITI MSG should focus on implementing USEITI. CSO representatives pushed back against this assertion. The CSO representatives noted that many of the largest oil and gas companies in the US and the world have representatives on the MSG and that these companies hold significant influence in Congress.

A member of the industry sector noted that his company has supported the implementation of the Dodd-Frank Act, including Section 1504, but that the current regulations under that section are overly burdensome. This member's company supports fixing those regulations to make them easier for companies to comply with. Additional representatives of the industry sector also articulated support for transparency as long as it does not place undue burden on companies.

Civil society members urged their colleagues in the industry and government sectors to join them in speaking in a united voice, as the USEITI MSG, in support of retaining the current Section 1504 rules. The united voice of the MSG could persuade Congress to retain the rules. The Government sector reminded members that the executive branch and its functions, like FACAs, are prohibited from lobbying Congress.

Industry sector representatives articulated their understanding that the Congressional Review Act (CRA, through which Congress is considering rescinding the Section 1504 regulations) would not eliminate the Dodd-Frank Act, including Section 1504. Rather, the SEC would have to come up with new regulations under Section 1504. An industry sector representative suggested that it would have been beneficial if the SEC had taken industry comments and suggestions more fully into account during the rule-making process.

In response to the industry sector representatives, a civil society representative explained that the CRA prohibits the introduction of another rule that is "substantially similar" to the disapproved regulation. She also noted that President Trump has released an executive order mandating that each agency eliminate two regulations for each new regulation they put in place. She suggested that, as a result, there will not be meaningful regulations enacted under Section 1504 if the CRA action is signed by the President.

3. Implications for USEITI of Congressional Disapproval of Section 1504 Regulations

CSO representatives requested that the government sector speak about whether the government sees a future for USEITI without the Section 1504 rules.

A government sector representative explained that the US Department of the Interior (DOI) works with other federal departments and agencies to implement laws and regulations that are in place. At the present moment, the rules under Section 1504 are still in place. The speaker also noted that USEITI began its efforts well before the Section 1504 regulations were put in place and that there would continue to be policy and regulatory uncertainty as part of the larger context in which USEITI exists. As such, USEITI's role is to continue to try to enhance transparency, regardless of the larger policy context.

Government sector representatives noted that there have been significant changes in the EITI Standard in the years since the United States decided to join EITI and that the EITI Board continues to examine whether the requirements are reasonable and feasible for countries to comply with. The EITI International Board increasingly seems to be moving towards a model of “meaningful improvement,” rather than a strict pass-fail metric, for countries seeking validation of their EITI reports. Considering this, USEITI has an excellent case for “mainstreaming” of its reporting under the EITI framework and also has good prospects for validation.

A CSO representative responded that USEITI will not have a path to “meaningful improvement” on corporate income tax reporting without the Section 1504 regulations.

D. Implementation Subcommittee Updates and Discussion

The MSG considered a proposed approach for company revenue reporting and reconciliation for the 2017 report brought forward by the Implementation Subcommittee.

1. Reporting and Reconciliation of Company Revenues

Judy Wilson and Bob Kronebusch of ONRR presented information about the work of the Reporting Improvement Workgroup. Ms. Wilson focused her comments on a day-long workshop that the workgroup held on January 11 in Denver, Colorado. Ms. Wilson reviewed the workshop participants, objectives, and agenda, and presented the workgroup’s recommendations to the MSG about how to proceed with company revenue reporting and reconciliation in 2017 and beyond. Additional detail about the workshop is available at:

https://www.doi.gov/sites/doi.gov/files/uploads/improving_reporting_workshop_1_11_2017_final.pdf.

Additionally, Bob Kronebusch, ONRR, provided an update on the workgroup’s analysis of the gaps between existing controls and verification of extractives industries revenue payments to the US federal government and EITI requirements for reconciliation. Mr. Kronebusch reviewed the approach taken by the workgroup, the gaps identified, and the ways in which federal and company audit and assurance standards surpass EITI standards. Additional detail about the workgroup’s work is available at:

https://www.doi.gov/sites/doi.gov/files/uploads/rptg_imp_wg_presentation_final_1-30-17.pdf.

Following the presentations, Dan Dudis, Public Citizen, thanked Ms. Wilson and expressed support for the workgroup’s proposed approach of conducting reconciliation via “mainstreaming of EITI reporting” rather than performing an independent reconciliation of revenues for USEITI by the Independent Administrator as this would avoid duplication of work. Mike Matthews, State of Wyoming, noted that states and

tribes also conduct compliance reviews in addition to the federal and company audits and reviews surveyed by the workgroup.

In response to a question from Aaron Padilla, American Petroleum Institute, Mr. Kronebusch suggested that the gaps identified by the workgroup are likely a combination of procedural gaps and more substantive gaps in the controls.

David Romig, Freeport-McMoRan Oil & Gas, and Paul Bugala, George Washington University, noted that Section 4.9 of the EITI Standard specifies that auditing and reconciliation must either be performed by the independent administrator or the independent administrator must be convinced that the process is sufficiently robust. They suggested that the trustworthiness of the auditing processes undertaken by governments and companies will need to be demonstrated to the EITI Board for these to meet the EITI Standard.

Mr. Padilla suggested that USEITI also compare US auditing processes to emerging standards from the International Monetary Fund (IMF) and other similar standards.

The MSG decided to move forward with the Reporting Improvement Workgroup's and Implementation Subcommittee's recommendation to forego independent reconciliation of revenues by the Independent Administrator for the 2017 USEITI Report.

- **Decisions: The MSG decided to forego independent reconciliation of revenues by the Independent Administrator for the 2017 USEITI Report to avoid duplication and increase efficiency.**

E. Independent Administrator's Updates

Members of the Independent Administrator (IA) team from Deloitte provided updates on the reporting template for the 2017 USEITI Report and on the topics that could be included as visualizations in the 2017 report.

These updates and accompanying MSG discussions are summarized below.

1. Reporting Template for 2017 USEITI Report

Alex Klepacz, Independent Administrator team member from Deloitte, presented a proposed reporting template for company revenue reporting for the 2017 USEITI Report. The proposed reporting template is available at:

https://www.doi.gov/sites/doi.gov/files/uploads/useiti_reporting_template_-_20170117_-_draft.xlsx and draft reporting guidelines are available at: https://www.doi.gov/sites/doi.gov/files/uploads/useiti_reporting_template_guidelines_-_20170117_-_draft_1.pdf. A draft template for declaring beneficial ownership information is available at: https://www.doi.gov/sites/doi.gov/files/uploads/draft-model-beneficial-ownership-declaration-form_1.xlsx.

Veronika Kohler, National Mining Association and Industry Sector Co-Chair, noted that the MSG has already approved a roadmap for disclosing information about beneficial ownership of publicly traded companies and inquired as to how this would be reported by companies. Mr. Gould suggested that the reporting template around beneficial ownership be included in the main reporting form even though it would only apply to publicly traded companies.

In response to a question from Mr. Matthews, Mr. Klepacz clarified that the reporting template would also ask companies to report payor codes, as they have in previous years of USEITI.

Mr. Padilla commented that the industry sector anticipates that there may be a high degree of variability in companies' approach to reporting for the 2017 report in terms of the degree to which companies aggregate or break out information and classify revenue streams. Some companies may provide very detailed information due to having compiled it for other reporting requirements, such as the EU directive.

The MSG approved the proposed reporting template for 2017.

- **Decisions: The MSG approved the proposed reporting template for 2017.**

2. 2017 Topics and Visualizations

Luke Hawbaker, Independent Administrator team member from Deloitte, presented about possible additions that the MSG could choose to make to the contextual narrative portion of the 2017 USEITI Report. Mr. Hawbaker's slides are available at: https://www.doi.gov/sites/doi.gov/files/uploads/2017_useiti_contextual_narrative_topics_msg_presentation_updated_1.pdf.

Responding to questions from MSG members, Ms. Wilson explained that USEITI has included three additional visualizations in its scope of work with the Independent Administrator for 2017. Based on the MSG's prior discussions, the Independent Administrator is anticipating that one visualization will focus on employment by commodity, a second on US audit and assurance procedures, and a third topic is to be determined by the MSG. These additional visualizations would be included in the report in 2017 and in future years. Ms. Kohler added that the Co-Chairs had proposed adding a "special highlight," either on forestry or on renewable energy, based on past MSG discussions.

MSG members discussed the criteria by which to make a decision about which topics and visualizations to add to the 2017 report. John Cassidy, IA team member from Deloitte, noted that the two criteria that the IA has been considering are: 1) increasing public engagement and interest in USEITI and 2) strengthening the case for USEITI validation with the International EITI Board. Ms. Kohler cautioned that the MSG does

not have a strong sense of what would interest the public since there has been limited public engagement with USEITI.

Following Mr. Hawbaker's presentation, the MSG discussed a variety of different options for additional content to include in the 2017 Report. The MSG's discussion is summarized below and organized by the different options considered with a final section focusing on the decisions made by the MSG to move forward.

a) *Employment by Commodity*

In response to requests by Mr. Hawbaker and Sarah Platts, Independent Administrator team member from Deloitte, to decide on whether to use data sets from the Bureau of Labor Statistics or from the US Census Bureau to present information about employment by commodity, Ms. Brian thanked Deloitte for their work and requested that CSO sector member Betsy Taylor be given more time to examine both data sets. Mr. Padilla requested that a note be included in the report indicating that the employment data only includes salaried and hourly employees not pass-through entities, sole proprietorships, and others.

The MSG opted to move forward with Mr. Gould's suggestion that the Implementation Committee consider and decide on which dataset to use to provide information for employment by commodity.

- **Approval: The MSG approved the motion to have the Implementation Committee decide on which dataset to use to provide information for employment by commodity.**

b) *Audit & Assurances*

Mr. Hawbaker provided an overview of existing content about the US audit and assurance process and of potential new content that could be added with the intention of strengthening USEITI's case for mainstreaming and foregoing independent reconciliation by the Independent Administrator. Mr. Bugala suggested that USEITI use an alternate term for "foregoing reconciliation," such as "not reconciling twice."

Ms. Brian raised the possibility of including the information that Mr. Kronebusch has developed about US audit and assurance processes in lieu of having the Independent Administrator create new content about this topic. Mr. Cassidy asked whether Mr. Kronebusch's material may be too complex for many members of the public to understand. In response, Ms. Brian suggested that information about audit and assurance procedures would likely be difficult for many members of the public to understand in any format.

Ms. Kohler suggested that including clear information about the US audit and assurance process in the USEITI report would also help to give the public more confidence in the audit process. Ms. Brian and Mr. Gould raised a concern that a visualization about the

audit and assurance process would not prove to be useful to the general public while also not providing the detailed information that well-informed parties would need to develop that additional confidence in the audit process.

Mr. Gould suggested that the USEITI Secretariat could put together information explaining US audit and assurance procedures for making the case to the EITI Board that USEITI does not need to reconcile revenues separately and redundantly through a Independent Administrator. Pursuing this path, the IA would not need to create additional content about this topic for the USEITI report nor a separate visualization from the one that was created last year.

c) Additional Metals

Keith Romig, United Steelworkers, suggested adding a “special highlight on additional metals” (such as silver, aluminum, lead, and zinc) because some MSG members are already knowledgeable about these commodities, in contrast to two other proposed “special highlights” – on forestry and on renewable energy. He also suggested that USEITI would likely need to expand its scope over time to include these additional metals, and possibly non-metal minerals.

Mr. Matthews suggested adding other commodities, such as trona, that are subject to federal royalty payments.

d) The Life of a Lease

Mr. Bugala suggested that additional information about the “life of a lease” be added to the contextual narrative, either in the form of a new visualization created by the Independent Administrator or by including material created by Mr. Kronebusch about federal leasing.

Ms. Wilson stated that the USEITI Secretariat and GSA 18F can try to include information about leasing in the 2017 Report but that this may be a challenge given limited time and resources. Mr. Bugala responded that if the Secretariat could make a good faith effort to include information about leasing in the 2017 Report then he does not need this topic to be considered for inclusion as an IA-produced visualization.

e) Forestry

Mr. Gould observed that USEITI has been discussing forestry for some time and has had challenges adding forestry representatives to the MSG. He suggested that adding a special highlight on forestry could provide information about forestry for relatively little effort while also stoking interest in including forestry in the scope of USEITI in a fuller way in the future.

f) Renewable Energy

Ms. Brian suggested that there exists much interest in the general public about renewable energy and the jobs being created in that industry, and so it may be beneficial to add a special highlight on renewable energy to the 2017 USEITI Report.

g) The MSG's Decision-Making About Topics and Visualizations to Include

Given the wide range of discussion and many topics under consideration for inclusion in the 2017 report, Ms. Kohler emphasized that rational criteria should be used to determine which topics would be included and that, if topics such as “additional metals” or the “life of a lease” are included, then the MSG would need to understand better what these topics would entail, as they have not been discussed much by the MSG in the past.

Mr. Bugala noted that having the Implementation Subcommittee consider issues of this nature before they come to the full MSG could streamline discussions during MSG meetings.

The MSG agreed to have the USEITI Secretariat work with GSA 18F to add material for the 2017 USEITI Report about the US audit and assurance procedures and for the USEITI Secretariat to make a “good faith effort” to include information about “the life of a lease” in the 2017 USEITI Report.

Mr. Cassidy suggested that the IA could further flesh out the contours of the following topics: additional metals, forestry, and renewable energy, and present these to the Implementation Subcommittee for decision-making.

- **Decision:** The MSG decided to have the USEITI Secretariat work with GSA 18F to add material for the 2017 USEITI Report about US audit and assurance procedures and for the USEITI Secretariat to make a “good faith effort” to include information about “the life of a lease” in the 2017 USEITI Report.
- **Approval:** The MSG approved the motion to have the Implementation Committee decide on which two additional visualizations (between additional metals, forestry, and renewable energy) to include in the 2017 USEITI Report, along with a visualization about employment by commodity.

F. Project Level Reporting

Mr. Kronebusch and Nathan Brannberg, DOI, presented information about project-level data disclosure and the process of requesting project-level data from the US Office of Natural Resources Revenue (ONRR). They also presented about the types of data requested received by ONRR during FY2016. Additional information is available in Mr. Kronebusch's and Mr. Brannberg's presentation, available at: https://www.doi.gov/sites/doi.gov/files/uploads/obtaining_project_level_info_from_onrr_final_1-30-17.pdf.

In response to their presentation, an MSG member from the CSO sector pushed back on the assertion from Mr. Kronebusch and Mr. Brannberg that not many members of the public are interested in detailed data. She suggested, instead, that the public has lost

faith in the Freedom of Information Act (FOIA) process and the difficulty in obtaining information.

IV. Public Comments

Public comments were accepted in written form for this MSG meeting, as described in the “Adjustment of Meeting Schedule and Agenda” section, on page 6 of this summary. Written public comments received are provided below.

Nancy Harkins
West Chester, PA

(b) (6) [@gmail.com](#)

The resource extraction transparency rule is critical to ensuring an informed and empowered electorate that is what President Trump has pledged to deliver. This cannot happen if we do not have this rule and we do not have a transparent government that does not marginalize individual voters in favor of the oil and gas industry.

If Trump is serious about giving power back to the people, then he must stop doing the bidding of the Chamber I oppose Republican efforts to undo critical rules protecting the environment and public welfare. In his inaugural address, Trump famously declared that alleged “American carnage stops right here and right now.” The resource extraction transparency rule would be of significant aid in stopping the all too real carnage taking place in countries afflicted by the resource curse, countries like Nigeria, the Democratic Republic of the Congo and Afghanistan. It’s time that Trump gets serious about putting people – all people – first, and corporate special interests like the Chamber, API and Big Oil companies second.

Thank you for making my comment part of the record.

Jennifer Krill, Earthworks

Extractive Industries Transparency should mean what it says. Unfortunately, by supporting the elimination of section 1504 of the Dodd Frank Act, even as it is being discussed over in the House of Representatives today, it is clear the MSG does not universally share the value of using financial transparency to eliminate corruption and promote best practices.

API's lobbying in support of 1504's repeal is a clear violation of our Terms of Reference. I want to express support for the statement made by CSO co-chair this morning calling for the removal of API from USEITI, a view we would hold with regard to any MSG members who oppose Section 1504. Any member company of API that has not publicly broken with API's position on 1504 should also not be part of USEITI.

Finally, it is inappropriate and disappointing to cancel public comments and unhealthy to limit public debate at today's MSG meeting.

V. Wrap Up / Closing

Mr. Patrick Field, facilitator from the Consensus Building Institute, reviewed the action items and the decisions coming out of the MSG meeting. Decisions will be recorded in an updated MSG Decision Matrix by the USEITI Secretariat.

Keith Romig asked to read out a statement on behalf of the CSO sector. The facilitator noted that the co-chairs had determined to move forward beyond the 1504 discussion the late morning. Mr. Romig read the note expressing disappointment about the MSG eliminating the verbal public comment period during the MSG meeting and also about the inappropriateness of the American Petroleum Institute's participation on the USEITI MSG. The text of Romig's comments are provided in Appendix B, available on page 20 of this meeting summary.

Following Mr. Romig's comments, Ms. Kohler stated that the public comment period was not eliminated and requested that the DFO adhere strictly to FACA protocols in the future. She suggested that the MSG had been too easy going in allowing people to speak on behalf of MSG members, allowing for interruptions, and the like, but that this approach was being abused by certain sectors. In response, the Acting DFO offered to review the MSG terms of reference and adhere to those.

Several members of the CSO sector raised their placards and requested to respond to Ms. Kohler's comments. The Acting DFO adjourned the meeting at this time.

VI. Meeting Participants

The following is a list of attendees from the February 1, 2017 USEITI MSG meeting.

Chaired by Judy Wilson, Acting Designated Federal Officer, for the USEITI Advisory Committee, US Department of the Interior.

A. Participating Primary Committee Members

Civil Society

Danielle Brian, Project on Government Oversight, USEITI MSG Advisory Committee Co-Chair

Paul Bugala, American University

Lynda Farrell, Pipeline Safety Coalition

Keith Romig Jr., United Steelworkers

Veronica Slajer, North Star Group

Government

Curtis Carlson, Department of the Treasury

Greg Gould, Department of the Interior, USEITI MSG Advisory Committee Co-Chair

Mike Matthews, State of Wyoming - Department of Audit/Mineral Audit Division

Mike Smith, Interstate Oil and Gas Compact Commission

Industry

Stella Alvarado, Anadarko Petroleum

Michael Blank, Peabody Energy

Susan Ginsberg, Independent Petroleum Association of America

Veronika Kohler, National Mining Association, USEITI MSG Advisory Committee Co-Chair

Johanna Nesseth, Chevron

B. Committee Alternates in Attendance

Civil Society

Daniel Dudis, Public Citizen

Zorka Milin, Global Witness

Government

Jim Steward, Department of the Interior

Industry

Aaron Padilla, American Petroleum Institute

David Romig, Freeport-McMoRan Oil & Gas

Nick Welch, Noble Energy Inc.

C. Members of the Independent Administrator Team in Attendance

John Cassidy, Deloitte

Luke Hawbaker, Deloitte

Alex Klepacz, Deloitte

Sarah Platts, Deloitte

D. Government, MSG Members or Alternates via Phone, and Members of the Public in Attendance

Rebecca Adamson, First Peoples Worldwide

Avery, Concerned Citizen

Joyce Aober, USGS

Sam Bartlett, EITI

Neil Brown, Lugar Center

David Chambers, Center for Science in Public Participation

Spencer King

Jennifer Krill, Earthworks

Mike LeVine, Oceana

Nicole Levine, Oceana

Laura Logan

Julie Maldonado, Livelihoods Knowledge Exchange Networks

Waseem Mardini, Publish What You Pay US

Aaron Mintzes, Earthworks

Sara Porter, Private Citizen

P. Rucker

Rosalie Satta, University of CA Santa Barbara

Mia Steinle, Project on Government Oversight

Betsy Taylor, Virginia Polytechnic Institute and State University

Catherine Traywick, Bloomberg News

Micah Watson, Department of State

Claire Ware, Eastern Shoshone & Northern Arapaho Tribes

Joseph Williams, Metro Resource Governance Institute

E. Facilitation Team

Patrick Field, Consensus Building Institute

Tushar Kansal, Consensus Building Institute

F. DOI MSG Support Team

Nathan Brannberg, Office of Natural Resources Revenue

A. Evans, Office of Natural Resources Revenue

Jerry Gidner, Office of Natural Resources Revenue

Jennifer Goldblatt, Office of Natural Resources Revenue

Robert Kronebusch, Office of Natural Resources Revenue

Darrel Redford, Office of Natural Resources Revenue

Judy Wilson, Office of Natural Resources Revenue

VII. Documents Distributed

Agenda ([PDF](#))

November MSG Meeting Summary ([PDF](#))

Meeting Notes from January 11th Improving Reporting Workshop ([PDF](#))

Draft Reporting Template ([XLS](#))

Draft Reporting Guidelines ([PDF](#))

Template EITI Beneficial Ownership Declaration Form ([XLS](#))

Communications Plan ([PDF](#))

VIII. Appendix A

Opening comments provided by Daniel Brian on behalf of the CSO sector:

Today the House and possibly the Senate are preparing to vote on whether to disapprove the Cardin-Lugar 1504 rule. As all of you who have been working on USEITI know, we have been waiting for months, years, for that rule to be finalized so that we could move forward with our work. 1504 is the cornerstone of USEITI and civil society vociferously objects to its gutting.

During these past years we have been told repeatedly that industry will not voluntarily disclose more than what is required of them by law. To be fair, despite that, several companies have honored the spirit of EITI and have gone beyond what was already legally required and disclosed their tax payments even before 1504 was implemented. And we thanked those companies by name in the last report. And we have been punting on the basic EITI requirements of tax disclosure and project level reporting because we were told we had to wait for the rule before we could do more.

I now ask our government and industry colleagues to please join me in expressing our opposition to the misguided effort to disapprove the rule. If any of the companies who have already supported the disclosure of taxes and project level reporting are willing to make their voices heard now, before the House and Senate vote, we might be able to prevent the loss of this anti-corruption measure.

We in civil society believe that the lobbying effort by the American Petroleum Institute to kill the 1504 rule is particularly galling, in that in their fact sheets, API uses their participation in USEITI as evidence that they believe in transparency. In those same documents API claims the disclosures required by 1504- which are complementary to EITI standards - are anti-competitive- even though their competitors are held to the same standards through the EU and Canadian rules. In other words, they never intended to support disclosure of taxes by company or project level reporting of other revenue streams.

We know that Aaron has been working hard on USEITI and he is not personally responsible for the positions of his employer, but it is simply unacceptable for API to continue to benefit from the goodwill generated from their boasting of their participation in USEITI while at the same time actively working to directly undermine our success. As a result, civil society is formally requesting that the DFO remove API from the MSG.

IX. Appendix B

Comment made by Keith Romig:

Just before I do [make a comment on behalf of the CSO sector] I'm going to make a statement on my own behalf as it's a shame that we ended up eliminating the verbal public comment period and the irony of that is that quite often when we open up the microphones for public comment there's a dead silence for ten minutes. This is one of the very few when we might've had fairly extensive public comment and it's a shame we didn't get to hear it. But that's just my statement, my personal statement. The formal statement follows.

Written statements are being submitted by CSOs and by this I mean, among others, members of this committee not able to be present including Neil Brown, Michael Levine, Betsy Taylor, Jennifer Krill and several others expressing concern, frustration and protest about the elimination of public comment at today's meeting. Many of CSOs are sending separate written messages expressing the inappropriateness of the American Petroleum Institute's participation in EITI while lobbying against 1504.

Potential EITI Questions and Answers

What is the EITI?

EITI is a voluntary, international standard for transparency in reporting revenues paid and received for natural resource extraction. The design of each EITI framework is country-specific, and is developed through a multi-year, consensus-based process by a multi-stakeholder group (MSG) composed of representatives from government, industry and civil society. The main product of the USEITI will be annual reports.

What is an EITI Report?

To comply with the EITI Standard, an EITI country must publish annual reports, produced by an Independent Administrator and approved by the MSG. The EITI Report documents the parallel reporting and reconciliation of revenues paid by the extractives industry to government and the revenues received and disbursed by the government. The EITI Report is also a compilation of publicly available contextual, legal, and current fiscal information about the extractives industries.

Where are the USEITI Reports and what did they actually disclose?

DOI published the 2015 and 2016 USEITI Annual Reports on an open source, open code interactive web-based data portal (<https://useiti.doi.gov>). On this portal, the Department of the Interior unilaterally discloses 2013, 2014, 2015, 2016 revenues by company, commodity, and revenue type as well as production data across all commodities. The Annual Reports provide clarity and transparency of the revenues generated by energy development on public lands and waters—a significant source of financial support for local communities, States, Tribes, and the Federal Government.

Will the Department of the Interior continue to issue USEITI reports?

The Department of the Interior will continue to disclose revenues by company, commodity, and revenue type as well as production data across all commodities on the data portal. The content on the Data Portal will reflect the Office of Natural Resources Revenue's activities for 2017 undertaken as a part of the United States' involvement in the Extractive Industries Transparency Initiative. Unlike previous years, the content has not been approved by the full USEITI Multi-Stakeholder Group, given the MSG did not meet following the February session. However, the content provided here and included in the online report has been informed by MSG feedback and the MSG had an opportunity to review all additional content.

What is a Data Portal?

The Data Portal is a web-based resource for data and information about U.S. extractive industries on Federal land and waters. It provides interactive visualizations that can be readily understood and accessed by the public for reuse through other media and applications. The Data Portal has been facilitating national and international conversation around U.S. extractive industries revenue and is designed to present this data in a format that is most accessible to the average citizen. The portal has set a global standard in revenue governance transparency.

Who is the USEITI Multistakeholder Group?

The Secretary of the Interior established the USEITI Federal Advisory Committee in August 2012. The Committee's purpose was to serve as the initial EITI Multistakeholder Group (MSG) and its duties included consideration and fulfillment of the tasks required to achieve candidate and compliant status in the EITI. The Multistakeholder Group or MSG is comprised of representatives from government,

industry and civil society. The Committee's Charter was renewed in 2014, and again in 2016. The MSG met 20 times in a public meeting between 2012 and February 2017.

Why are you terminating the USEITI Multistakeholder Group?

The Federal Advisory Committee serves at the Secretary of the Interior's discretion. The MSG each year developed and recommended to the Secretary a fully-costed work plan, containing measurable targets and a timetable for implementation, and an assessment of capacity constraints. Each year the MSG developed and recommended to the Secretary an Annual Activity Report documenting the decisions and accomplishment, and progress in meeting the EITI Standard. The MSG advised the Secretary on long-term oversight and other activities necessary to achieve EITI candidate and compliant status. The MSG oversaw publishing the 2015 and 2016 USEITI Annual Reports on an open source, open code interactive web-based data portal (<https://useiti.doi.gov>). Given the current challenges to fully implementing the EITI Standard and a thoughtful review of the many accomplishments of the MSG, the Secretary determined the MSG had accomplished its work.

Why are you withdrawing from the EITI Standard?

The U.S. has met 8 of the 9 elements of the standard. USEITI has been implementing within U.S. statutory mandates and in a voluntary reporting system. Given the ongoing uncertainty about corporate income tax reporting as part of USEITI, as well as the recent decision by the USEITI MSG to rely on the government's existing audit and assurance processes, USEITI would be deviating in two significant respects from the EITI Standard. Therefore the decision was made that the U.S. would no longer formally implement the Standard. However, the Department, as managed by ONRR, has robust audit and assurance practices in place to demonstrate accountability for the revenues paid and received for our country's oil, gas, and mineral resources. The Department, through ONRR will continue to mainstream (publicly disclose) DOI revenue reporting in lieu of redundant company reporting and Independent Administrator reconciliation.

Explain what the challenges were for the U.S. to implement the EITI Standard

Domestic implementation of EITI is subject to existing laws and regulations. For example, the Trade Secrets Act and the Federal Oil and Gas Royalty Management Act (FOGRMA) of 1982, prohibit the Federal government from releasing company pricing information and Federal employees are subject to criminal penalties if they violate these laws. Another example is Section 6103 of the Internal Revenue Code (IRC) provides that tax returns and tax return information are confidential and prohibited from disclosure, unless an exception identified in the IRC is applicable. The IRC imposes civil and criminal penalties for violations of the disclosure prohibitions.

What does it mean to mainstream revenue data?

The EITI governing Board in its 2016 revised Standard included allowing for two possible procedures for EITI disclosures: (1) the "conventional" agreed upon procedure for EITI Reports, which is already in use (company and government parallel disclosure to an Independent Administrator for reconciliation); and (2) the agreed upon procedure for mainstreamed disclosures. The mainstreaming transparency option enables countries to refer directly to existing public information about the extractive sector where available, comprehensive, reliable, and consistent with the requirements of the EITI Standard. We welcome the idea of mainstreamed EITI disclosures in lieu of company reporting and Independent Administrator reconciliation.

What domestic benefits of adopting the EITI Standard are you giving up?

The Department of the Interior will continue to highlight industry's financial contributions to the U.S. Government and the national and state level distribution of those resources, including the revenues generated by royalties, rents, bonuses and taxes. The Department will continue to provide enhanced and user friendly access to reliable information that can be used to hold the government and [industry] to account. Increasing the public's awareness and understanding of how extractive revenues are collected and disbursed enhances our accountability and facilitates the full and fair return to the American people for these resources.

What were the international benefits to the U.S. of adopting EITI?

The United States will continue to be one of seventeen supporting countries of the EITI. The United States remains a strong supporter of good governance and transparency, including the principles of transparency in the extractive sector represented by EITI. EITI is an important tool to promote transparency, increase competitiveness and combat corruption globally. We have taken a leading role in EITI since its founding in 2003, and we will continue to support the international EITI initiative and country level implementation. Attempting to implement the EITI Standard in the United States was a proactive step in the mainstreaming of EITI principles. It demonstrated that a strong commitment to transparency and accountability principles applies equally to developed and developing countries, providing an example for other OECD economies. Despite the infeasibility of implementing the Standard domestically, the United States remains committed to these same transparency and accountability principles.

How much does the government gain in revenue from the extractive industries?

The U.S. is a major developer of natural resources. The Department of Interior collects on average approximately \$10 to \$12 billion in annual revenues from the development of oil, gas and minerals on Federal lands and offshore in the Outer Continental Shelf. The bulk of these revenues are disbursed to the U.S. Treasury, with smaller portions distributed to five Federal agencies, more than 30 states, 41 American Indian tribes, and approximately 34,000 individual Indian mineral owners. In addition, the U.S. receives federal taxes related to resource extraction.

INFORMATION MEMORANDUM FOR THE ASSISTANT SECRETARY

FROM: Greg Gould, Director, Office of Natural Resources Revenue
Management

SUBJECT: USEITI – Challenges to Implementing the 2016 EITI Standard

DATE: January 24, 2017

I. INTRODUCTION

The U.S. government successfully completed the initial requirements to join Extractive Industries Transparency Initiative (EITI) as a candidate country when the International EITI Board accepted our candidacy application in March 2014. Key successes to date include publishing the 2015 and 2016 USEITI Annual Reports on an open source, open code interactive web-based data portal (<https://useiti.doi.gov>). On this portal, the Department of the Interior unilaterally disclosed 2013, 2014, and 2015 revenues by company, commodity, and revenue type as well as production data across all commodities. The portal is the new global standard in revenue governance transparency.

In 2016, the Department of the Interior (the lead federal agency) entered a new phase in implementing EITI. The EITI International Board revised the EITI Standard in February 2016, to include requirements for disclosure of beneficial owners of extractive companies and to provide opportunity to “mainstream” revenue data by governments and companies in lieu of an independent reconciliation of reported revenues. The work of the USEITI Multi-Stakeholder Group Advisory Committee (MSG) is to ensure that the USEITI framework is tailored to U.S. laws, regulations, and culture, and that it is implementable by government and industry. This memorandum addresses the policy considerations of this phase of USEITI implementation and provides recommendations to resolve implementing challenges in successfully achieving compliance with the EITI standard and validation in April 2018.

Prior to DOI taking the lead in 2011 to implement EITI in the U.S., the U.S. State Department strongly supported EITI. Since EITI’s inception in 2002, the State Department has played a key role in shaping the EITI into the global standard it is today. The U.S. State Department participated and continues to participate as a supporting country. Through its representation on the EITI Board and then Finance and Governance and Oversight Committees, the State Department works to clarify, interpret, and promote the rules of the EITI Standard, including by helping to draft guidance documents on how to assess country compliance. U.S. leadership has played a crucial role in the endorsement of the EITI by the G-7, the G-20, and the United Nations Security Council.

II. AREAS FOR CONSIDERATION

Implementing EITI will continue to improve government revenue transparency in the U.S. and continue to serve as an example internationally. The primary areas of consideration for 2016 are: corporate income tax reporting (Dodd-Frank §1504 regulations require a resource extraction

issuer to disclose taxes); project-level reporting (Dodd-Frank §1504 regulations define project as operational activities that are governed by a single contract, license, lease, concession, or similar legal agreement, which form the basis for payment liabilities with a government); mainstreaming reporting requirements; beneficial owner disclosure (of the corporate entity(ies) that bid for, operate or invest in extractive assets); and validation (April 2018). In order to recommend a government position, this paper takes into account legal constraints, resource availability, feasibility, and the international EITI requirements.

A. CORPORATE INCOME TAX REPORTING

The EITI Standard requires reporting on “profits taxes,” or taxes on income, where material. The issue of including corporate income tax revenue in the reconciliation required significant consideration by the MSG, primarily due to the challenges related to the legal constraints and the corporate tax structure in the U.S. as follows.

Section 6103 of the Internal Revenue Code (IRC) provides that tax returns and tax return information are confidential and prohibited from disclosure, unless an exception identified in the IRC is applicable. The IRC imposes civil and criminal penalties for violations of the disclosure prohibitions. Nonetheless, taxpayers may consent to have their tax information disclosed to specific parties, and the MSG agreed to encourage in-scope companies to consent to disclosure. The Privacy Act of 1974 only allows the Internal Revenue Service (IRS) to gather information used for tax administration purposes.

In the U.S. there are two key sources of publicly available information about federal income taxes for the extractive industries: the government and the filings of companies that are publicly listed. As mandated by the Revenue Act of 1916, the IRS publishes statistics related to “the operations of the internal revenue laws” as they affect individuals, corporations, and various other entities. The IRS Statistics of Income (SOI) program is responsible for executing this function by collecting, processing, and presenting this data, and then sharing information about how the tax system works with other government agencies and the general public.

In 2010, the U.S. enacted the Dodd-Frank Act, which requires U.S.-listed extractive companies to separately disclose information about payments to governments around the world, including their U.S. federal corporate income tax payments. At that time, USEITI was in its infancy.

Ultimately, the MSG decided to include federal corporate income tax payments, meaning those income taxes paid to the IRS by C-corporations, as a part of the USEITI. The MSG requested companies to voluntarily report the sum of all federal corporate income tax payments and encouraged reconciliation. For the 2015 USEITI Report, 12 out of 41 applicable companies reported \$190 million in corporate income taxes and in the 2016 USEITI Report, 12 out of 38 applicable companies reported -\$308 million in corporate income taxes.

Recommendation:

Our recommendation is that the (b) (5)

(b) (5)



B. PROJECT-LEVEL REPORTING

The EITI Standard states that the MSG is required to agree on the level of disaggregation for publishing data, that EITI data must be presented by individual company, government entity, and revenue stream, and that reporting at project level is required. The standard does not provide a specific definition of “project,” but states it should be consistent with the SEC rules and European Union laws.


In 2010, the U.S. enacted the Dodd-Frank Wall Street Reform and Consumer Protection Act to improve transparency and accountability across the financial system. Section 1504 of the Act requires extractive industries companies registered with the SEC to separately disclose information about payments to governments around the world in an interactive data format. Dodd-Frank §1504 regulations, defines project level as operational activities governed by a single contract, license, lease, concession, or similar legal agreement, which form the basis for payment liabilities with a government. Additionally, agreements that are both operationally and geographically interconnected may be treated by the issuer as a single project.

Section 1504 mandates disclosure of the type and total amount of (such) payments made for each project of the resource extraction issuer relating to the commercial development of oil, natural gas, or minerals,” including “taxes, royalties, fees (including license fees), production entitlements, bonuses, and other material benefits, that the SEC, consistent with the EITI (to the extent practicable), determines are part of the commonly recognized revenue stream for the commercial development of oil, natural gas, or minerals.

Since the SEC rules implementing Dodd-Frank §1504 had not been published, in December 2014, the MSG determined that the 2015 USEITI Report should follow the first part of USEITI Standard, that states: “It is required that EITI data is presented by individual company, government entity and revenue stream.” The MSG also agreed to assign no further definition for project-level disclosure. The data in the 2015 and 2016 USEITI Reports were presented on this basis.

Recommendation:

As the MSG has agreed to rely on the definition that the SEC promulgated in its revised Dodd-Frank rule, we (b) (5)



(b) (5)

C. MAINSTREAMING REPORTING REQUIREMENTS

The EITI governing Board in its 2016 revised Standard included allowing for two possible procedures for EITI disclosures: (1) the “conventional” agreed upon procedure for EITI Reports, which is already in use (company and government parallel disclosure to an Independent Administrator for reconciliation); and (2) the agreed upon procedure for mainstreamed disclosures. The mainstreaming transparency option enables countries to refer directly to existing public information about the extractive sector where available, comprehensive, reliable, and consistent with the requirements of the EITI Standard. Where information is not disclosed in the EITI Report itself, it would be necessary for MSGs to make sure that the EITI Report provides details on how the information can be accessed.

The rationale for the refinement to the standard is that extractive industry transparency should not be confined to EITI reports and expensive reconciliation exercises, but become an integral part of how governments manage their sector. Rather than simply relying on the EITI reporting mechanism to bring about transparency, governments implementing the EITI could to a greater extent make the information required by the EITI Standard available through government and corporate reporting systems such as databases, websites, annual reports, portals etc. Where the Independent Administrator’s assessment concludes that there is (i) routine disclosure of the data required by the EITI Standard in requisite detail, and (ii) that the financial data is subject to credible, independent audit, applying international standards, the multi-stakeholder group may seek Board approval to mainstream EITI implementation in accordance with the agreed upon procedure for mainstreamed disclosures.

Recommendation:

We welcome the idea of (b) (5)

D. VALIDATION

The U.S. achieved “Candidate Country” status in March 2014. The USEITI has produced on schedule MSG approved annual workplans, annual activity reports; published the first EITI Annual Report in December 2015 followed by the second Annual Report in November 2016; and

is on track to complete the requirements to achieve “Compliant” status with the exception of comprehensive company reporting of revenues and tax revenues specifically. Validation is an essential feature of the EITI process. It serves to assess performance and promote dialogue and learning at the country level. It also safeguards the integrity of the EITI by holding all EITI implementing countries to the same global Standard.

Validation is an external, independent and impartial evaluation mechanism, undertaken by a Validator procured by the International Secretariat. It is intended to provide all stakeholders with an impartial assessment of whether EITI implementation in a country is consistent with the provisions of the EITI Standard. The Validation will, in addition, address the impact of the EITI in the country being validated (i.e. increased public awareness and reforms), implementation of activities encouraged by the EITI Standard, lessons learned in EITI implementation, as well as any concerns stakeholders have expressed and recommendations for future implementation of the EITI. The U.S. is scheduled to undergo validation April 1, 2018.

The EITI 2016 Validation Process is as follows:

The International Secretariat undertakes initial data collection and stakeholder consultation;

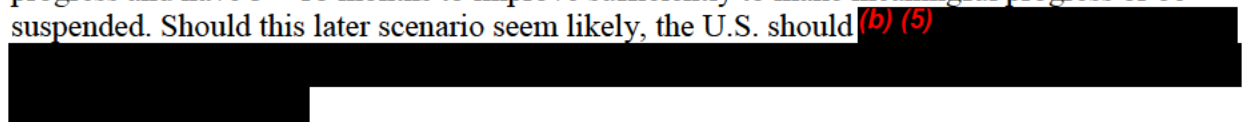
The EITI Board appointed Independent Validator assesses the Secretariat’s initial validation and reports to the Board via the Validation Committee;

The Validation Committee reviews the Validator’s assessment and makes a recommendation to the Board;

The EITI Board makes the final determination of whether the requirements are met or unmet, and on the country’s overall compliance.

Recommendation:

USEITI will not be found in compliance with the EITI standard until companies report under Dodd-Frank §1504 regulations, which can be documented in the USEITI 2019 Annual Report. It is likely the U.S. will be found to have made “meaningfully progress.” Should Dodd-Frank §1504 regulations be repealed, then USEITI would likely be found to have made inadequate progress and have 3 – 18 months to improve sufficiently to make meaningful progress or be suspended. Should this later scenario seem likely, the U.S. should (b) (5)



EITI REQUIREMENTS ASSESSMENT CARD _ PRE-ASSESSMENT USEITI 11/2016

EITI REQUIREMENTS		Level of Progress					Direction of Progress
		NO	INADEQUATE	MEANINGFUL	SATISFACTORY	BEYOND	
CATEGORY	REQUIREMENTS						
MSG OVERSIGHT	1.1 Government Engagement*				X		https://www.doi.gov/eiti/faca
	1.2 Industry Engagement*				X		https://www.doi.gov/eiti/faca
	1.3 Civil Society Engagement*				X		https://www.doi.gov/eiti/faca
	1.4 MSG Governance*				X		https://www.doi.gov/eiti/faca
	1.5 Workplan*				X		https://www.doi.gov/eiti/faca
LICENSES AND CONTRACTS	2.1 Legal Framework				X		https://useiti.doi.gov/how-it-works/
	2.2 License Allocations				X		https://www.boem.gov/Gulf-of-Mexico-Region-Leasing-Information/ ;
	2.3 License Register				X		https://www.boem.gov/Gulf-of-Mexico-Region-Leasing-Information/ ; https://www.boem.gov/Lease-and-Grant-Information/ ; http://www.blm.gov/lr2000/ ; http://www.blm.gov/wo/st/en/prog/energy.html
	2.4 Policy on Contract Disclosure				X		https://useiti.doi.gov/how-it-works/federal-laws/
	2.5 Beneficial Ownership				X		Roadmap Drafted
	2.6 State Participation	N/A					
MONITORING PRODUCTION	3.1 Exploration Data				X		https://useiti.doi.gov/explore/ ; https://www.boem.gov/Status-of-Gulf-of-Mexico-Plans/ ;
	3.2 Production Data				X		https://useiti.doi.gov/explore/ and https://useiti.doi.gov/downloads/#production-all
	3.3 Export Data				X		https://useiti.doi.gov/explore/ ; https://www.census.gov/foreign-trade/statistics/state/data/index.html

EITI REQUIREMENTS ASSESSMENT CARD _ PRE-ASSESSMENT USEITI 11/2016

REVENUE COLLECTION	4.1 Taxes and Revenues			X		Voluntary for Companies
	4.2 In-kind revenues	N/A				
	4.3 Barter Agreements	N/A				
	4.4 Transportation Revenues	OUT OF SCOPE				
	4.5 SOE Transactions	N/A				
	4.6 Direct Subnational Payments			X		Adapted Implementation; https://useiti.doi.gov/explore/AK/ ; https://useiti.doi.gov/explore/MT/ ; https://useiti.doi.gov/explore/WY/
	4.8 Data Timeliness*				X	Within one year – 2016 Annual Report
	4.1 Data Comprehensiveness			X		Government prohibited tax disclosure; full disclosure government non-tax revenues; voluntary company disclosure.
	4.9 Data Quality				X	https://useiti.doi.gov/how-it-works/audits-and-assurances/
	4.7 Disaggregation			X		Government disclosure of company level; 2019 Dodd-Frank 1504; https://useiti.doi.gov/how-it-works/federal-revenue-by-company/2015/
REVENUE ALLOCATION	5.2 Subnational Transfers				X	https://useiti.doi.gov/explore/#federal-disbursements ; https://useiti.doi.gov/downloads/disbursements/ https://useiti.doi.gov/downloads/USEITI_extractive-revenue-appendix_2015-12-22.pdf ;
	5.1 Distribution of Revenues				X	https://useiti.doi.gov/explore/#federal-disbursements and https://useiti.doi.gov/downloads/disbursements/
	5.3 Revenue Management and Expenditures	Optional				
SOCIOECONOMIC CONTRIBUTION	6.2 SOE Quasi-fiscal expenditures	N/A				
	6.1 Mandatory Social Expenditures	N/A				
	6.1 Discretionary Social Expenditures	N/A				
	6.3 Economic Contribution				X	https://useiti.doi.gov/explore/#economic-impact ; https://useiti.doi.gov/downloads/#gdp ; https://useiti.doi.gov/downloads/#jobs ; https://useiti.doi.gov/downloads/#jobs ; https://useiti.doi.gov/downloads/#jobs

EITI REQUIREMENTS ASSESSMENT CARD _ PRE-ASSESSMENT USEITI 11/2016

							tps://www.census.gov/foreign-trade/statistics/state/data/index.html
OUTCOMES AND IMPACT	7.1 Public Debate					X	https://useiti.doi.gov/case-studies/
	7.2 Data Accessibility					X	https://useiti.doi.gov/ and IA TOR
	7.3 Follow up on Recommendations				X		https://www.doi.gov/eiti/FACA/msg-meeting-minutes
	7.4 Outcomes and Impact of Implementation				X		https://www.doi.gov/eiti/public-engagement and Annual Activity Reports at https://www.doi.gov/eiti/faca
OVERALL ASSESSMENT							

Legend

	The country has made no progress in addressing the requirement. The broader objective of the requirement is in no way fulfilled.
	The country has made inadequate progress in meeting the requirement. Significant elements of the requirement are outstanding and the broader objective of the requirement is far from being fulfilled.
	The country has made progress in meeting the requirement. Significant elements of the requirement are being implemented and the broader objective of the requirement is being fulfilled.
	The country is compliant with the EITI requirement.
	The country has gone beyond the requirement.
	This requirement is only encouraged or recommended and should not be taken into account in assessing compliance.
	The MSG has demonstrated that this requirement is not applicable in the country.
-	No change in performance since the last Validation.
←	The country is performing worse than in the last Validation.
→	The country is performing better than in the last Validation.
*	Safeguard



United States Department of the Interior

OFFICE OF NATURAL RESOURCES REVENUE

P.O. Box 25165
Denver, Colorado 80225-0165

NOV 02 2017

Mr. Fredrik Reinfeldt
Chair, Extractive Industries Transparency Initiative Board
Ruseløkkveien 26
0251 Oslo
Norway

Dear Chair Reinfeldt:

The United States has made significant progress meeting individual requirements of the Extractive Industries Transparency Initiative (EITI) since the fall of 2011 when the U.S. announced that it would begin the multi-year process of becoming an EITI compliant country. The Department of the Interior established a multi-stakeholder group in December 2012 and achieved Candidate Country status in March 2014. Perhaps our most significant accomplishment is the creation of an open source, open code interactive web-based data portal (<https://useiti.doi.gov>) on which the agency has unilaterally disclosed 2013, 2014, and 2015 revenues by company, commodity, and revenue type, as well as production data across all commodities. This portal is the new global standard in revenue governance transparency. We are happy to report that use by state, local and tribal governments is increasing as well. While the U.S. government remains committed to fighting corruption in the extractive industries sector, and the ideals of transparency enshrined in the EITI Principles and the EITI Standard, it is clear that domestic implementation of EITI does not fully account for the U.S. legal framework. Effective immediately, therefore, the United States must withdraw as an EITI Implementing Country.

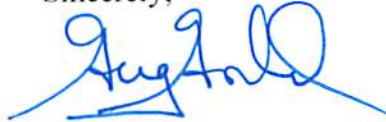
The Office of Natural Resources Revenue (ONRR), which maintains the primary role in the U.S. Government for the collection and disbursement of revenue related to energy and non-energy mineral resources, remains fully committed to institutionalizing the EITI principles of transparency and accountability consistent with U.S. law. ONRR intends to mainstream government reporting of energy production and the associated revenue collection and disbursement. ONRR is also committed to continue its efforts to promote public awareness and engage stakeholders in a public conversation of the potential impacts of proposed policies and regulations related to revenue collection from such development. We will continue to unilaterally disclose revenue payments received for extractive operations on federal land through our open data portal, and we will continue to improve our reporting through the inclusion of additional states and tribes.

Please know that the U.S. Department of State will continue to lead the United States' commitment to the EITI as a Supporting Country, a role that the United States has played since the beginning of the initiative. The U.S. political and financial support of the EITI over many

years has been second to none. In conjunction with the U.S. Agency for International Development, the State Department will continue to promote transparency, fight corruption and ensure good governance, as well as to support country-level EITI implementation. We continue to value the EITI as a critical tool to promote transparency, increase competitiveness, and combat corruption around the world.

Despite the fact that the U. S. laws prevent us from meeting specific provisions of the EITI Standard, we look forward to working together to promote transparency, fight corruption and ensure good governance.

Sincerely,

A handwritten signature in blue ink, appearing to read "Gregory J. Gould", with a stylized flourish extending from the end.

Gregory J. Gould
Director

US EITI Reporting Improvement Workshop

Facilitator Notes (edited)

Held 11 January 2017

Actions/Discussion needed at February MSG

- Present and decide on voluntary template built off of previous years' template for company reporting
 - The purpose of this reporting template is for disclosure and public information it is NOT for IA reconciliation as it has been in the past. It also would be to pilot a reporting template that ultimately allows companies to be compliant with §1504 regulations and the SEC.
 - Consider combining ONRR rents and bonuses in the pilot template.
 - Consider combining other revenues, offshore inspection fees, civil penalties
 - Additional BLM revenue?
 - Add a Beneficial Ownership "page" per the road map.
 - Add under signatory box the signatory organization (executive, financial, or accounting) per §1504 regulations.
 - Project level reporting would be included in the template in 2018, in a stepped fashion.
 - The current template would not ask for foreign payments but the §1504 regulations do require that.
 - The template will need to have a caveat that this data is unilateral, voluntary reporting by companies and may not be consistent with other data sets.
- Discuss proposed outreach to companies for voluntary reporting, through what means, and for what intent (see below for further detail).
- Further define the IA TOR.
- Decide on existing reconciliation approach for 2017.
 - *Likely recommendation:* Do not reconcile via IA as in 2015 and 2016. Expend resources to align existing audit and assurance processes with EITI Intl 4.9, including using mainstreaming feasibility report and work of Reconciliation Work Group.
 - *Risk:* audit and assurance cross-walk and alignment with 4.9 identifies gaps to address and there will be no "IA reconciled" data for the 2017 report and 2018 April validation.

Activities Needed after the February MSG

- Continue work to align audit and assurance processes with 4.9
- Detail how to explain through illustrations, explanations, and other means why mainstreaming reconciliation via audit and assurance processes is appropriate in the 2017 report.
- Engage with SEC about assisting in creating jointly the SEC reporting template for §1504 (likely Spring timeframe). The group recognized that the power of the template would ultimately be if

SEC takes it up and uses and/or requires it. Ultimately, once §1504 reporting begins, companies will only want one form and the SEC and its authority will be whom companies will most likely respond to (i.e., the DOI EITI form may merge with the SEC one by 2019).

- Reach out to targeted universe companies to encourage voluntary reporting (see below).
- Consider for the June MSG meeting a presentation of or by the Natural Resource Governance Institute with their data base seeking to compare how companies and countries are handling new reporting requirements, including project level reporting.
- *Materiality*: the US EITI materiality threshold would drop for DOI revenues to the de minimus \$100,000 (unilateral disclosure) and there would be no margins of variance, at least outside the standard DOI audit process under review now. Taxes would not have an official materiality threshold until §1504 reporting begins. Once §1504 reporting begins, the de-facto materiality standard for taxes would be all publicly traded companies who report to the SEC that meet the basic de minimus reporting threshold outlined in §1504 regulations (again, something like \$100K).

Draft Outreach Approach

- The group agreed that for targeted, measurable outreach in 2017 (and likely 2018) during the transition to §1504, the goal would be to identify the top/largest X# companies extracting each of the 6 in-scope commodities by total revenue, production, or other means, and through a combination of IA communications and industry/CSO outreach, encourage and support voluntary reporting.
- While outreach will be targeted, all companies who currently have data unilaterally disclosed would be able to voluntarily report if they wished to do so.
- If this conceptual approach is approved at the February meeting, two things will then need to occur; 1) the Implementation Subcommittee will need to develop the outreach target metrics of number of companies and the means to determine “size” or “top.”; 2) the Communications Subcommittee will then develop an outreach plan.
- It is expected outreach on this interim/transition approach toward 2019 will involve a webinar for companies, speaking at various conferences like COPAS, and IA communications to companies identified for outreach.
- The timeline for company reporting requires the MSG to approve the template in concept and draft final at the February MSG meeting; outreach to begin in the spring; and the voluntary reporting period to run from May 2017 to early September 2017.

The Rationale for Voluntary Reporting

The group discussed the rationales for why companies would voluntarily report under this new, interim, transitional approach until reporting begins under §1504. The ideas are below:

- Help be a part of shaping the ultimate reporting framework for §1504 by participating in our pilot voluntary reporting.

- Highlight your contributions to the U.S. Government and the value you provide to the U.S. economy, taxpayers, and federal revenues.
- Supplement your other public disclosures of your contributions to the U.S. Treasury through voluntary reporting to the USEITI Data Portal
- For those who participated in the past, this will be a much simpler approach that does not require reconciliation.
- Consider this a tool in good corporate governance, risk management, and social license to operate.

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- Consider this a tool in good corporate governance, risk management, and social license to operate.

The Trade Secrets Act

- How do you determine if there is a Trade Secrets Act (TSA) problem and how is it handled in the reports?

o Mr. Kronebusch: The experts in the government determine what they feel could potentially cause competitive harm. If the government discloses numbers four or five months after the end of the year, and look at yearly not monthly revenues, some might conclude that there is minimal potential for competitive harm.

o ONRR representative: When a request for information comes in, staff look into it to see if it might reach a threshold for causing competitive harm. It is easier for us to respond to these types of requests on a case-by-case basis than to report everything annually. The latter requires tremendous resources and time, although technically it is not difficult. The MSG should discuss this resource issue now and next year.

- If you determine there's a Trade Secrets Act (TSA) problem, how is that reflected in the reports?

o Mr. Kronebusch: Currently in the data portal, there is a "W "for withheld, reported by the company. For oil and gas, if you go to the state website for a lease's production and have the lease number, you could theoretically figure out the price per barrel or mcf. For solid minerals it is stricter.

o Industry representative: As long as there is a delay in the release of the information and it is broken down annually, not by month, there is less risk for companies in oil and gas. For hard rock it is different.

- USEITI should be sure to explain to and educate the public about why there may be TSA issues with coal and other minerals, to avoid suspicion. USEITI should explain how unitization and communitization agreements work, and potentially even provide visualizations. It should look into creating an animated training module for the data portal.

o Mr. Kronebusch: ONRR already has reporter training two to three times a year and has many presentations on what these agreements are, and the life of a lease from cradle to grave. There are many kinds of educational materials like this that USEITI could put on the data portal.

o ONRR representative: The MSG could add this as a special topic to next year's report. Linking the data portal to some of ONRR's training is a great idea. For example, ONRR has a new training system where it uses videos that the MSG could link into the data portal. Steps towards ONRR setting up a lease-level disclosures system:

- If ONRR decided to perform lease-level unilateral disclosure, would it just be a matter of feeding data into a spreadsheet once it is set up?

Mr. Kronebusch: ONRR has the information and could do it. ONRR had to do it for this presentation.

- Based on information on bonuses and rents by lease, should USEITI present the revenues by lease? Would this be more meaningful than doing it by agreement?

- o Mr. Kronebusch: Doing it by the lease only makes sense. Everyone can agree on what that number means, and it's simpler to track. With agreements it is difficult to keep track of all the layers.

- o ONRR representative: ONRR is committed to reporting out the leases at some point. ONRR wants to make it automated, so it does not need to create a spreadsheet each time. Otherwise, the data is out of date very quickly. ONRR has a system where you can send in a FOIA request and the staff will get back to you with the information. This works fairly well and if ONRR changes it, it wants to do it right.

- From an industry perspective, if this is just unilateral disclosure of lease level data, then this could be a wonderful approach. But if USEITI tries to reconcile projects to the leases it could get messy, and industry likely will not report everything at the lease level under SEC 1504.

- From a stakeholder perspective, it would help to see what the leases look like without having to do a FOIA request, so you can know more about who the industry players are in your community. These developments are part of a wonderful story about something emerging from USEITI that is creating searchable, usable data that is making government more efficient.

- BOEM is already providing lease-level disclosure in the Outer Continental Shelf, so there is the beginning of a precedent for this in DOI.

- What is the source of the wait for ONRR to implement this? ONRR representative: It is a matter of getting ONRR's technology to the point where it can do this in an automated fashion. It is a capacity challenge with respect to implementing a business intelligence unit.

- Does ONRR intend to unilaterally disclose lease level information where it can, except for when there is a TSA issue? ONRR representative: Yes, ONRR is committed to doing that when it can do it in an automated fashion. If the MSG feels strongly it needs to do it in the interim using a spreadsheet to meet its mandate, then ONRR could do that but it may not make a lot of sense.

- State and county level reporting seems of more interest to communities than lease level reporting, since leases cross several counties and likely will not mean a lot to people. Currently, the U.S. has reporting by state and county and should at least continue it at that level. However, both are useful and there are also reasons for the lease level data.

42 USC 17374: Transparency in extractive industries resource payments

Text contains those laws in effect on February 5, 2017

From Title 42-THE PUBLIC HEALTH AND WELFARE

CHAPTER 152-ENERGY INDEPENDENCE AND SECURITY

SUBCHAPTER VIII-INTERNATIONAL ENERGY PROGRAMS

Part C-Miscellaneous Provisions

Jump To:

[Source Credit](#)

§17374. Transparency in extractive industries resource payments

(a) Purpose

The purpose of this section is to-

- (1) ensure greater United States energy security by combating corruption in the governments of foreign countries that receive revenues from the sale of their natural resources; and
- (2) enhance the development of democracy and increase political and economic stability in such resource rich foreign countries.

(b) Statement of policy

It is the policy of the United States-

- (1) to increase energy security by promoting anti-corruption initiatives in oil and natural gas rich countries; and
- (2) to promote global energy security through promotion of programs such as the Extractive Industries Transparency Initiative (EITI) that seek to instill transparency and accountability into extractive industries resource payments.

(c) Sense of Congress

It is the sense of Congress that the United States should further global energy security and promote democratic development in resource-rich foreign countries by-

- (1) encouraging further participation in the EITI by eligible countries and companies; and
- (2) promoting the efficacy of the EITI program by ensuring a robust and candid review mechanism.

(d) Report**(1) Report required**

Not later than 180 days after December 19, 2007, and annually thereafter, the Secretary of State, in consultation with the Secretary of Energy, shall submit to the appropriate congressional committees a report on progress made in promoting transparency in extractive industries resource payments.

(2) Matters to be included

The report required by paragraph (1) shall include a detailed description of United States participation in the EITI, bilateral and multilateral diplomatic efforts to further participation in the EITI, and other United States initiatives to strengthen energy security, deter energy kleptocracy, and promote transparency in the extractive industries.

(e) Authorization of appropriations

There is authorized to be appropriated \$3,000,000 for the purposes of United States contributions to the Multi-Donor Trust Fund of the EITI.

(Pub. L. 110-140, title IX, §935, Dec. 19, 2007, 121 Stat. 1748 .)

42 USC 17374: Transparency in extractive industries resource payments

Text contains those laws in effect on February 5, 2017

From Title 42-THE PUBLIC HEALTH AND WELFARE

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<Member Name>

<Address>

<Address>

<Address>

Dear <Member Name>:

Thank you for participating in the United States Extractive Industries Transparency Initiative (USEITI) Advisory Committee. Your work helped to make the public more aware of the contributions of the extractive industries to the U.S. economy and jobs.

This journey began in September 2011, when as part of the U.S. Open Government Partnership, the Office of Natural Resources Revenue (ONRR) began collaborating with other Government agencies, departmental bureaus and offices, and industry and civil society stakeholders to implement USEITI. Since the first public meeting in 2013, through to the 20th meeting in 2017, the USEITI Multi-stakeholder Group (MSG) worked collaboratively to successfully reach consensus on how to implement USEITI.

Highlights of our joint commitment to transparency and good governance of U.S. extractive sector revenues include:

- Becoming the first G7 country and second Organization for Economic Cooperation and Development (OECD) country to achieve Candidate Country status and become an EITI implementing country. U.S. leadership has played a crucial role in the endorsement of the EITI by the G-7, the G-20, and the United Nations Security Council.
- Disclosing unilaterally in 2014, for the first time, Department of the Interior (DOI) production data and calendar-year revenue data by company, revenue type, and commodity. The DOI has unilaterally disclosed for calendar years 2013-2015, \$33.1 billion in revenues paid by companies for extraction on Federal lands and waters.
- Publishing in December 2015, the first online Report and Executive Summary on the DOI data portal <https://useiti.doi.gov/>, and in November 2016, the second online Report and Executive Summary. Building on your direction in December 2017, ONRR will complete a third online report.
- Demonstrating zero unresolved discrepancies between Federal Government disclosed revenues received from oil, gas, and mining companies, with parallel disclosure by companies of what they have paid to the Government in royalties, rents, bonuses, taxes, and other payments.

- Demonstrating DOI has robust ONRR-managed audit and assurances practices in place to assure accountability for the revenues paid and received for our Nation's oil, gas, and mineral resources.
- Building the DOI data portal with modern, open-source technologies so that techniques and tools can be shared and replicated throughout the U.S. and in other EITI countries around the world. The website's open data sets and visualizations can be reused for strategic reporting and reposted and sent through social media, thus further informing the public and open debate on the extractives industry in the U.S. The portal is the new global standard in revenue governance transparency.
- Expanding public awareness of the role of extractive industries at the state and local level. The States of Montana, Wyoming, and Alaska collaborated with USEITI to allow for expanded State reporting of extractive revenues. The MSG also furthered local accountability and transparency by including 12 county case studies that depict the impact of specific extractive industries on local communities.

The EITI Standard fits within ONRR's guiding principles of accountability, professionalism, integrity, partnerships, and innovation. We strive to be recognized as a world-class natural resources revenue management program, setting the standard for accountability and transparency. In the long term, extractive industry transparency should not be confined to EITI reporting, rather be recognized an integral part of how Government manages. Therefore, at DOI we have initiated steps to move towards institutionalizing innovation in digital services and mainstreaming Government extractives revenue data pipelines and end-user needs. Moving forward in this journey, institutionalizing EITI will continue to improve Government revenue transparency in the U.S. and continue to serve as an example internationally.

Again, thank you for your contribution in promoting revenue transparency and accountability in the extractive sector.

Sincerely,

Judy Wilson
Acting Designated Federal Officer,
USEITI Advisory Committee

U.S. House of Representatives
Committee on Natural Resources
Washington, DC 20515

June 6, 2017

The Honorable Ryan Zinke
Secretary
Department of the Interior
1849 C Street, N.W.
Washington, D.C. 20240

Dear Secretary Zinke:

The U.S. Extractive Industries Transparency Initiative (EITI) Advisory Committee was scheduled to meet on Wednesday and Thursday of this week to continue the work required of the U.S. to become EITI compliant. However, on May 25, 2017, the Department of the Interior (DOI) published a notice postponing the scheduled meeting, saying merely that it would be “rescheduled at a later date.”¹ When combined with reports from earlier this year, this postponement appears to reflect a lack of commitment to EITI by this Administration. The EITI is a global initiative to fight corruption and encourage transparency in the development of energy and mineral resources, and the United States’ commitment to this effort, and to these ideals, has never been called into question—until now.

In March, press reports indicated that DOI was backing away from EITI and would abandon attempts to become a compliant country under that initiative.² This news drew sharp condemnation from outside watchdog groups,³ the current Democratic Ranking Member and former Republican Chairman of the Senate Foreign Relations Committee,⁴ and others. The Department insisted shortly thereafter that it “remains committed to the principles and goals of EITI including transparency and good governance of the extractive sectors,” but also that “no decision has been made on applying for validation under the EITI standard.”⁵

These actions suggest that DOI may be deciding to prioritize the desires of fossil fuel and mining companies to keep their activities secret over the principles of transparency and good governance. Abandoning efforts to become EITI compliant now would erase years of effort for no apparent positive purpose, other than as simply another favor to industry.

In 2011, as part of the Open Government Partnership, the United States announced its intention to become an EITI compliant country. The goals of doing so were to ensure that taxpayers were

¹ 82 F.R. 24141 (May 25, 2017).

² E&E News, *U.S. opts out of transparency effort for oil, coal firms*, March 20, 2017.

³ Global Witness, *U.S. Administration Sounds Death Knell for Transparency Initiative*, March 20, 2017.

⁴ Cardin-Luger Statement on U.S. Withdrawal from Extractive Industries Transparency Initiative, March 20, 2017.

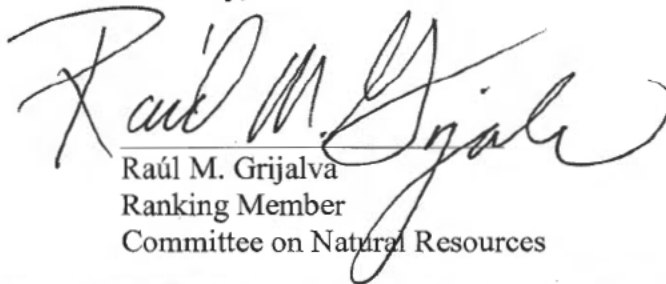
⁵ E&E News, *Department hits back at critics on mining transparency*, March 21, 2017.

receiving the money owed to them for the extraction of coal, oil, gas and minerals on federal land, to promote a transparent process for the extractive industries in the United States, and to set a positive example for the rest of the world. Since then, the U.S. has undergone a years-long process to meet the eight primary requirements necessary to become an EITI compliant country. A May 2017 report by the Interior Department's Office of Inspector General found that the U.S. has met "seven of the eight EITI requirements and partially met one requirement in its effort to achieve EITI compliant status, the highest level of implementation."⁶

As a world leader in producing coal, oil, natural gas, and minerals, the United States has a responsibility to govern these industries in a manner that is open and accountable to the American public and set an example for other countries that also have abundant resources. The Department of the Interior must reconsider any decision to reverse course from working to achieve EITI compliance.

The Secretary of the Interior serves as the Administration's senior official representative for EITI implementation. Please clarify the Trump Administration's stance on EITI in writing no later than June 30, 2017. Additionally, as a first step to reassure the public of the Interior Department's commitment to transparency, I ask that you commit by that date to holding the postponed U.S. EITI Advisory Committee meeting no later than the end of August, 2017. The activities and duties of the Advisory Committee must continue if the U.S. is to manage its natural resources in a transparent manner. If you have questions about this letter, please have your staff contact Steve Feldgus on the Democratic Staff of the Natural Resources Committee at (202) 225-6065.

Sincerely,



Raúl M. Grijalva
Ranking Member
Committee on Natural Resources

⁶ "United States' Implementation of the Extractive Industries Transparency Initiative," Report No.:2016 EAU 041. Office of the Inspector General, Department of the Interior. May 2017.
https://www.doioig.gov/sites/doioig.gov/files/AIE_EITI_FinalInspectionReport_Public.pdf

WGEI MEETING LOGISTICS

25-28 September 2017

We look forward to hosting you during the WGEI meeting in September! Please see below important information regarding logistics.

KEY DETAILS

Location: The WGEI steering committee meeting will take place in the Staats Briefing Room at GAO headquarters, 441 G Street, NW, Washington, DC 20548.

Date and Time: The meeting will begin at 8:30 a.m. on Tuesday, 26 September 2017, and will conclude on the afternoon of Thursday, 28 September. A detailed agenda is forthcoming.

In addition, for those who are able to arrive by Monday, 25 September, we will convene at GAO headquarters on Monday at 10:00 am for a tour of the U.S. Capitol Building (followed by a picnic). Please see below for additional information.

Attire: Business attire is suggested, although the excursions will be casual (see below).

Special Assistance: Please contact Bridget Grimes at grimesb@gao.gov if you have any special needs (such as wheelchair access) so that any necessary accommodations may be made in advance.

GETTING TO GAO (INCLUDING BUILDING ACCESS)

GAO is on Metro's Red Line at the **Judiciary Square** stop (National Building Museum, **F Street exit**). Proceed around the museum to GAO at 441 G Street, NW. Alternately, you can take the Green or Yellow Line to the **Gallery Place/Chinatown** stop and walk to GAO's 441 G Street entrance. For a map of the Metro, please see <https://www.wmata.com/schedules/maps/upload/2017-System-Map.pdf>

Building Entrance: GAO is a secure building. Please follow these instructions to enter:

1. Enter the GAO building using the 441 G Street, NW entrance.
2. Report to the lobby table attendant and be prepared to show a photo ID. NOTE: Please ensure you have a valid official photo ID with you at all times.
3. State the purpose of your visit: WGEI steering committee meeting.
4. A security guard will inspect your belongings and direct you to pass through a metal detector.
5. A GAO representative will escort you to the meeting. Please note that GAO protocol requires all guests to have an escort in the building.

PRE-MEETING EXCURSION AND PICNIC

On Monday 25 September, we will convene at GAO headquarters before we travel via GAO vans to the U.S. Capitol for a tour. The U.S. Capitol building is about 1.2 miles (almost 2 kilometers) from GAO.

- **Security requirements:** At the Capitol, visitors will be asked to present all carried items for inspection. The Capitol also prohibits all liquids (including water), food, aerosol containers and non-aerosol spray, any pointed objects (pens and pencils are permitted), weapons, and any bag larger than 18" wide x 14" high x 8.5" deep. For more information and a full list of items, please see <https://www.visitthecapitol.gov/plan-visit/capitol-etiquette>

After our tour, we will travel via GAO vans to our picnic site at Fort Ward Park in Alexandria, Virginia, which is roughly 9 miles (14.5 kilometers) from GAO, for a casual picnic.

What to wear: Casual, comfortable attire is suggested for 25 September, as the picnic will be outdoors. As September weather in Washington can vary quite a bit—from hot and humid to cool—please dress accordingly. Although the picnic area features a large pavilion and is shaded by trees, we also suggest bringing sunscreen.

28 SEPTEMBER BASEBALL GAME

The baseball game scheduled for the evening of Thursday 28 September is a casual, outdoor event, and we encourage casual, comfortable attire. The game—featuring Washington's professional team, the Washington Nationals—starts at 7:00pm, and we suggest bringing a jacket should the temperature fall throughout the evening. Regarding transportation, the stadium is easy to get to via Metro (from the Gallery Place Metro stop, take the Green Line to the Navy Yard – Stadium stop). Taxis are also available. However, the stadium is not far from GAO (approximately 2 miles, or 3.2 kilometers), and you may wish to walk there, as some GAO staffers who are also attending will likely do (and they would be happy to walk with you and show off the DC sites along the way). For those who registered, we will purchase your tickets in advance.

- **Please note:** The stadium has metal detectors. Your bag will be searched at the entrance gate (note that your bag can be no larger than 16"x16"x8" inches). Prohibited items include weapons, selfie sticks, non-collapsible umbrellas, and metal, plastic, or glass containers of any kind (apart from clear factory-sealed or empty plastic water bottles no larger than one liter, juice boxes, insulin containers and baby food). For more information, please see <http://mlb.mlb.com/was/ballpark/information/index.jsp>.

QUESTIONS?

If you have any questions or need any assistance, please contact Bridget Grimes at 1-202-512-4960 or by email at grimesb@gao.gov.



USEITI Mainstreaming Feasibility Study

May 2017



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The United States Extractive Industries
Transparency Initiative

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Executive Summary

[THE IA WILL COMPLETE THIS SECTION ONCE THE MSG DOES/DOES NOT RECOMMEND]

Based on the evidence available the USEITI Multi-Stakeholder Group (MSG) [recommends/does not recommend] pursuing mainstreaming by ordering the following steps from the Independent Administrator.

Mainstreaming Overview

What is the purpose and process for mainstreaming?

The objective of mainstreaming is to recognize implementing countries that make transparency integral to their systems. Requirement six of the EITI Standard states that “where legally and technically feasible, implementing countries should consider automated online disclosure of extractive revenues and payments by governments and companies on a continuous basis.”

Mainstreaming is the formal process countries pursue to demonstrate integrated transparency. The process consists of seven phases: formal commitment, feasibility study, work plan, application, approval, implementation, and review.

What does the feasibility study entail?

The Independent Administrator (IA) is preparing this study at the request of the USEITI MSG in anticipation of a decision on whether the U.S. will submit a formal application for mainstreaming.

The feasibility study consists of four main components including a review of materials, stakeholder consultation, feasibility study, and plan of action. The study requires information on the track record of reconciliation, an explanation of how the U.S. will increase and embed disclosures, an evaluation of data quality, and options for data reconciliation. This study makes a statement of U.S. readiness on each of those components below.

In order to prepare this study, the IA gathered and reviewed relevant documents and research around processes, systems, data, and controls in the U.S. both for the Government and companies. In addition to this literature review, the IA also interviewed select stakeholders from all three sectors: Government, Industry, and Civil Society. The IA used a standard interview guide to gain perspectives and insights on data timeliness, reliability, and comprehensiveness, as well as on the U.S.’s progress towards mainstreaming to meet EITI international standards.

Lastly, the IA spoke to select stakeholders from Government and Industry in order to fill any data gaps or better understand processes and controls relevant for this study.

U.S. Track Record of Reconciliation

In order for countries to be considered for mainstreaming, they must show a track record of reconciliation without major errors. The EITI does not define the length of time required, a materiality threshold, or a maximum number of discrepancies. As a result, this section will contain a summary of the U.S. record of reconciliation, thresholds, unexplained variances, and the like.

Unilateral Disclosure of Revenues (UDR) in the U.S.

Each year ONRR unilaterally discloses calendar year energy and mineral revenues paid to the Department of the Interior (DOI). These disclosures are disaggregated at the company level and reported by commodity and revenue type. The UDR process showcases the U.S. commitment to unilaterally disclose Federal natural resources revenue data, by company and commodity, and revenue stream. These disclosures use information reported by Federal lessees on Forms ONRR-2014 and ONRR-4430. The unilateral disclosure of this data is available on both ONRR's Statistical Information Site and the USEITI Data Portal.

Specifically, the UDR includes:

Topic	Disclosure Detail
Calendar Years Disclosed	2013-2016
Unique Identified Companies	1,635
Payments Disclosed	9,974
Total \$ Amount Disclosed	\$38,699,490,038
Commodities (or Commodity Categories)	17
Government Agencies Included	3 (ONRR, BLM, OSMRE)
Revenue Streams	9 (ONRR Royalties, Inspection Fees, Civil Penalties, and Other Revenues; ONRR/BLM Rents and Bonuses; and OSMRE AML fees including audits and large charges and Civil Penalties including late charges)

These amounts will grow annually as ONRR continues to unilaterally disclose revenues. The dataset has been cleaned and organized for ease of use by the general public. It delineates each payment by calendar year, corporate name, commodity, and revenues.

Adapted Implementation for Subnational Payments in the U.S.

EITI Standard Requirement 4.2 (d) requires reporting and reconciliation of material company payments to subnational government entities and the receipt of these payments. Separately, EITI Standard Requirement 4.2 (e) requires reporting on mandatory revenue transfers from

national governments to subnational governments. The EITI Board approved USEITI's request for adapted implementation of the EITI Standard for subnational reporting as a part of the approval of the USEITI candidacy application. The EITI Standard allows for adapted implementation "where the country faces exceptional circumstances that necessitate deviation from the implementation requirements" (EITI Standard Requirement 1.5). The approved adapted implementation considered that the USEITI reporting will comply with EITI Standard 4.2 (e)'s requirements by reporting 100% of extractives-specific revenue collected by the US Federal Government and transferred to US state governments within the unilateral data disclosure. However, payments made by companies to state governments (4.2 (d)) and revenue collected by state governments, will not directly be included in the reconciliation.

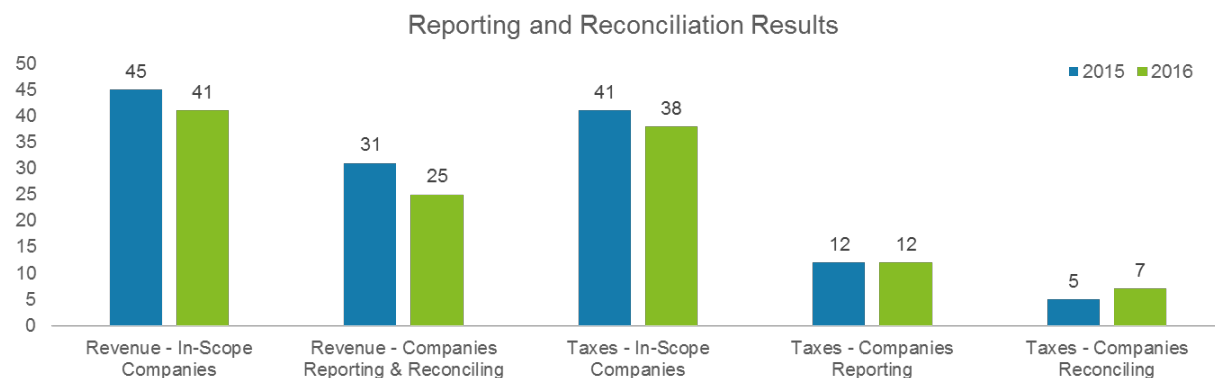
What is the U.S. record of results for reconciliation?

The U.S. conducted its first reconciliation in 2015. The MSG set the scope of reconciliation as the top paying companies who, together, accounted for 80% of revenues paid to ONRR. The first period of reconciliation was Calendar Year (CY) 2013. Across 31 companies and 10 revenue streams, overall variance for all DOI revenues came to \$93,976,582, or 1.1% of all revenues reported by companies. For five companies reconciling taxes, there was one variance, which totaled \$6,297,360, or 3.3% of reconciled taxes. Seventeen discrepancies exceeded the margins of variance determined by the MSG. The IA—working with in-scope companies and government entities—resolved or explained all discrepancies. Explanations included differences regarding when payments were recorded and how they were classified.

In the following year, the U.S. conducted its second reconciliation, covering CY 2015. Similar to the first year of reconciliation, the MSG set the scope of reconciliation to include the top paying companies who, together, accounted for 80% of revenues paid to ONRR. Of the 25 companies reporting, the overall variance for all DOI revenues came to \$156,387,357, or 3.24%. Of 7 companies reconciling taxes, the overall variance value came to \$120,122,958, or 33.8% of the total value of taxes reconciled; 21 discrepancies exceeded the margins of variance determined by the MSG. All 21 were resolved or explained for the same reasons mentioned above.

Each year, companies could choose to report and reconcile both taxes and DOI revenues. More companies chose to report and reconcile DOI revenues than taxes.

Figure 1. USEITI Reporting and Reconciliation Results (2015 and 2016)



Result	2015	2016
DOI Revenues Reported	100% of 2013 revenues	100% of 2014 and 2015 revenues (only 2015 reconciled)
Companies Participating	31 of 45 companies	25 of 41 companies
DOI Revenues Reported & Reconciled	\$8.5B (81% of in-scope DOI revenues, 67% of all DOI revenues)	\$4.83B (79% of in-scope DOI revenues, 62% of all DOI revenues)
Companies Reporting Taxes	12 of 41 reported \$190M	12 of 38 reported -\$308M
Companies Reconciling Taxes	5 of 41 reconciled \$90M	7 of 38 reconciled -\$130M
Variances	17	21
Variances Resolved or Explained	100%	100%

What are the expected results in 2017?

The USEITI MSG decided not to conduct IA reconciliation of government/company revenue reporting in 2017 due to its judgement that the reconciliation process is redundant with established and documented audit and assurances procedures and controls in place in the U.S. government and in companies¹. In place of a reconciliation process, the MSG decided to continue with the UDR and to document controls in place in the contextual narrative. The USEITI MSG believes that this process will continue to be comprehensive, timely, and accurate and will be made publically available via existing sources, except where current laws or regulations prohibit data disclosure.

USEITI plans to produce an Annual Report for 2017 and will continue to update the USEITI Data Portal with additional contextual narrative information and additional data from states.

¹ Decision of USEITI MSG, Feb 2 2017

Increasing and Embedding Disclosures

How does the government embed and increase disclosures?

The 2016 EITI Standard encourages countries to make use of existing reporting systems for EITI rather than duplicating them in an EITI report. To this end, the International Secretariat has hailed the USEITI Data Portal as one of the best examples for mainstreaming data.

The U.S. government publicly discloses all data that has been embedded in the USEITI Data Portal. This data is updated annually. Key characteristics of this system are that:

- The USEITI Data Portal includes **federal production data** for 55 products extracted from 2006 to 2015. This data can be filtered by product type, region (including state, county, and offshore region), and both calendar and fiscal years. It also discloses and publishes **federal revenue by company**. Data can be filtered by commodity category and/or region and goes from 2006 to 2015. Company data, provided by ONRR in its unilateral disclosure, can be filtered by commodity and/or revenue type and covers 2013-2015 revenue.
- The USEITI Data Portal also includes **economic impact data on the extractive industries**, including Gross Domestic Product, Exports, and Jobs. It can be filtered by region, with results shown as \$ values or % values, from 2006 to 2015. Additional filters include by commodity for exports and by job type for jobs.
- Beyond disclosing DOI data, the USEITI Data Portal **aggregates and makes accessible relevant data sets from other government organizations**, including the Energy Information Administration, the Bureau of Economic Analysis, and the Bureau of Labor Statistics, as well as selected state and local government data.

In addition to the USEITI Data Portal, ONRR's Statistical Information Site (<http://statistics.onrr.gov/>) provides datasets on disbursement (at a fund or state level and by fiscal year) and reported revenue data (including sales volumes, sales values, and revenue by commodity), which is shared at the state, onshore, offshore, and Indian levels in the U.S.

The portal also includes reconciliation data and corporate income tax data for those companies that have opted to report their tax data. Currently, the Tax Reform Act of 1976 (26 U.S. Code § 6103) prohibits disclosure of Federal Income Tax data without the consent of the taxpayer. However, the Internal Revenue Service (IRS) discloses aggregate tax liability by industry based on a stratified sample of individual company tax returns, and this aggregate information has been included in the 2015 and 2016 USEITI reports.

Furthermore, the collection of corporate income taxes are subject to financial controls similar to other government revenue collections. The U.S. Department of the Treasury's Bureau of the Fiscal Service collects corporate income taxes.

In summary, the Government discloses the majority of data required for mainstreaming on the USEITI Data Portal. Disclosures by IRS provide information on taxes at an aggregate industry level but not by company. Opportunities for the government to increase and embed disclosures include the expansion of the revenue streams disclosed, including the coal excise tax, and the commodities in-scope.

How does the extractives industry increase and embed disclosures?

Companies in the extractive industries in the United States operate within a system of controls and audits that vary based on their ownership status and internal procedures.

Public Companies

In 2016, 34 of the 41 in-scope companies were public. Public companies must annually disclose their financial statements and the result of their audits. Of the 34 companies, 29 follow the United States General Accepted Accounting Principles (GAAP). The remaining five companies follow the International Financial Reporting Standards (IFRS). For each, independent auditors review and attest to the internal controls of the companies, in addition to auditing their financial statements. Based on a review of company 10-Ks, these public companies arrange their internal controls according to the framework established by the Committee on Sponsoring Organizations of the Treadway Commission's (COSO) *Internal Control – Integrated Framework* (2013). COSO is a joint initiative of the American Accounting Association, American Institute of CPAs, Financial Executives International, the Association of Accountants and Financial Professionals in Business, and the Institute of Internal Auditors. The appendix contains information on in-scope companies' disclosures, forms, and auditors, as well as links to available annual reports or 10-Ks for 2015, the last year for which all companies have created reports.

Private Companies

Private companies have fewer requirements to make their information and financial statements public. Seven in-scope companies in 2016 were private. These companies, while not subject to the same disclosure requirements as public companies, still operate within the system of controls and audits that public companies operate. Importantly, they are and can be subject to an audit from the IRS.

Voluntary Disclosures

In addition to these internal controls, external audits and related disclosures, a number of in-scope companies report EITI-related data voluntarily or according to European regulations. (Rio Tinto, included below, is not an in-scope company, but is a USEITI MSG member and so is included.)

Company	Commodity	Reports Under	Disclosures
BP	Oil & Gas	U.K. law	BP reports payments to governments at the project level. Payments are unaudited, but independently assured by Ernst & Young. They do not include tax information. http://www.bp.com/content/dam/bp/pdf/sustainability/group-reports/bp-report-on-payments-to-governments-2015.pdf
ENI	Oil & Gas	Voluntary	ENI reports payments to governments at the national level and their report adds additional contextual information. It is unaudited. https://www.eni.com/en_IT/sustainability/integrity-human-rights/transparency-of-payments.page
Shell	Oil & Gas	U.K. law	Shell voluntarily reported payments to governments prior to the implementation of British regulations and now reports according to those regulations. It reports all payments to governments at the project level. Their report is unaudited. http://www.shell.com/sustainability/transparency/revenues-for-governments.html
Statoil	Oil & Gas	Norwegian law	Statoil reports payments to government at the project and government levels. It also includes contextual information in their annual report. Their report is unaudited. http://www.statoil.com/no/InvestorCentre/AnnualReport/AnnualReport2015/Documents/DownloadCentreFiles/01_KeyDownloads/2015%20Payments%20to%20governments.pdf
BHP Billiton	Coal & Hardrock	Voluntary	BHP Billiton reports government payments (both tax and non-tax) as well as contextual information and data on broader economic contributions (e.g. wages). Their non-tax data includes payments to governments and on a project level. Their report is audited by an independent auditor according to Australian Auditing Standards. http://www.bhpbilliton.com/our-approach/operating-with-integrity/tax-and-transparency
Rio Tinto	Coal & Hardrock	Voluntary	Rio Tinto reports payments to governments (both tax and non-tax) and publishes an annual Taxes Paid report. Payments are reported on a government and project level. The report includes economic contribution data and contextual information, including case studies. The report is independently audited. http://www.riotinto.com/ourcommitment/spotlight-18130_18998.aspx

These reports suggest best practices for encouraging further disclosure of payments by private companies.

In addition, publicly listed companies in the U.S. are required to comply with the reporting requirements under the Sarbanes-Oxley Act. The Act and the corresponding SEC rule (<https://www.sec.gov/rules/final/33-8238.htm>) require that company's Boards "include in their annual reports a report of management on the company's internal control over financial reporting."² Specifically, the SEC rule states the annual report must include:

- 1) A statement of management's responsibility for establishing and maintaining adequate internal control over financial reporting for the company
- 2) Management's assessment of the effectiveness of the company's internal control over financial reporting as of the end of the company's most recent fiscal year
- 3) A statement identifying the framework used by management to evaluate the effectiveness of the company's internal control over financial reporting (As mentioned above, the most commonly used framework is the Committee on Sponsoring Organizations of the Treadway Commission's (COSO) *Internal Control – Integrated Framework*)
- 4) A statement that the registered public accounting firm that audited the company's financial statements included in the annual report has issued an attestation report on management's assessment of the company's internal control over financial reporting. This review of controls by the company's external auditors (monitored by the Public Company Accounting Oversight Board) will follow a review by the company's own internal auditors (reporting to the Board's Audit Committee.)

Review of controls is a part of the annual financial statement audit that every public company receives from an independent public accounting firm. This audit provides investors and other interested parties with an assessment as to whether a company's financial results are fairly presented in all material respects in conformity with an established uniform body of accounting standards. Private companies typically are subject to financial statement audits when other parties, such as creditors and lenders, must rely on and require the same level of assurance and attestation.

² U.S. Securities and Exchange Commission, *Final Rule: Management's Report on Internal Control Over Financial Reporting and Certification of Disclosure in Exchange Act Periodic Reports*, 17 CFR PARTS 210, 228, 229, 240, 249, 270 and 274. <https://www.sec.gov/rules/final/33-8238.htm>. Accessed on May 2, 2017.

Evaluating Data Quality

The requirements for mainstreaming include determining whether data from both government and industry sources are up to date, comprehensive, and reliable outside of the EITI reporting structures. This section outlines characteristics of U.S. data in these three categories.

Up to Date Data

The EITI Standard requires that information be reported on an annual basis, and requires that the data disclosed be “no older than the second to last complete accounting period.” Where government and industry currently report, U.S. data is disclosed on an annual basis and within the second to last complete accounting period. Likewise, the ONRR UDR data is reported for the previous accounting period (e.g., the 2016 report includes 2015 data).

Comprehensive Data

The Government’s unilateral disclosure of revenues received covers all in-scope, non-tax payments received by the Government, including for companies not in scope for USEITI. Unilateral disclosure in the U.S. covers royalties, rents, bonuses, and other revenues both by revenue stream and by company.

Disclosure of Federal Income Tax is made by the Department of the Treasury on an aggregate basis by industry. Some companies voluntarily disclose Federal Income Tax data as part of EITI reporting, to fulfill regulatory requirements in other countries, or as part of their own transparency reporting.

USEITI provides contextual narrative information through the USEITI Data Portal. The data portal is a detailed overview of the extractive industry in the U.S. on Federal government lands. The site contains dozens of pages, tables and graphics that allow users to dynamically explore data related to the extractive industries in the United States. It also explains USEITI and how the extractive industries function in the U.S. Specifically it includes:

- 15+ in-depth static contextual pages, explaining who owns natural resources, the laws and regulations governing natural resource extraction, how natural resources result in Federal revenue and detail on those revenue streams, and measures effecting data accuracy and accountability for data presented.
- 55 dynamic regional data profile pages, which have contextual data integrated throughout.
- 12 county case study pages examining counties that are major producers of in-scope commodities and the socio-economic impact of extractives industries in those counties.

Additional data portal information includes a glossary related to the extractive industries, pages enabling download of datasets for further analysis, and additional data documentation and usage notes.

Reliable Data

Extractive industry companies and the U.S. government are subject to laws and regulations that set the process for receiving payments and for companies making payments to the Federal government. The processes for how payments and revenues are recorded and verified in the extractive industries in the United States are detailed in USEITI's *Audit and Assurance Practices and Controls in the U.S. Factsheet* available

here: https://useiti.doi.gov/downloads/USEITI_budget-audit-factsheet_2016-08-17.pdf. The appendix includes tables outlining the major laws establishing the fiscal regime, fees, and fines related to extractive industries revenue collection in the United States.

Standards for both the Federal government and companies are promulgated by regulatory and voluntary oversight bodies³. Standards exist which define:

- how companies and the government report their revenue data and financial information;
- how internal and external audit procedures provide assurance of payments and collections;
- how external audit provides assurance regarding company and government financials and disclosure of audit results and audited financial statements for public companies.

The appendix includes a table of laws, regulations, professional standards, and regulatory organizations used by companies and governments to guide the reporting of financial information in the United States, as well as by auditors during the financial statement audit process.

Reconciliation and Mainstreaming

Once a country is approved for mainstreaming, it is no longer required to complete the reconciliation process. If EITI data is comprehensive and reliable and financial data is “audited in accordance with international standards, the procedure does not require a comprehensive reconciliation of government revenues and company payments.” This section details the processes for reconciliation, assurance, and audit that are in place at ONRR and other U.S. Government agencies.

There are generally four levels of mainstreamed controls:

³ https://useiti.doi.gov/downloads/USEITI_budget-audit-factsheet_2016-08-17.pdf

- Upfront Reconciliation of Transaction Data Between DOI, Treasury, and Companies
- Internal Audit and other Assurance Processes within DOI
- External Audit of DOI
- Other Ad-hoc Oversight from the Office of Inspector General, Congress, and other Bodies

As part of the pre-reconciliation process integral to ONRR's function of receiving and processing company reporting and payments, ONRR conducts 100% upfront reconciliation.

This report covers CY2015 Rents, Royalties, and Bonuses, which together constitute 95% of DOI revenue streams, as well as Corporate Income Taxes. See the table below for additional detail.

Revenue Stream	% of DOI Revenues	Up Front Reconciliation	Internal Controls	External Audits	Ad-Hoc Oversight
ONRR Royalties	78.2%	✓	✓	✓	✓
ONRR & BLM Bonuses	14.6%	✓	✓	✓	✓
ONRR & BLM Rents	3.1%	✓	✓	✓	✓
OSMRE AML Fees	2.5%	✓	✓	✓	✓
BLM Permit Fees	1.3%	✓	✓	✓	✓
ONRR Offshore Inspection Fees	0.7%	✓	✓	✓	✓
ONRR Other Revenue	0.4% (Negative Amount)	✓	✓	✓	✓
ONRR Civil Penalties	0.1%	✓	✓	✓	✓
OSMRE Civil Penalties	0.03%	✓	✓	✓	✓
Corporate Income Taxes	N/A	✓	✓	✓	✓

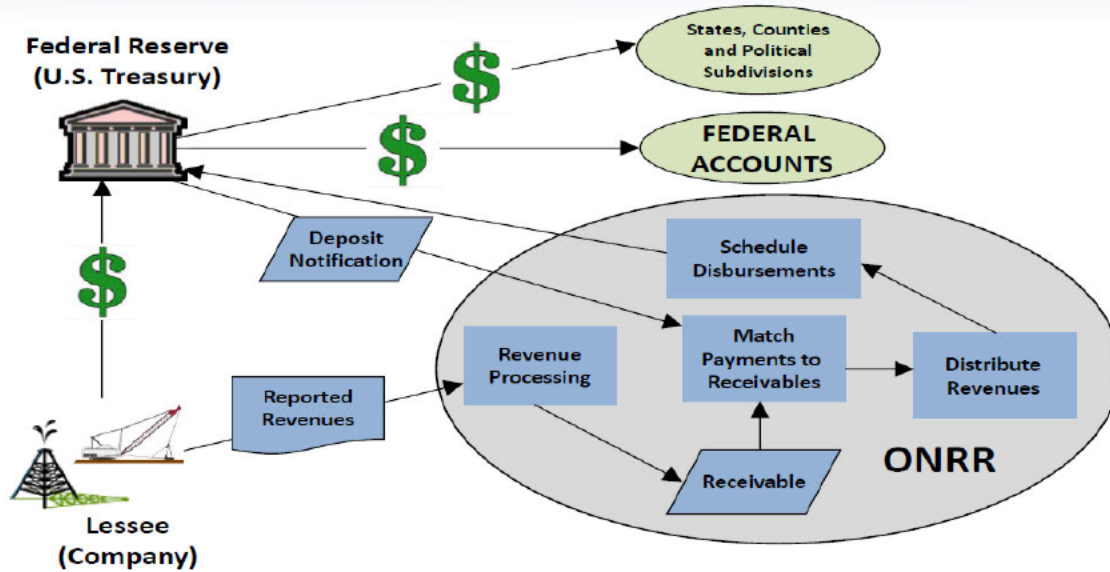
Note: % totals are higher than 100% due to rounding and the fact that ONRR Other Revenue was negative.

ONRR's Up Front Reconciliation Process

ONRR's mission is to collect, account for, and verify Federal, State, and Indian energy and natural resource revenues due to States, American Indians, and the U.S. Treasury on behalf of all Americans. Each month, ONRR receives and processes 49,000 royalty and production reports. ONRR's reconciliation process determines if Government is paid what it is owed and that companies report and pay in a timely manner; in this process companies report information the month after the month of production. Comprehensive reporting by companies and payors occurs on a "project-level" (or lease level) basis.

The below graphic illustrates the 100% up-front reconciliation and matching of company payments to ONRR revenues and distribution of the revenue recipients.

Figure 2. Up-front Reconciliation and Matching of Company Payments



In this process, companies make payments to the Treasury, companies report monthly to ONRR those revenues paid to the U.S. Treasury; for every report, ONRR begins the data mining process (Missing Reports, Volume Comparisons, LVS/GVS, High Level Analyses of Sales Values, Royalty Values, Adjustments), followed by Compliance Reviews, as outlined in additional detail in the sections below.

DOI Mainstreamed Processes and Controls

ONRR's Internal Controls & Processes

The U.S. has a set of standards, controls, and audits which are outlined in more detail below in accordance with guidance from the GAO Green Book. These internal controls aim to achieve reliability and accuracy in payment collection, accounting, and reporting.

Components of Internal Control	Principles
Control Environment	<ol style="list-style-type: none"> 1. Demonstrate Commitment to Integrity and Ethical Values 2. Exercise Oversight Responsibility 3. Establish Structure, Responsibility and Authority 4. Demonstrate Commitment to Competence 5. Enforce Accountability
Risk Assessment	<ol style="list-style-type: none"> 6. Define Objectives and Risk Tolerances 7. Identify, Analyze, and Respond to Risk 8. Assess Fraud Risk 9. Analyze and Respond to Change
Control Activities	<ol style="list-style-type: none"> 10. Design Control Activities 11. Design Activities for Information Systems

	12. Implement Control Activities
Information and Communication	13. Use Quality Information 14. Communicate Internally 15. Communicate Externally
Monitoring	16. Perform Monitoring Activities 17. Remediate Deficiency

Source: OMB Circular A-123

Internal Controls

In addition to the annual Office of the Inspector General (OIG) audits, external third-parties annually audit ONRR's financial functions in accordance with the Generally Accepted Government Auditing Standards (GAGAS). Audits in the U.S. have a high standard of verification in the form of evidence for source documents and records, resulting in greater accuracy of payment and reporting. Additionally, ONRR uses U.S. Standard Government Ledger (USSGL) accounts to prepare external reports to the Office of Management and Budget (OMB), and the U.S. Treasury to provide financial information for inclusion in its annual consolidated Interior Agency Financial Report. Finally, the Chief Financial Officer (CFO) Act requires annual audits of DOI's financial statements, which includes a thorough review of ONRR.

OMB Circular A-123 is a part of the Agency Financial Report. Per this regulation, the DOI Secretary is required to provide the President and Congress an assurance statement on the state of the DOI's internal controls. Congress, OMB, and GAO established the requirement for agencies to develop and maintain effective internal control by issuing Federal guidance, including *OMB Circular A-123: Management's Responsibility for Internal Control*. Under this guidance, management is responsible for establishing and maintaining effective internal controls and financial management systems that meet the objectives of the Federal Managers' Financial Integrity Act.

The A-123 process at ONRR begins with the Director of ONRR issuing guidance to employees outlining the compliance assurance activities to be completed. ONRR's Internal Review, Oversight, and Compliance (IROC) Program provides the leadership and technical support to ONRR employees as they complete the A-123 process. Program Managers of each Assessable Unit (AU) in ONRR use the DOI Integrated Risk Rating Tool (IRRT) to complete a risk assessment of their processes. With that information, IROC develops ONRR's 3-Year Component Inventory and Annual Risk-Based Internal Control Review Plan (3-Year Plan).

In order for ONRR to maintain compliance with OMB Circular A-123 it must complete the following activities:

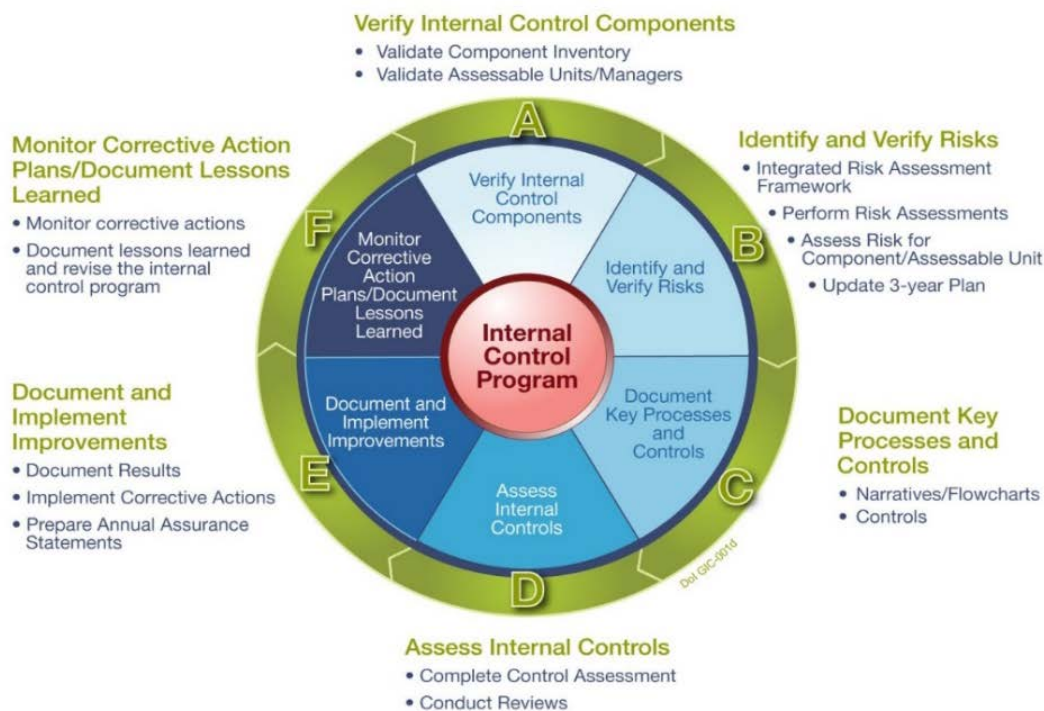
- Submit entry-level risk assessments for each of the Program Directorates: Director/Deputy Director/Directorate Support Office; Audit and Compliance

Management; Coordination, Enforcement, Valuation, and Appeals; and Financial and Program Management;

- Document or update AU key business processes, risks, and internal controls, in both narrative and flowchart form;
- Identify, document, and test key controls of all processes which are significant to a line item on the DOI's Financial Statements;
- Perform DOI-direction and ONRR-directed Internal Control Reviews (ICRs);
- Develop DOI-required Information Technology and overall annual assurance statements

Additionally, DOI has designed an **Integrated Internal Control Program** that is comprised of the plans, methods, and procedures used to support the DOI's mission, goals, and objectives. The DOI has a six-step approach for its Integrated Internal Control Program which aims to enable performance-based management and support DOI's mission while addressing multiple legislative requirements.

Figure 3. DOI's Internal Control Program



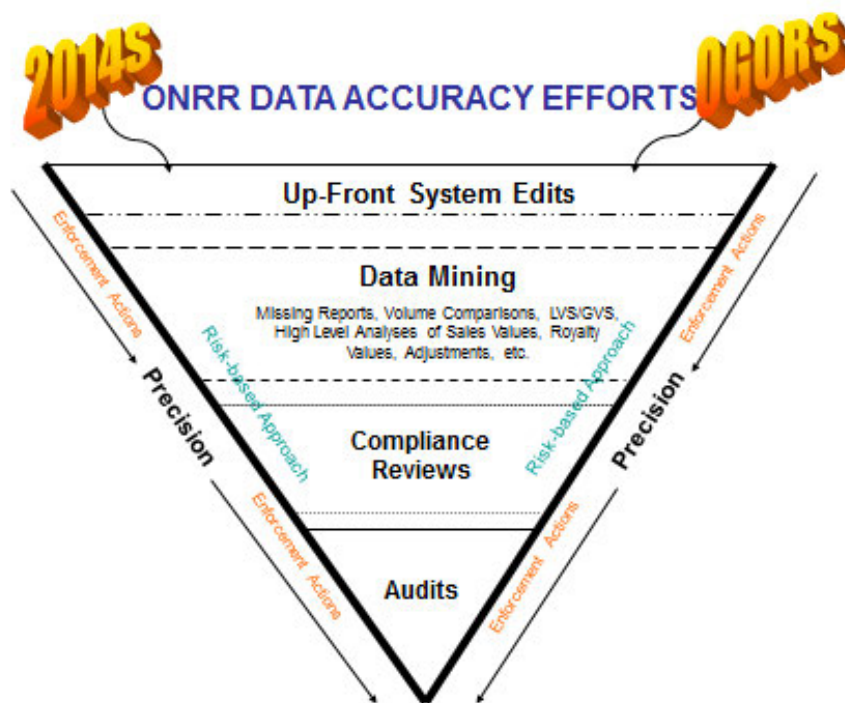
The goals of DOI's Integrated Internal Control Program are to:

- Ensure senior management oversight and coordination at the Department and Bureau level
- Follow a structured approach for assessing the risks facing the organization

- Implement a risk-based approach that weighs costs and benefits
- Improve consistency and comparability of Bureau Internal Control Programs by continuing to refine the internal controls guidance and use standardized tools, templates, and training
- Improve the maturity of DOI's risk management and internal control practices

Lastly, ONRR has controls in place to determine if data submitted by industry is reliable and accurate. These controls occur at different points in the data collection and analysis process, as depicted in the graphic below, and provide the foundation for ONRR's compliance reviews and audits (outlined in the next section).

Figure 4. ONRR's Data Accuracy Process



Data controls and verifications start at the submission stage of industry reporting. Royalty reports (Form ONRR-2014) and production reports (Oil and Gas Operations Reports/OGORs) go through hundreds of up-front system edits and checks for individual companies before they are submitted and accepted into ONRR's financial systems. These edits help prevent industry from submitting incorrect data such as erroneous lease or agreement numbers, incorrect prices, mathematical errors, or missing data elements.

Once the data is submitted by industry, ONRR's Data Mining office analyzes and works with individual companies to resolve various types of reporting errors and anomalies. The data mining phase helps identify specific issues with 2014s and OGORs submissions, as well as

identifying errors that are occurring across multiple companies. When this type of error is identified, ONRR works to provide specific guidance to industry and/or establish improved internal processes for data collection and review.

Data mining focuses on resolving issues collaboratively with companies prior to the any compliance review and/or potential audit, and uses a risk based approach to maximize the coverage based on a proprietary risk calculation tool.

Audit & Compliance Management Function

ONRR's Audit and Compliance Management (ACM) function is a part of the U.S.'s process for data accuracy and assurance. The ACM function serves to verify the accuracy of data reported to ONRR and examines statements, records, and operations of a company to verify compliance with the lease instrument and established regulations, laws, and guidelines. The subsequent information detailed in this section is based on interviews with Federal officials. This information was not independently verified by the IA.

ONRR's ACM function uses a risk-based approach for conducting compliance reviews and audits. This approach uses a risk calculation tool to develop audit and compliance work plans and is used to identify potential risks of non-compliance based on a number of proprietary indicators, including previous audits and compliance reviews and significant of royalty dollars. The risk compliance tool stratifies the compliance of companies and properties into high, medium, and low categories. ACM's work is performed by over 240 staff in six regional offices and also supported by over 125 auditors working for states and tribal nations that have significant extractive industry activity.

Through this function, ONRR conducts multiple evaluative techniques to determine if payments are the appropriate amount.

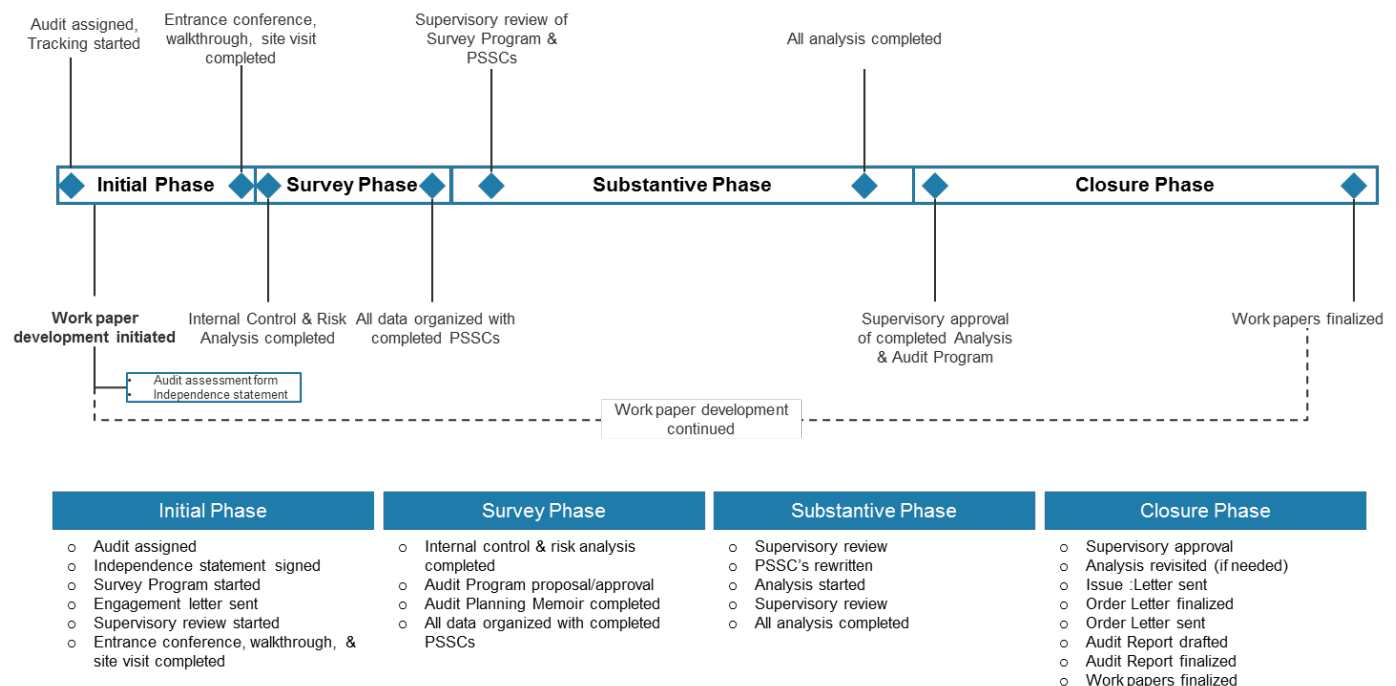
- One month after ONRR receives a payment, it uses up-front system edits to verify royalty and production reports. These include: transportation / processing limits, multiple royalty rates, pricing edits, and reviewing agreement numbers.
- One to two years after a payment, ONRR uses data mining to increase the accuracy of company-reported data before the data is subjected to compliance reviews and audits. Missing reports, adjustment monitoring, adjustments to completed cases, and production comparisons are key components of data mining efforts to determine if company payments are accurate and verifiable.
- Two to three years after a payment, following the up-front-system edits and data mining, ONRR conducts compliance reviews. These compliance reviews are used to examine issues and potential reporting errors identified through up front system checks

and data mining. The compliance reviews are conducted 2-3 years after the original data submissions, to allow for adjustments and clarification in the data. In FY2016, ONRR completed over 500 compliance reviews.

- Seven to nine years after a payment, ONRR's audits are performed and source documentation or other verifying information is obtained to analyze the completeness and accuracy of the production volumes, sales volumes, sales values, transportation and processing allowances, and royalty values in accordance with the reporting and valuation regulations. In FY2016, ONRR ACM conducted 128 audits. ONRR's audit process timeline is outlined in Figure 5.

When ONRR discovers inaccurate payments or potential fraud, it has several enforcement mechanisms at its disposal, including alternative dispute resolution, litigation, and civil penalties.

Figure 5. Audit Process Timeline for ACM



Additional Audits by State and Tribal Audit Committees

In addition to the audits that ONRR conducts of companies' production and payments, state governments also audit companies' reported production and payments. These state government agencies are in turn subject to controls and audits of their own. This multi-layered, reinforcing system of checks and balances strengthens the data's reliability. Furthermore, the State and Tribal Royalty Audit Committee (STRAC) works with the Department of the Interior to audit leases within their respective jurisdictions. This committee consists of eleven (11) states

and nine (9) Indian tribes and exists to help ensure proper payment of royalties from oil, gas and solid mineral companies. The agreements are authorized under Sections 202 and 205 of the Federal Oil and Gas Royalty Management Act (FOGRMA), as amended by the Federal Oil and Gas Royalty Simplification and Fairness Act of 1996 (FOGRSFA). STRAC has helped to further the accountability for the money owed to their jurisdictions and improve the reliability of the data reported.

[Bureau of Land Management \(BLM\) Controls](#)

BLM uses several methods and processes to assure data accuracy and integrity when collecting rents and bonuses.

First, BLM Collections and Billings System builds data integrity into the data collection systems design. BLM uses the Collections and Billings System (CBS) as a single point of entry for billings and collections data entry by field office personnel. CBS interfaces nightly with DOI's Financial and Business Management System to allow exchange and posting of collection information to the general ledger. The CBS uses the Bureau's intranet to transmit collection information and includes several layers of security. In addition, the system allows field personnel to enter any type of collection and organizes the receipt into the correct account by Commodity, Subject, and Action. BLM conducts continuous internal reviews and reports to assure the timeliness, accuracy, and compliance of data entered into the CBS.

Second, the Automated Fluid Minerals Support System (AFMSS) is a BLM-wide Fluid Mineral (oil and gas, geothermal, and helium) authorized use and inspection/enforcement workload support system. The AFMSS internal functionality supports oil, gas, and geothermal lease operations on Federal and Indian Trust Lands, post-lease operational approvals, well and facility data, inspection and enforcement data, assessments and penalties for noncompliance, undesirable event (spills), displays ONRR collected well production data (OGOR), and also includes data on customers (producers/operators). A number of reports supporting BLM business requirements are also included on a Field Office, State Office, and National basis.

AFMSS contains oil, gas, and geothermal facility inspection/compliance data including pre-construction, drilling, production measurement and accountability, facility abandonment, undesirable event, enforcement actions (assessments and penalties), and inspection strategy information. AFMSS also contains oil, gas, and geothermal lease, unit agreement, participating area, communitization agreement, bond coverage, and drainage assessment data.

These assurance mechanisms and processes help BLM to meet internal and external audit requirements and support accurate accounting and reporting.

[Office of Surface Mining Reclamation & Enforcement \(OSMRE\) Controls](#)

OSMRE also uses several methods and/or processes to support data accuracy.

OSMRE uses an internet based system that the coal industry uses to report 99% of the U.S. coal production. The system was designed to pre-populate information about the companies and coal producing permits that they report on, thus reducing data entry error. The system contains numerous edits to assure data accuracy and automatically calculates fee amounts due based on the production data entered by the companies. OSMRE also pre-populates paper reports that the remaining one percent of the coal production is reported on.

Internally, OSMRE conducts continuous internal reviews of both automated and manual data entry reviews for timeliness, accuracy, and compliance of data entered into the Coal Fee Collection Management System.

Externally, OSMRE conducts independent reviews of data in their Coal Fee Collection Management System during audits of coal company records. During those audits, OSMRE auditors review data entered into the Coal Fee Collection Management System against coal company records of reported tonnage to determine whether there are any discrepancies in the data in OSMRE's system.

The efficiencies of the audit program and its related activities have enabled OSMRE to achieve a compliance rate of over 99% at a minimal cost to the AML Fund. OSMRE's process improvements and successful migration to electronic reporting has automated virtually all ministerial functions and eliminated 100% of data entry errors.

Office of the Inspector General Oversight (OIG)

The OIG provides independent oversight and promotes accountability within the program, operations, and management of the Department. The OIG performs the following functions:

- Oversees the contract with an independent CPA firm to perform the Annual Financial Statement/CFO audit
- Conducts energy focused reviews of DOI energy and mineral revenue programs
- Provides leadership and coordination and recommends policies for activities
- Identifies risks and vulnerabilities that directly affect DOI's mission
- Provides a means for keeping interested parties informed about problems and deficiencies relating to the administration of programs and operations and the progress of necessary corrective actions
- Plans to review the activities related to the EITI initiative in 2016

Additional Department of Interior Controls

There are various entities within DOI that support the accuracy, reliability, and timeliness of data collection and reporting. The table below describes the responsibilities and functions of these entities.

DOI Office	Responsibilities/Functions
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Financial and Production Management	<ul style="list-style-type: none"> • Collect, verify, and distribute all rent, royalties and bonuses • Receive, process and verify industry-submitted royalty reports; • Perform Data Mining functions • Receive, process and verify industry-submitted production reports, error correction for all Federal and Indian production; • Oversee meter inspections for production verification.
General Ledger (GL)	<ul style="list-style-type: none"> • Accounts for the billions of dollars ONRR collects and disburses in accordance with Generally Accepted Accounting Principles • Processes payments, prepares reports and reconciliations for the U.S. Treasury • Processes revenue sharing disbursements through to the U.S. Treasury to States and Counties, and transfers to other Federal agencies; processes refunds of overpayments to lessees • Provides the initial trial balance used to develop the Departmental financial statements. <p>GL is subject to an annual financial audit by the Office of Inspector General.</p>
Accounting Services	<p>The Accounting Services branch defines its Accounts Payable (AP) functions as either Federal or Indian.</p> <p>In general, they:</p> <ul style="list-style-type: none"> • Ensure revenues are received with correct information and proper recipients • Prepare disbursement data for the U.S. Treasury and the Office of the Special Trustee • Provide distribution and mineral revenue reports to Federal agencies, States, Tribes, Tribal Allottees, and other requestors.
Accounts Payable Federal	<p>AP Federal oversees system processing of all Payor/Reporter detailed reporting and payments. Employees in this area work closely with various recipient agencies, States and Counties, to resolve issues and ensure timely distribution of shared revenues. Federal statutes and provisions regarding mineral extraction on Federal lands dictate the AP Federal processes.</p>
Accounts Payable Indian	<p>AP Indian is responsible for daily rent and royalty collections on behalf of Indian tribes. AP Indian works extensively with the Bureau of Indian Affairs (BIA), the Office of the Special Trustee for American Indians (OST) and recipient Indian tribes.</p> <p>In general AP Indian will:</p> <ul style="list-style-type: none"> • Prepare a daily report of deposits for OST and a twice-monthly distribution report on leases held by individual Indian allottees (Allotees) • Work with OST and Indian Tribes to answer questions and reconcile accounts, as needed • Work with ONRR's Indian Outreach organization to resolve issues with Allotees

Reporting & Solid Minerals Services Group	<ul style="list-style-type: none"> • Manage other related Federal and Indian account reconciliations • Reconcile payments to receivables within customer accounts • Establish receivables for mineral royalty reports • Identify credit/refund actions, and process related paperwork
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U.S. Government Mainstreamed Processes & Controls

U.S. Treasury, Single Source Cash Flow

The U.S. Treasury and Federal Reserve System (Treasury) serves as the sole provider of financial services for all U.S. federal agencies including ONRR. Treasury maintains a centralized system of accounts for ONRR. The core tenet of this centralized system of accounts is that no single federal agency controls the receipt and payment of public funds. All federal agencies that handle government financial transactions must properly perform their function to support internal government control and the system of central accounts. Treasury performs variance analysis and various other reconciliations on transactions and balances contained within its systems. Treasury contacts ONRR with any questions they may have and can request ONRR justify or make changes. Interior's External Auditor also samples deposit and disbursement data from all Treasury systems and traces that data back to originating lease documents with ONRR's systems or other agency accounting advices. To accomplish these ends, there are several primary systems maintained by Treasury that ONRR utilizes for cash flows. The primary systems ONRR uses to manage cash flows are the Collections Information Repository (CIR) for revenue collections, Intra-governmental Payments and Collections System (IPAC) from intragovernmental transfers, Secure Payment System (SPS) for disbursements and the Central Accounting Reporting System (CARS) for Treasury fund reconciliation.

ONRR receives the majority of its oil and gas collections, as well as geothermal and solid minerals through the CIR. CIR serves as a transaction broker, data warehouse, and reporting solution that provides a single touch-point to exchange all financial transaction information for settled transactions across all collections systems. This enables the U.S. Government to normalize financial transaction reporting and standardize the availability of financial information across all settlement mechanisms and collections systems. CIR greatly improves the way ONRR collects, analyzes, and redistributes financial transaction information, which in turn eliminates redundancies and disconnects across and between the numerous point-to-point connections. The system is self-contained with various related external system interfaces. CIR provides ONRR with collections related to payments from the public sent via Fedwire, Pay.gov, ACH, and check. All payment method transaction information submitted to ONRR is summarized daily into vouchers by CIR. CIR does not allow ONRR to create or alter deposit information.

Whereas ONRR uses CIR for collections from the public, IPAC is used for oil and gas revenues collected by other federal agencies and transferred to ONRR via IPAC. ONRR also uses IPAC to disburse revenue to other federal agencies in accordance with applicable statutes. The IPAC system's primary purpose is to provide a standardized interagency fund transfer mechanism for Federal Program Agencies (FPAs). IPAC facilitates the intragovernmental transfer of funds, with descriptive data from one FPA to another. The IPAC System enables FPAs to exchange accounting and other pertinent information to assist in the reconciliation of funds transferred between FPAs for various interagency transaction types (buy/sell, fiduciary, and other miscellaneous payment and collection transactions). A Sender and Receiver Treasury Account Symbol/Business Event Type Code (TAS/BETC) are validated in the Shared Accounting Module (SAM) and transmitted to the CARS Account Statements at the time of IPAC origination. IPAC standardizes interagency payment, collection, and adjustment procedures through an internet-based application.

The SPS is an application that allows government agencies to create payment schedules in a secure fashion; with strictly enforced separation of duties. Access to SPS is rigidly controlled by both Treasury and ONRR. SPS is ONRR's only avenue to disburse revenue from Treasury to state or local governments and to refund overpayments back to companies.

Lastly, ONRR uses the CARS to report and reconcile all collections and disbursements activity. CARS is a one-stop access point to:

- provide and retrieve data and information from Treasury
- capture and record Treasury Account Symbol (TAS) information for payments
- deposit, and intra-governmental transactions
- provide an account statement of the fund balance with Treasury
- allow access to transaction detail to support research and reconciliation,
- improve the usability and currency of government-wide financial information
- minimize data redundancy and enhances data sharing between Treasury's central accounting system, financial service provider systems, and agency core financial systems

ONRR users reconcile the CARS fund balance with Treasury to ONRR's accounting system via reclassification of collection and disbursement transactions to the proper fund within Treasury. This reconciliation process is performed in the first three business days of each month. Any statements of difference between Treasury and ONRR are not permitted. All discrepancies and out of balances found must be corrected during the current accounting period, or a restatement is required for closed periods. CARS does not allow ONRR to create or delete transactions from the system.

Third Party Audit Procedures

The annual Agency Financial Report (AFR) provides important financial and performance information related to the stewardship, management, and leadership of the public funds and resources entrusted to DOI. Specifically, the report contains DOI's audited financial statements as required by the Chief Financial Officers Act of 1990. The audited financial statements include the custodial revenues managed by ONRR, OSMRE, and BLM. In FY 2014, DOI obtained a clean (unmodified) opinion from the independent auditing firm - this was the 18th consecutive clean opinion for DOI.

The DOI adheres to strict audit and assurance procedures in order to fulfill its fiduciary trust responsibilities to the nation's taxpayers, states, tribal affiliates, and local municipalities. The procedures outlined below reflect the best efforts to compile, structure, and summarize processes generally employed across DOI's bureaus and offices to achieve the Department's overarching mission.

- This analysis first examines the external and independent audit requirements used to evaluate DOI's compliance with audit and assurance protocols.
- Next is a review of the Department's internal audit controls, audit and compliance activities, and peer review processes.
- Last is an examination of the Department's data and IT assurance mechanisms.

In engaging a third-party to conduct its audit, DOI entrusts this independent auditor to conduct audits of the Department's general-purpose financial statements and closing package financial statements in accordance with auditing standards generally accepted in the U.S. The purpose of such an audit is the expression of an opinion as to whether the general-purpose financial statements that have been prepared by management conform with the U.S. generally accepted accounting principles.

In the U.S. such a third-party audit involves the following types of activities, at a high-level:

- Performing procedures to obtain audit evidence about the amounts and disclosures in the general-purpose financial statements and closing package financial statements
- Performing tests of the accounting records and assessing the risks of materials misstatements of the general-purpose financial statements and closing package financial statements, whether due to an error or fraud, to provide a reasonable basis for opinions
- Evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management

- Evaluating the overall general purpose financial statement and closing package financial statement presentation

In the Independent Auditor's Report, KPMG, LLP noted: "In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the financial position of the U.S. Department of the Interior as of September 30, 2014 and 2013, and its net costs, changes in net position, budgetary resources, and custodial activity for the years then ended in accordance with U.S. generally accepted accounting principles."⁴

The audit of ONRR and the Department of the Interior is conducted according to the Generally Accepted Government Auditing Standards. This framework is used for conducting high quality audits with competence, integrity, objectivity, and independence. These standards are promulgated by the U.S. GAO.

Additional Oversight

In addition to external audits from third-party auditors, DOI and ONRR are subject to additional oversight related to the collection, distribution, and reporting of revenues. The DOI OIG provides oversight in a number of areas. OIG's Office of Audits, Inspections, and Evaluations can examine financial statements to determine if they are presented fairly and in accordance with accounting principles. The Office of Investigations conducts, supervises, and coordinates investigations related to allegations of fraud, waste, abuse, or mismanagement of financial resources or resulting in significant financial loss to DOI.

Ultimately, as members of the Executive Branch, DOI and ONRR are subject to congressional oversight. The U.S. Congress has a constitutional responsibility and right to investigate the actions of the Executive Branch and can compel reports, witnesses, and testimony.

Government Accountability Office (GAO)

The GAO supports the Congress in meeting its Constitutional responsibilities and assists in improving the performance and accountability of the Federal government. Its work is done at the request of congressional committees or subcommittees or is mandated by public laws or committee reports, and includes the following activities:

- Audits agency operations to determine whether Federal funds are being spent efficiently and effectively
- Investigates allegations of illegal and improper activities

⁴ Links to the AFRs for FY 2013 and FY 2014, respectively: <http://www.doi.gov/pfm/afr/2013/upload/DOI-FY-2013-AFR.pdf> and <http://www.doi.gov/pfm/afr/2014/upload/DOI-FY-2014-AFR.pdf>

- Reports on how well government programs and policies are meeting their objectives
- Performs policy analyses and outlining options for congressional consideration
- Issues legal decisions and opinions
- Advises Congress and the heads of executive agencies about ways to make government more efficient, effective, ethical, and responsive
- Publishes a High Risk List (<http://www.gao.gov/highrisk/overview>)
- Work leads to laws and acts that improve government operations
- Maintains and updates Generally Accepted Government Auditing Standards

The GAO Comptroller General issues Generally Accepted Government Auditing Standards (GAGAS). GAGAS, which were first published in 1972, and are commonly referred to as the “Yellow Book,” cover Federal entities and those organizations receiving Federal funds. The most recent 2011 revision of Government Auditing Standards represents a modernized version of the standards, taking into account recent changes in other auditing standards, including international standards.

GAGAS incorporates by reference the American Institute of Certified Public Accountants (AICPA) Statements on Auditing Standards (SAS) and Statements on Standards for Attestation Engagements (SSAE). Auditors may elect to use the International Auditing and Assurance Standards Board (IAASB) standards and the related International Standards on Auditing (ISA) and International Standards on Assurance Engagements (ISAE) in conjunction with GAGAS.

The Auditing Standards Board (ASB) of the AICPA develops its SAS using the ISA as the base standard (ISAs are developed by the IAASB), and modify the base standard only where modifications are deemed necessary to better serve the needs of the US legal and regulatory reasons. As noted above, ASB field work and reporting standards for financial audit and attestation engagements are incorporated by reference into the Yellow Book unless specifically excluded.

GAGAS, part 3.31 (2011), encourages internal auditors who work for management of audited entities to use the Institute of Internal Auditor’s (IIA) International Standards for the Professional Practice of Internal Auditing in conjunction with GAGAS.

GAO is a member of the International Organization of Supreme Audit Institutions’ (INTOSAI) Professional Standards Committee which strives to establish an effective framework for professional standards that correspond to the needs of member SAIs. Only GAO, the IIA, and INTOSAI currently issue standards on performance and compliance audits. GAGAS incorporates compliance auditing in its performance auditing standards; INTOSAI has also issued a separate set of compliance audit standards.



The United States Extractive Industries
Transparency Initiative

DRAFT

Recommendation on Mainstreaming

[THE IA WILL COMPLETE THIS SECTION ONCE THE MSG DOES/DOES NOT RECOMMEND]

Based on available evidence, the USEITI MSG [recommends/does not recommend] that USEITI pursues mainstreaming. There are X key reasons for this recommendation.

Appendix 1 – Stakeholder Interview Notes

Interviewees

The IA interviewed 9 MSG members and alternates from each of the three sectors. The IA invited 11 MSG Members/Alternates from across the three sectors. The following 9 members are those who agreed to participate.

Sector	Name	Organization
Civil Society	Danielle Brian	Project on Government Oversight
Civil Society	Keith Romig, Jr.	United Steelworkers
Industry	Veronika Kohler	National Mining Association
Industry	Phil Denning	Shell Oil Company
Industry	Aaron Padilla	American Petroleum Institute
Government	Greg Gould	Department of the Interior
Government	Curtis Carlson	Department of the Treasury
Government	Mike Matthews	State of Wyoming – Department of Audit
Government	Jim Steward	Department of the Interior

Responses

The interviews covered the individuals' goals for USEITI, the U.S. track record of reconciliation, and evaluating the data quality of USEITI as they related to mainstreaming. Key takeaways on those subjects are included below. They are organized by sector.

Topic	Sector	Takeaway
Goals for	CSO	CSO representatives spoke of a range of goals for USEITI,

USEITI

including: consolidating already available public data in an easily accessible place, creating a meaningful contextual narrative, revealing new information that had not previously been publicly available, and representing specific constituents.

CSO is split on how reconciliation fits into their goals. A view was expressed that reconciliation was inherently comparing company data to company data (i.e., government data was just company data provided to the government by the company). Another viewed reporting and reconciliation as a positive with the exception of tax reporting and reconciliation.

Neither saw mainstreaming specifically fitting into their goals for USEITI.

Goals for
USEITI

Government

Government expressed a range of goals, including: educating the public, participating and leading on an international stage, creating something useful for public and the government, improving government operations, achieving a workable solution within U.S. laws, and achieving validation.

Government did not see reconciliation as a part of their goals, a value add for the U.S. public, a valuable use of taxpayer money, an achievable reality for taxes, or valuable to USEITI as a whole.

Mainstreaming was seen as the only feasible way for the U.S. to achieve validation, it's viewed as easier, and likely to increase participation. They see audits and controls in the U.S. as already achieving the purpose of reconciliation as laid out in USEITI.

Goals for
USEITI

Industry

Industry stated goals for USEITI of increasing transparency and data accessibility to the public, increasing public understanding and confidence, articulating the current state of U.S. management as a model internationally, and building trust with the other sectors.

Industry did not see reconciliation as fitting materially into

those goals. Responses noted it as a check-the-box exercise and a waste of time.

Mainstreaming is seen as essential by industry, and merited based on the current systems in place. Mainstreaming would save taxpayer money, reduce the burden on companies, and free up time to undertake activities more useful for the American public.

Track Record of Reconciliation	CSO	CSO saw the track record of reconciliation as strong with regards to non-tax revenue but as weak and lacking reporting and reconciliation of taxes.
Track Record of Reconciliation	Government	<p>Government saw the track record of revenues as very strong given the U.S. system of audits, controls, checks, and balances. They viewed tax reporting and reconciliation as the biggest weakness given the legal prohibitions against disclosure and the lack of company involvement.</p> <p>Government viewed the decline in the number of companies as an effect of broader market forces (the decline in commodity prices and company bankruptcies) not specifically reflective of USEITI.</p>
Track Record of Reconciliation	Industry	<p>Industry saw the track record of reconciliation in the U.S. as strong given audits, controls, and systems in place. Reconciliation helped to prove in another way that the numbers match and that the U.S. has already mainstreamed.</p> <p>Industry didn't view the decline in the number of companies as important; they saw reconciliation as having achieved its purpose of showing the dollars match. They also did not view it as decreasing the amount of information available given data disclosures.</p>
Evaluating U.S. Data Quality	CSO	<p>CSO saw the strength of U.S. data in government disclosure and the promise of government project level disclosure, even if it's upon request. CSO also noted that U.S. data was up to date and reliable.</p> <p>CSO viewed the lack of tax reporting and reconciliation and</p>

		the rescinding of Dodd-Frank 1504 as the fatal weakness of U.S. data quality.
Evaluating U.S. Data Quality	Government	<p>Government saw the strength of U.S. data in it being up-to-date, reliable due to the stringent system of audits and controls in the United States, and comprehensive for nontax revenues. They noted that USEITI has achieved an unprecedented level of disclosure and that contextual narrative information helped to make data comprehensible.</p> <p>They viewed the lack of tax disclosure, given U.S. laws, as the chief weakness in U.S. data comprehensiveness and the rescinding of Dodd-Frank 1504 as fatal to U.S. hopes of achieving that kind of disclosure, and with it mainstreaming.</p>
Evaluating U.S. Data Quality	Industry	<p>Industry articulated an extensive list of U.S. data quality strengths, including: public accessibility, level of disaggregation, up-to-date nature, and reliability based on controls and audits, contextual explanations of data, and comprehensive release of appropriate data.</p> <p>Industry generally saw less cause for concern with the rescinding of Dodd-Frank 1504 and articulated cases for how the U.S. can mainstream given current controls and disclosures. They saw limited influence on U.S. companies due to EU directives related to disclosure.</p>

Appendix 2 – Relevant U.S. Laws & Regulations

Select Laws Establishing the Fiscal Regime for Extractive Industries in the U.S.

Law Name and Code	Description	Relevant Lands or Waters	Relevant Natural Resources
<u>The General Mining Law of 1872 As Amended</u> ⁵ (30 USC § 29 and 43 CFR 3860)	Provides the right to patent, meaning transfer to private ownership, federal land and natural resources for mining. Since October 1, 1994, Congress has imposed a budget moratorium on any new mineral patent applications.	Federal Onshore (public domain)	Locatable hard rock minerals (e.g., gold, silver, and copper)
<u>Leasing of Allotted Lands for Mining Purposes Act of 1909</u> ⁶ (25 USC § 396 and 25 CFR 212)	States that all lands allotted to Indians, except those made to members of the Five Civilized Tribes and Osage, may be leased for mining purposes for any term of years as may be deemed advisable by the Secretary of the Interior.	Indian (allotted)	Not specified
<u>Mineral Leasing Act of 1920 As Amended</u> ⁷ (30 USC 181 et seq.)	Creates a system of leasing mineral resources on federal lands for extraction, and grants the Bureau of Land Management (BLM) authority to administer mineral leasing.	Federal Onshore (public domain)	Coal, oil, gas, oil or gas shale, sodium, potassium, phosphate, sulfur, and gilsonite
<u>Indian Mineral Leasing Act of 1938</u> ⁸ (25 USC § 396a et seq.)	Opens un-allotted lands within any Indian reservation for leasing for mining purposes by authority of the tribal council and approval from the Secretary of the Interior.	Indian (tribal)	Not specified
<u>Mineral Leasing Act for</u>	Extends Mineral Leasing Act of 1920 and authority of the Secretary of the Interior	Federal onshore	Coal, oil, gas, oil or gas shale,

⁵ http://apps2.eere.energy.gov/wind/windexchange/wind_installed_capacity.asp

⁶ <http://www.gpo.gov/fdsys/pkg/USCODE-2011-title25/pdf/USCODE-2011-title25-chap12-sec396.pdf>

⁷ http://www.blm.gov/pddata/etc/media/lib/blm/wo/Communications_Directorate/legislation/Par.23212.File.dat/mla_1920_amendments1.pdf

⁸ <http://www.gpo.gov/fdsys/pkg/USCODE-2009-title25/html/USCODE-2009-title25-chap12.htm>

Law Name and Code	Description	Relevant Lands or Waters	Relevant Natural Resources
<u>Acquired Lands of 1947</u> ⁹ (30 USC § 351 et seq. and 43 CFR 3420)	to govern mineral leasing on federal acquired lands.	(acquired)	sodium, potassium, phosphate, sulfur, and gilsonite
<u>Mineral Materials Act of 1947</u> ¹⁰ (30 USC § 601 et seq.)	<u>Also known as the Common Varieties Act, regulates the sale and permitting of the most common hardrock minerals, in place of the General Mining Law of 1872.</u>	Federal onshore	Common hardrock minerals (e.g., sand, gravel, stone, pumice, cinders, etc.)
<u>Submerged Lands Act of 1953</u> ¹¹ (43 USC § 1301 et seq.)	<u>Recognizes the states' rights to the submerged navigable lands within their boundaries as well as the marine waters within their boundaries, often defined as three geographical miles from the coastline.</u>	State offshore	All natural resources
<u>Outer Continental Shelf Lands Act of 1953 As Amended</u> ¹² (43 USC § 1331)	Gives the Secretary of the Interior responsibility for administering mineral exploration and development and other energy resources on the Outer Continental Shelf, subject to environmental safeguards. Mandates receipt of fair market value for mineral leasing.	Outer Continental Shelf	Oil, gas, and other minerals
<u>Geothermal Steam Act of 1970</u> ¹³ (30 USC § 1001, et seq.)	Allows the leasing of federal land under BLM's administration for geothermal resource development, excluding prohibited lands.	Federal onshore	Geothermal
<u>Mining and Minerals Policy</u>	Amends the Mining Act of 1920. Establishes the national interest to	Federal onshore	All natural resources

⁹ http://www.blm.gov/pdata/etc/medialib/blm/wo/Communications_Directorate/legislation/Par.23212.File.dat/mla_1920_amendments1.pdf#page=56

¹⁰ [http://legcounsel.house.gov/Comps/Act%20Of%20July%2031.%201937-\(Materials%20Act%20Of%201947\).pdf](http://legcounsel.house.gov/Comps/Act%20Of%20July%2031.%201937-(Materials%20Act%20Of%201947).pdf)

¹¹ <http://www.boem.gov/uploadedFiles/submergedLA.pdf>

¹² <http://www.gpo.gov/fdsys/pkg/USCODE-2010-title43/html/USCODE-2010-title43-chap29-subchapIII.htm>

¹³ <http://www.gpo.gov/fdsys/pkg/STATUTE-84/pdf/STATUTE-84-Pg1566.pdf>

Law Name and Code	Description	Relevant Lands or Waters	Relevant Natural Resources
<u>Act of 1970</u> ¹⁴ (30 USC § 21a)	develop a domestic private enterprise mining industry while addressing adverse environmental impacts.		
<u>Federal Coal Leasing Amendments Act (FCLAA) of 1976</u> ¹⁵ (90 STAT 1083)	Amends Section 2 of the Mineral Leasing Act of 1920. Requires all public lands available for coal leasing to be leased competitively, the government to only accept lease bids equal to or greater than fair market value, the consolidation of leasing into logical mining units, lease holders to continually operate, and other measures.	Federal onshore	Coal
<u>Surface Mining Control and Reclamation Act (SMCRA) of 1977</u> ¹⁶ (30 USC § 1201 et seq.)	Creates the Office of Surface Mining, Reclamation, and Enforcement (OSMRE) to establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations, under which OSMRE is charged with balancing the nation's need for continued domestic coal production with protection of the environment; requires coal mine owners to post bonds as insurance for reclaiming the land after current mining operations, and requires them to pay into the Abandoned Mine Reclamation Fund, a fund intended to address mines abandoned prior to 1977.	Federal onshore	Coal
<u>Federal Oil and Gas Royalty Management Act (FOGRMA) of 1982</u> ¹⁷ (30 USC § 1701 et	Grants the Secretary of the Interior authority for managing and collecting oil and gas royalties from leases on federal and Indian lands.	Federal onshore, Indian, and Outer Continental Shelf	Oil and gas

¹⁴ <http://www.gpo.gov/fdsys/pkg/USCODE-2011-title30/pdf/USCODE-2011-title30-chap2-sec21a.pdf>

¹⁵ <http://www.gpo.gov/fdsys/pkg/STATUTE-90/pdf/STATUTE-90-Pg1083.pdf>

¹⁶ <http://www.gpo.gov/fdsys/pkg/STATUTE-91/pdf/STATUTE-91-Pg445.pdf>

¹⁷ http://www.boem.gov/uploadedFiles/BOEM/Oil_and_Gas_Energy_Program/Leasing/Outer_Continental_Shelf/Lands_Act_History/federal%20og%20royalty%20mgmt.pdf

Law Name and Code	Description	Relevant Lands or Waters	Relevant Natural Resources
seq.)			
Indian Mineral Development Act of 1982 ¹⁸ (25 USC §§2101-2108)	Provides Indian tribes with flexibility in the development and sale of mineral resources, including opportunities to enter into joint venture agreements with mineral developers.	Indian (tribal)	Oil and gas, coal, geothermal, and other mineral resources
Federal Onshore Oil and Gas Leasing Reform Act (FOOGLRA) of 1987 ¹⁹ (30 USC § 181 et seq.)	Amendment to the Mineral Leasing Act of 1920. Gives the Forest Service the authority to proactively offer leases for oil and gas on National Forest System lands provided environmental and other land-use regulations are met. BLM largely administers leasing on these lands.	Federal onshore	Oil and gas
Federal Oil and Gas Royalty Simplification and Fairness Act (RSFA) of 1996 ²⁰ (30 USC § 1701 et seq.)	Improves royalty management from federal and Outer Continental Shelf oil and gas leases.	Federal onshore and Outer Continental Shelf	Oil and gas
Energy Policy Act (EPA) of 2005 ²¹ (42 USC § 13201 et seq.)	Addresses energy production in the U.S., including the production, transportation, or transmission of energy on the Outer Continental Shelf waters from sources other than oil and gas (e.g., wind energy); incentives for oil and gas development; and provisions to access oil and gas resources on federal lands.	Federal onshore and Outer Continental Shelf	Oil, gas, coal, wind, solar, hydropower, and geothermal
Gulf of Mexico Energy Security Act (GOMESA) of 2006 ²² (120 Stat. 2922)	Opens 8.3 million acres in the Gulf of Mexico for oil and gas leasing, shares leasing revenues with gulf producing states and the Land & Water Conservation Fund, and bans oil and gas leasing within	Outer Continental Shelf	Oil and gas

¹⁸ <http://www.gpo.gov/fdsys/pkg/STATUTE-96/pdf/STATUTE-96-Pg1938.pdf>

¹⁹ <http://www.gpo.gov/fdsys/pkg/USCODE-2011-title30/pdf/USCODE-2011-title30.pdf>

²⁰ http://www.onrr.gov/laws_r_d/PubLaws/PDFDocs/rsfa.pdf

²¹ <http://www.gpo.gov/fdsys/pkg/BILLS-109hr6enr/pdf/BILLS-109hr6enr.pdf>

²² <http://www.boem.gov/Oil-and-Gas-Energy-Program/Energy-Economics/econ/GOMESA-pdf.aspx>

Law Name and Code	Description	Relevant Lands or Waters	Relevant Natural Resources
	125 miles off the Florida coastline in the Eastern Planning Area and a portion of the Central Planning Area until 2022.		

There are other laws governing natural resources and extractive companies' operations. Some of these laws require companies to pay fees. Violating some of these laws can also result in companies paying fines.

Select Laws Resulting in Fines or Fees for Extractive Industries Companies in the U.S.

Law Name and Code	Description	Relevant Lands	Relevant Natural Resources
<u>Federal Land Policy and Management Act (FLPMA) of 1976</u> ²³ (43 USC §1701 et seq.)	Requires BLM to administer federal lands using a land use planning framework that includes no unnecessary or undue degradation, multiple-use, sustained yield, considerations for present and future generations, and public planning. Requires receipt of fair market value for use of federal lands and resources.	Federal onshore and Indian	All natural resources
<u>Clean Air Act (CAA) of 1970</u> ²⁴ (42 USC §7401 et seq.)	Outlines steps that federal agencies, state and local governments, and industry must take to decrease air pollution. Oil and gas wells are exempt from legal aggregation, whereby the emissions from small sites that are connected, in close proximity, or under shared ownership are added together and regulated as "stationary sources" if they emit or could emit 100 tons per year of a pollutant.	All lands	All natural resources, except when oil and gas are exempted
<u>Clean Water Act (CWA) of 1972</u> ²⁵ (33 USC §1251 et seq.)	Establishes regulatory framework to protect water quality and monitor discharges of pollutants into waters in the U.S. The U.S. Environmental Protection	All lands	All natural resources, except when oil and gas are

²³ <http://www.boem.gov/Oil-and-Gas-Energy-Program/Energy-Economics/econ/GOMESA-pdf.aspx>

²⁴ <http://www.gpo.gov/fdsys/pkg/USCODE-2008-title42/pdf/USCODE-2008-title42-chap85.pdf>

²⁵ <http://www.gpo.gov/fdsys/pkg/USCODE-2010-title33/pdf/USCODE-2010-title33-chap26.pdf>

Law Name and Code	Description	Relevant Lands	Relevant Natural Resources
	Agency does not require National Pollutant Discharge Elimination System (NPDES) permits for uncontaminated storm water discharges from oil and gas exploration, production, processing or treatment operations, transmission, or drill site preparation. ²⁶		exempted
<u>Safe Drinking Water Act (SDWA) of 1974²⁷ (42 USC 300f-300j)</u>	<u>Protects public health by regulating the nation's public drinking water supply and its sources. As of the 2005 Energy Policy Act, hydraulic fracturing fluids are exempt from underground injection control permits unless diesel fuel is used in the extraction process.</u> ²⁸	All lands	All natural resources, except when oil and gas are exempted
<u>Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980²⁹ (42 USC 9601-9675)</u>	<u>Provides a federal "superfund" to clean up uncontrolled or abandoned hazardous-waste sites as well as accidents, spills, and other emergency releases of pollutants and contaminants into the environment, and gives the U.S. Environmental Protection Agency the power to seek out those parties responsible for any release and assure their cooperation in the cleanup.</u>	All lands	All natural resources, except when oil and gas are exempted
<u>Endangered Species Act (ESA) of 1973³⁰ (16 USC § 1531 et seq.)</u>	<u>Protects and recovers imperiled species and the ecosystems upon which they depend.</u>	All lands	All natural resources
<u>Marine Mammal</u>	<u>Prohibits, with certain exceptions, the "take" of marine mammals in U.S. waters</u>	All lands	All natural resources,

²⁶ U.S. Environmental Protection Agency, "Regulation of Oil and Gas Construction Activities," 9 March 2009, <http://water.epa.gov/polwaste/npdes/stormwater/Regulation-of-Oil-and-Gas-Construction-Activities.cfm>

²⁷ <http://www.epw.senate.gov/sdwa.pdf>

²⁸ U.S. Environmental Protection Agency, "Regulation of Hydraulic Fracturing Under the Safe Drinking Water Act," http://water.epa.gov/type/groundwater/uic/class2/hydraulicfracturing/wells_hydroreg.cfm

²⁹ <http://www.epw.senate.gov/cercla.pdf>

³⁰ <http://www.nmfs.noaa.gov/pr/pdfs/laws/esa.pdf>

Law Name and Code	Description	Relevant Lands	Relevant Natural Resources
<u>Protection Act of 1972</u> ³¹ (16 USC 1361 et seq.)	<u>and by U.S. citizens on the high seas, and the importation of marine mammals and marine mammal products into the U.S.</u>		except when oil and gas are exempted

There are many other laws with which extractive industries companies must comply. DOI, the Environmental Protection Agency (EPA), the National Oceanic and Atmospheric Administration (NOAA), and other federal agencies' websites contain more comprehensive lists of related laws that they enforce:

- DOI BOEM: <http://www.boem.gov/Regulations/BOEM-Governing-Statutes.aspx>
- DOI BSEE: <http://www.bsee.gov/Regulations-and-Guidance/BSEE-Governing-Statutes/>
- DOI BLM: <http://www.blm.gov/wo/st/en/info/regulations.html>
- EPA: <http://www2.epa.gov/laws-regulations/laws-and-executive-orders#majorlaws>
- NOAA: http://www.nmfs.noaa.gov/ole/about/what_we_do/laws.html

Laws, Regulations, Professional Standards, and Regulatory Organizations

Law, Regulation, Professional Standard, or Regulatory Organization	Acronym	Description
US Generally Accepted Accounting Principles	GAAP	GAAP is the standardized accounting rule set for federal government entities, as well as publicly traded or private companies domiciled in the United States or for other international jurisdictions where GAAP is required. GAAP enables stakeholders of companies to compare accounting statements for different companies and industries by using a standard methodology. Because of various accounting and financial reporting standards, the federal government tailors GAAP to meet its unique characteristics and circumstances.
Internal Revenue	IRS	The IRS is the revenue service of the US Federal Government. The IRS is a bureau within the Department of the Treasury, and

³¹ <http://www.nmfs.noaa.gov/pr/pdfs/laws/mmpa.pdf>

Law, Regulation, Professional Standard, or Regulatory Organization	Acronym	Description
Service		is under the immediate direction of the Commissioner of Internal Revenue. The IRS is responsible for collecting taxes and the administration of the Internal Revenue Code.
Securities and Exchange Commission Act	SEC	The Securities Exchange Act of 1934 established the SEC to govern the securities industry. By regulation of the SEC, public companies must have their financial statements prepared in accordance with GAAP or International Financial Reporting Standards (IFRS), as issued by the International Accounting Standards Board (IASB), and audited each year by an independent registered public accounting firm. During an audit, the independent auditor examines, on a test basis, evidence supporting the amounts and disclosures in the financial statements. The auditor provides a written opinion on whether the company's financial statements are, in all material respects, fairly presented in accordance with GAAP or IFRS.
Sarbanes-Oxley Act	SOX	SOX requires all financial reports for large public companies (those with a market capitalization of \$75 million and referred to as "accelerated" filers and those subject to SEC reporting requirements) to include an Internal Control over Financial Reporting (ICFR) certification by company management and an ICFR opinion by the independent auditor as of the specified balance sheet date Congress passed SOX in 2002, in part, to further protect investors from fraudulent accounting activities by public companies.
Public Company Accounting Oversight Board	PCAOB	PCAOB exists to confirm that the registered public accounting firms are auditing the financial statements and ICFR of public companies in accordance with auditing standards established and adopted by the PCAOB. The PCAOB is a nonprofit corporation established by Congress to oversee the audits of public companies in order to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports.
American Institute of Certified Public	AICPA	AICPA requires independent auditors to comply with the audit standards issued by the AICPA for the audits of all companies that are not subject to SEC jurisdiction. The AICPA has released

Law, Regulation, Professional Standard, or Regulatory Organization	Acronym	Description
Accountants		mandatory audit and attest standards for conducting, planning, and reporting on audit and attestation engagements of private companies.
Financial Accounting Standards Board	FASB	The FASB is a private, nonprofit organization with a primary purpose of establishing and improving GAAP within the US. The SEC designated the FASB as the organization responsible for setting accounting standards for public companies in the US. The FASB created a council known as the Private Company Council (PCC). The PCC and the FASB work jointly to mutually agree on a set of criteria to decide whether and when alternatives within GAAP are warranted for private companies.
International Financial Reporting Standards	IFRS	IFRS are a set of accounting standards developed by the International Accounting Standards Board (IASB) that is intended to establish a consistent global standard for the preparation of public company financial statements or those entities domiciled outside the US. The IASB, based in London, is an independent accounting standard-setting body. It is funded by contributions from major accounting firms, private financial institutions, industrial companies, central and development banks, national funding regimes, and other international and professional organizations throughout the world. Approximately 120 nations and reporting jurisdictions permit or require IFRS for domestic listed companies. The SEC is currently considering whether it will incorporate IFRS into the financial reporting system for US issuers. There is currently no estimated date for when such a decision might be made.
Generally Accepted Auditing Standards	GAAS	GAAS are the minimum standards for auditing private companies and come in three categories: general standards, standards of fieldwork, and standards of reporting. PCAOB has adopted these standards for public (traded on the open market) companies. Each audit engagement may require audit work beyond what is specified in the GAAS in order to provide a written opinion on whether a set of financial statements is, in all material respects, fairly presented in accordance with

Law, Regulation, Professional Standard, or Regulatory Organization	Acronym	Description
		GAAP.
Generally Accepted Government Auditing Standards	GAGAS	GAGAS provides a framework for conducting high quality audits of government resources and programs with competence, integrity, objectivity, and independence. Government auditing is an essential tool that allows legislators, oversight bodies, those charged with governance, and the public to hold government agencies accountable. GAGAS is used by auditors of government entities, entities that receive government awards, and other audit organizations performing audits. The US Government Accountability Office (GAO) is responsible for maintaining and updating GAGAS. GAO is an independent, nonpartisan agency that works for Congress. Often called the “congressional watchdog,” GAO investigates the Executive Branch of the federal government.
Chief Financial Officers Act of 1990 (P.L. 101-576)	CFO Act	The CFO Act of 1990 established a leadership structure, provided for long range planning, required audited financial statements, and strengthened accountability reporting in the federal government. The aim of the CFO Act is to improve financial management systems and information. The CFO Act also requires the development and maintenance of agency financial management systems that comply with the following: applicable accounting principles, standards, and requirements; internal control standards; and requirements of the Office of Management and Budget (OMB), the US Department of the Treasury, and other agencies. Reports of audits conducted under the CFO Act are done on an annual basis and must be completed by November 15 following the close of the fiscal year (September 30) for which the financial statements were prepared.
Government Management Reform Act of 1994 (P.L. 103-356)	GMRA	GMRA requires the independent, external audit of agency financial statements and the preparation and audit of a consolidated financial statement for the federal government on an annual basis.
OMB Circular A-	A-136	OMB provides annual updates to Circular No. A-136 which

Law, Regulation, Professional Standard, or Regulatory Organization	Acronym	Description
136 (Financial Reporting Requirements)		provides federal guidance for agency and government-wide financial reporting. This Circular establishes a central point of reference for all federal financial reporting guidance for the Executive Branch departments, agencies, and entities required to submit an Agency Financial Report (AFR) under the CFO Act and the GMRA. In compliance with the CFO Act, the GMRA, and Circular A-136, DOI publishes an AFR every fiscal year.
Federal Financial Management Improvement Act of 1996 (P.L. 104-208)	FFMIA	FFMIA requires federal agencies to implement and maintain financial management systems that substantially comply with federal financial management systems requirements, applicable federal accounting standards, and the US Standard General Ledger at the transactional level.
Federal Information Security Management Act of 2002 (P.L. 107-347)	FISMA	FISMA requires federal agencies to provide information security controls commensurate with the risk and potential harm of not having those controls in place. FISMA also requires the heads of agencies and the Office of Inspector General (OIG) to conduct annual IT security reviews and perform annual independent evaluations of effectiveness of the agency's security programs and systems and report their results to OMB and Congress.
Federal Accounting Standards Advisory Board	FASAB	FASAB was established in October of 1990 by the Secretary of the Treasury, the Director of OMB, and the US Comptroller General. This board possesses the legal authority under various laws to establish accounting and financial reporting standards for the federal government. In October 1999, the AICPA recognized FASAB as the board that promulgates generally accepted accounting principles for federal entities.
OMB Circular No. A-123	A-123	A-123 prescribes management's responsibilities for establishing and maintaining effective internal controls and financial management systems that meet the objectives of the Federal Managers' Financial Integrity Act.
OMB Bulletin 14-02 (Audit Requirements)		OMB Bulletin No. 14-02, issued on October 21, 2013, establishes minimum requirements for independent audits of federal financial statements. This bulletin implements the

Law, Regulation, Professional Standard, or Regulatory Organization	Acronym	Description
for Federal Financial Statements)		audit provisions of the CFO Act of 1990, as amended, the GMRA, and FFMIA.

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Appendix 3 – In-Scope Company Audit

Company	Public / Private	Entity type	Disclosure of Beneficial Owners	Applicable Accounting Standards	Form 10-K <i>Or</i> Annual Report	Form 20-F	Form 40-F	Publicly Available Financial Statements	External Auditors
Alpha Natural Resources, Inc.	Public	Corporation	Yes	US GAAP	✓	•	•	Yes	KPMG
Anadarko Petroleum Corporation	Public	Corporation	Yes	US GAAP	✓	•	•	Yes	KPMG
Apache Corporation	Public	Corporation	Yes	US GAAP	✓	•	•	Yes	E&Y
Arch Coal, Inc.	Public	Corporation	Yes	US GAAP	✓	•	•	Yes	E&Y
Arena Energy, LLC	Private	Limited partnership	Yes		•	•	•	No	Unavailable
BHP Billiton LTD	Public	Foreign corporation (Australia)	Yes	IFRS	✓	✓	•	Yes - Annual Report	KPMG
BOPCO, LP	Private	Limited partnership	No		•	•	•	No	Unavailable
BP America Inc.	Public	Subsidiary of foreign corporation (England)	Yes	IFRS	✓	✓	•	Parent Only*	E&Y
Chevron U.S.A. Inc.	Public	Corporation	Yes	US GAAP	✓	•	•	Yes - Annual Report	PWC
Cimarex Energy Co.	Public	Corporation	Yes	US GAAP	✓	•	•	Yes	KPMG
Cloud Peak Energy Resources, LLC	Public	Corporation	Yes	US GAAP	✓	•	•	Yes	PWC
Concho Resources, Inc.	Public	Corporation	Yes	US GAAP	✓	•	•	Yes	Grant Thornton
ConocoPhillips	Public	Corporation	Yes	US GAAP	✓	•	•	Yes	E&Y
Continental Resources, Inc.	Public	Corporation	Yes	US GAAP	✓	•	•	Yes	Grant Thornton



The United States Extractive Industries
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Devon Energy Corporation	Public	Corporation	Yes	US GAAP	✓	•	•	Yes	KPMG
Encana Corporation	Public	Foreign corporation (Canada)	Yes	US GAAP	✓	•	✓	Yes - Annual Report	PWC
Energy XXI	N/A	Foreign corporation (Bermuda)	Yes	US GAAP	✓	•	•	Yes	BDO USA
ENI Petroleum	Public	Foreign corporation (Italy)	Yes	IFRS	✓	•	•	Yes	Unavailable
EOG Resources, Inc.	Public	Corporation	Yes	US GAAP	✓	•	•	Yes	Deloitte & Touche
EPL Oil & Gas, Inc.	Public	Subsidiary of foreign corporation (Italy)	Yes	US GAAP	✓	•	•	Parent Only*	BDO USA
Exxon Mobil Corporation	Public	Corporation	Yes	US GAAP	✓	•	•	Yes	PWC
Fieldwood Energy LLC	Private	Limited liability company	Yes		•	•	•	No	Unavailable
Freeport-McMoRan Inc.	Public	Corporation	Yes	US GAAP	✓	•	•	Yes	E&Y
Hess Corporation	Public	Corporation	Yes	US GAAP	✓	•	•	Yes	E&Y
Jonah Energy LLC	Private	Limited liability company	Yes		•	•	•	No	Unavailable
Linn Energy, LLC	Public	Limited liability company	Yes	US GAAP	✓	•	•	Yes	KPMG
LLOG Exploration Company LLC	Private	Subsidiary of limited liability company	Yes		•	•	•	No	Unavailable
Marathon Oil Company	Public	Corporation	Yes	US GAAP	✓	•	•	Yes	PWC
Murphy Oil USA Inc.	Public	Corporation	Yes	US GAAP	✓	•	•	Yes	KPMG
Noble Energy, Inc.	Public	Corporation	Yes	US GAAP	✓	•	•	Yes	KPMG
Oxy USA, Inc.	Public	Corporation	Yes	US GAAP	✓	•	•	Parent Only*	KPMG
Peabody Energy Corporation	Public	Corporation	Yes	US GAAP	✓	•	•	Yes	E&Y
QEP Resources, Inc.	Public	Corporation	Yes	US GAAP	✓	•	•	Yes	PWC
Red Willow Offshore, LLC	Private	Limited liability company, Southern UTE Indian Tribe	No		•	•	•	No	Unavailable
Shell E&P Company	Public	Foreign corporation (UK)	Yes	IFRS	✓	✓	•	Yes - Annual Report	PWC
Statoil Gulf of Mexico	Public	Foreign corporation (Norway)	Yes	IFRS	✓	✓	•	Yes - Annual Report	Unavailable



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Stone Energy Corporation	Public	Corporation	Yes	US GAAP	✓	.	.	Yes	E&Y
Talos Energy LLC	Private	Limited Liability Company	Yes		.	.	.	No	Unavailable
Ultra Resources Inc.	Public	Foreign corporation (Canada)	Yes	US GAAP	✓	.	.	Yes	E&Y
W&T Offshore, Inc.	Public	Corporation	Yes	US GAAP	✓	.	.	Yes	E&Y
WPX Energy, Inc.	Public	Corporation	Yes	US GAAP	✓	.	.	Yes	E&Y

Note: Annual report and 10-Ks are accessible as of April 6, 2017 and link to 2015 reports, the most recent year for which all companies (or parent companies) have filed reports.

Acronyms of auditors are as follows: Ernst & Young (E&Y) and PricewaterhouseCoopers (PWC)

From the Approved March 2016 MSG meeting when the EITI document on Mainstreaming was distributed as a meeting material:

4. Subcommittee and Work Group Planning

Mr. Gould asked the Reconciliation and Reporting Work Group to explore how the EITI International Board's recently announced "mainstreaming" policy could be applied in the US context.

Mr. Gould suggested that the International Board's focus on "mainstreaming" may allow for some efficiencies in reporting that could allow for consideration of other issues, such as defining materiality.

Ms. Milin suggested that the "mainstreaming" approach suggested by the International Board could be a more effective approach to conserving resources than trying to create a new, different sampling approach that may pose validation issues.

Members of the industry and government sectors expressed support for including a visualization about the US budget, audit, and assurance processes in order to support USEITI's case for future mainstreaming of reporting.

A CSO sector member suggested that state opt-in is relevant for "mainstreaming" efforts because it involves enhancing collaboration between agencies and sharing data in cost-efficient ways. She suggested that setting up forums for peer-to-peer learning could be useful to state opt-in. Another CSO sector member posited that universities may be able to set up those sorts of forums.

From the June 2016 Approved Minutes:

The purpose of the meeting was to receive updates from the Independent Administrator on various aspects of developing the online report and executive summary for the 2016 USEITI Report and how to move forward with these; discuss communications and state and tribal opt-in efforts; and discuss the prospects for proceeding with mainstreaming of USEITI reporting into US government processes, the inclusion of beneficial ownership information, and validation of US EITI Reports.

The MSG approved the undertaking of a pre-feasibility exercise for mainstreaming of USEITI.

The Secretariat was charged with Working with the International EITI Secretariat and the IA to conduct a prefeasibility exercise for mainstreaming of USEITI. Report on results at November MSG meeting.

3. Mainstreaming

John Harrington presented information about the Reporting and Reconciliation Work Group's due diligence and discussions around the new EITI option to pursue mainstreaming of reporting. He explained that an increasing number of legal mandates coming into place in the United States, European Union, and other jurisdictions replicate some of the EITI requirements. So, the revised EITI Standard introduces the option for countries to include the reporting of EITI-related information through regular

government channels as opposed to a stand-alone EITI report. Mainstreaming could also mean that some core elements of EITI, such as reconciliation of reported revenue, would no longer be required. Mr. Harrington reviewed the principles underpinning mainstreaming, the procedures for mainstreamed disclosures, and the uncertainties for USEITI around participating in mainstreaming. Mr. Harrington noted that the EITI Board Chair indicated that the Board is intending to initiate mainstreaming with countries that can more fully meet all of the requirements in the EITI Standard, meaning that the US likely would not be considered in the first batch.

From Mr. Bartlett: The full feasibility study would be much more extensive. The pre-feasibility exercise could likely focus on scoping and likely hurdles and be prepared by the next MSG meeting in November. Another consideration for USEITI is that, with adapted implementation approved for the first two reports, a mainstreaming feasibility study could choose to focus only on Federal revenues or it could include state and tribal revenues given the need to report these beginning with the third USEITI report.

Following the presentation, MSG members asked the following questions and made the following comments:

- What are the advantages and disadvantages of mainstreaming?
 - o It would allow USEITI to avoid the cost of reconciliation and instead dedicate those resources to making the contextual narrative and overall reporting more robust. It could also provide an incentive for other countries to pursue strengthening their controls to a similar level as the US so that they can also forgo reconciliation.
 - o John Mennel, IA team member, added: Mainstreaming would also make the EITI process more sustainable in the sense that integrating reporting into normal government functioning is more likely to persist than a standalone EITI reporting process. Additionally, the US likely saw some benefits from the reconciliation process in 2015 in terms of cleaning up data, but the costs of reconciliation likely outweigh those benefits over time.
 - o Sam Bartlett, International EITI Secretariat, also suggested that mainstreaming could have a public benefit in that it makes up-to-date information more readily and easily publicly accessible. For example, an internet search for royalty payments in their state should yield accurate data.

The concept of mainstreaming has been part of the thinking for USEITI from the beginning since EITI implementation was intended to spur greater transparency across the Department of the Interior. The inclusion of mainstreaming in the 2016 EITI Standard allows the US to formalize that greater transparency.

- The Office of Natural Resources Revenue (ONRR) already undertakes significant effort to verify data with payers. The EITI reconciliation process could be seen as duplicative of this ONRR verification process.

o Mainstreaming could obviate the need for reconciliation. ☐ Comment from Pat Field, facilitator: We will need to clarify whether mainstreaming applies to all aspects of reporting or only to some aspects.

From the November 2016 Meeting:

Review of DOI Audit Procedures

☐ Initially, the review of DOI audit procedures was also for purposes of determining the potential for mainstreaming. USEITI should include some linkages to that issue in the report.

K. Mainstreaming

John Cassidy, IA team member from Deloitte, presented the IA's assessment of the feasibility of mainstreaming. He commented that mainstreaming is based on an idea that drafting an annual EITI report may not be the best use of time for every country; it might be preferable to automate the process and make it part of the everyday business of the government and companies. He clarified that mainstreaming does not change what the EITI standard requires; rather, it is another way of meeting the requirement.

Mr. Cassidy reviewed the various steps for mainstreaming, noted that from now into next year the MSG is focused on studying the feasibility of mainstreaming, reviewed next steps in the IA's feasibility study, reviewed current processes and procedures related to mainstreaming in the U.S., and suggested a number of potential areas for the U.S. to improve its EITI performance and potential for success with mainstreaming.

Potential areas for improvement include doing more to showcase unilateral disclosure already occurring in the U.S., filling the gap on tax and project-level reporting through SEC 1504, and better explaining the audit requirements that currently exist. He concluded by noting that a decision on mainstreaming did not need to be made at the present MSG meeting.

MSG members made the following comments and asked the following questions on the presentation; direct responses are indicated in italics, with the speaker identified as appropriate:

☐ I thought the MSG had agreed to conduct a prefeasibility study, not a feasibility study.

o Mr. Gould: The MSG did discuss a pre-feasibility study. ONRR opted to have the IA start on a full feasibility study in order to keep moving forward if USEITI is to pursue mainstreaming. If there are concerns about this, the MSG can discuss this further.

o IA team member: Upon review, the IA determined that the differences between a pre-feasibility study and a full feasibility study were minimal.

☐ You mentioned the politics have changed on Dodd Frank. How so? IA team member: There is now increased uncertainty on what might happen. Dodd Frank would play an important role if mainstreaming goes forward. The IA's view is mainstreaming would be a multi-year process, and in many ways would follow a parallel path with SEC 1504.

☐ What EITI documents authorize the criteria that the data must be comprehensive, up-to-date, and reliable, and are they really an adequate scoping for whether government data is helpful? IA team member: The comprehensive, reliable and up-to-date standard is from the validation guidelines document. Two additional criteria might be data quality and transparency.

☐ Commenters expressed diverse opinions on the significance of corporate income tax reporting and reconciliation. One suggested that what matters is that the USEITI numbers are adding up in reconciliation, and the taxes would therefore add up as well. Another commented that even if the Treasury Department has excellent systems, the U.S. is still falling short on making tax information publicly available. Another noted that it would be helpful for civil society to indicate if its priority right now is EITI compliance or tax reporting, so that USEITI can prioritize its efforts. Mr. Cassidy noted that the IA will set up stakeholder interviews on the tax issue, which will likely happen between now and February. Mr. Mennel suggested there is an argument that what is required by 1504 is sufficient for mainstreaming.

☐ There were various perspectives on how much of a “deal breaker” the tax issue will be for the U.S. One suggested it would definitely be a problem with the EITI International Board. Another noted that ONRR worked closely with the SEC to use USEITI as a means for compliance with the 1504 standard and suggested that will bode very well for mainstreaming. An IA team member commented that it is impossible to know whether tax reporting is a deal breaker at this time. No other feasibility study has been conducted and the only other country going forward on mainstreaming is Norway. The language in the standard says “all transactions,” which implies all companies. However, it is reasonable to assume that the board will draw the line somewhere short of “all transactions” for the sake of practicality but USEITI will need to make a case for where the line should be.

☐ USEITI might be able to look at mainstreaming as an opportunity help maintain momentum on government efficiency

From February Draft Minutes

1. Reporting and Reconciliation of Company Revenues - Judy Wilson and Bob Kronebusch of ONRR presented information about the work of the Reporting Improvement Workgroup. Following the presentations, Dan Dudis, Public Citizen, thanked Ms. Wilson and expressed support for the workgroup’s proposed approach of conducting reconciliation via “mainstreaming of EITI reporting” rather than performing an independent reconciliation of revenues for USEITI by the Independent Administrator as this would avoid duplication of work. Mike Matthews, State of Wyoming, noted that states and tribes also conduct compliance reviews in addition to the federal and company audits and reviews surveyed by the workgroup.

b) Audit & Assurances

Mr. Hawbaker provided an overview of existing content about the US audit and assurance process and of potential new content that could be added with the intention of strengthening USEITI's case for mainstreaming and foregoing independent reconciliation by the Independent Administrator. Mr. Bugala suggested that USEITI use an alternate term for "foregoing reconciliation," such as "not reconciling twice."



OFFICE OF
INSPECTOR GENERAL
U.S. DEPARTMENT OF THE INTERIOR

UNITED STATES’ IMPLEMENTATION OF THE EXTRACTIVE INDUSTRIES TRANSPARENCY INITIATIVE



OFFICE OF
INSPECTOR GENERAL
U.S. DEPARTMENT OF THE INTERIOR

Memorandum

To: Greg Gould
Director, Office of Natural Resources Revenue

From: Mary L. Kendall
Deputy Inspector General

Subject: Final Inspection Report – United States’ Implementation
of the Extractive Industries Transparency Initiative
Report No. 2016-EAU-041

This memorandum transmits the findings of our inspection of the United States’ implementation of the Extractive Industries Transparency Initiative (EITI). Our inspection objective was to determine the status of the U.S. implementation of the EITI standard. We are not making any recommendations in this report but are providing it for information purposes only.

The legislation creating the Office of Inspector General requires that we report to Congress semiannually on all audit, inspection, and evaluation reports issued; actions taken to implement our recommendations; and recommendations that have not been implemented.

If you have any questions concerning this report, please do not hesitate to contact me at 202-208-5745.

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Results in Brief

The United States (U.S.) has made significant progress meeting the individual requirements necessary to achieve compliant status with the Extractive Industries Transparency Initiative (EITI). EITI is a global initiative that promotes revenue transparency and accountability for natural resource extraction. The Department of the Interior (DOI) works in collaboration with industry and civil society partners¹ to implement EITI on behalf of the United States.

Our review found that the U.S. has met seven of the eight EITI requirements and partially met one requirement in its effort to achieve EITI compliant status, the highest level of implementation. It has only partially met the revenue collection requirement (Requirement 4) because it has been unable to obtain full disclosure of extractive resource payments from companies, thus preventing the required reconciliation to Government receipts. In addition, the U.S. has encountered challenges as part of its participation in EITI that could prevent it from reaching the goal of compliant status. Should the U.S. not achieve compliant status, its standing in EITI would be diminished.

In spite of the framework laid out in Requirement 4 and the ensuing challenges, the U.S. could still meet this requirement. Through its regular ongoing operations, the U.S. has a system in place that achieves the standard's disclosure and reconciliation requirement, through a process known as mainstreaming. This reporting method may enable the U.S. to meet the EITI reporting and reconciliation mandates without necessarily following the prescriptive language of the standard.

We are not making any recommendations in this report but are providing this document for informational purposes to the Office of Natural Resources Revenue—DOI's EITI representative—and to the members of the U.S. EITI multi-stakeholder group for use as they move forward.

At the close of our field work, senior Government officials disclosed that the U.S. was considering not pursuing the validation process because of uncertainties in achieving Requirement 4. Most likely, the U.S. would transition from an implementing country to a supporting country of EITI. Nevertheless, the U.S. intends to continue its efforts to disclose revenue and maintain its public website.

¹ Civil society is defined as community and citizenry involvement. In the U.S., it includes academia, non-governmental organizations, and labor unions.

Introduction

Objective

We conducted this inspection to determine the status of the United States' (U.S.) implementation of the Extractive Industries Transparency Initiative (EITI) standard.

Appendix 1 contains the scope and methodology, as well as sites visited.

Background

EITI is a global initiative that aims to promote revenue transparency and accountability for natural resource extraction (e.g. oil, natural gas, coal, gold, and renewable energy). The initiative grew out of concern about corruption and mismanagement of these resources worldwide. Many EITI participating countries are in developing parts of the world, and the initiative seeks to strengthen these government and company systems. The U.S. Government, however, has long had a management system featuring numerous controls and protections to oversee natural resource extraction, which helps reduce the risk of corruption.

As a leading extractive producer of such natural resources as oil, natural gas, and coal, the U.S. announced its intention to join EITI in September 2011. The Secretary of the Interior serves as the Administration's senior official responsible for EITI implementation. The Office of Natural Resources Revenue (ONRR) within DOI serves as the Government's lead representative on the multi-stakeholder group (MSG). The U.S. has been working toward achieving compliant status, and validation is scheduled to begin in April 2018.

To date, DOI expenditures for EITI have totaled approximately \$6.5 million, of which the Government spent \$2.8 million in fiscal year 2016. The largest expenditures included Government labor and contracts for outside services. Current estimates of expenditures for reconciliation of Government receipts to company payments total \$519,000 per year.

The EITI standard has eight primary requirements and multiple subparts that countries must follow when implementing EITI. A synopsis of the eight EITI standard requirements is detailed in Figure 1 below.

EITI Standard Requirements

I: Multi-stakeholder group oversight. Government, industry, and civil society engagement.

EITI Standard Requirements	
2: Legal and institutional framework.	Disclosure of legal framework and fiscal regime governing extractive industries.
3: Exploration and production.	Disclosure of exploration and production activities, as well as export data.
4: Revenue collection.	Disclosure and reconciliation of company payments and Government revenues.
5: Revenue allocations.	Disclosure of revenue distribution, revenue management, and expenditures.
6: Social and economic spending.	Disclosure of social expenditures and the extractive sector's impact on the economy.
7: Outcomes and impact.	Disclosure of discrepancies identified in EITI reports, as well as lessons learned during implementation.
8: Compliance and deadlines for implementing countries.	Outlines timeframes established by the EITI international board and consequences of noncompliance with the deadlines and requirements for EITI implementation.

Figure 1. A full explanation of EITI requirements is available at <https://eiti.org/eiti-requirements>.

The initiative is implemented by governments, in collaboration with the MSG, which includes industry and civil society, the latter defined as community and citizenry involvement (e.g. academia and non-governmental organizations). In the U.S., MSG formation in 2012 brought together these three sectors for the first time to achieve a common goal. Initially skeptical, MSG members found that genuine cooperation could generate appreciation for differing viewpoints.

EITI has 56 participating countries. Each country that chooses to implement the EITI standard must establish an MSG that oversees implementation. In addition, most countries, including the U.S., create a national secretariat with a full-time staff to administer the program. The EITI international board, headquartered in Oslo, Norway, is the governing body. Countries implementing the standard publish an annual report in which governments publicly disclose payments received from companies obtained from extractive resources, which are subsequently reconciled.

Countries join EITI with the goal of achieving compliance with the EITI standard. To achieve compliant status, a country must go through the EITI validation process. This includes a comprehensive evaluation of the country's progress toward achieving the eight requirements, as determined by the EITI international board. A country must make satisfactory progress on each requirement in the standard in order to achieve compliant status.

Results

Progress in Complying with EITI

The U.S. has been working on EITI implementation since 2011. It has made significant progress meeting the individual requirements necessary to achieve the highest level of EITI implementation, known as compliant status. Based on our analysis, the U.S. has met seven of the eight requirements and partially met Requirement 4, which necessitates that all Government revenue receipts be reported and subjected to reconciliation. Reconciliation involves comparison of Government receipts to company payments, and explains significant discrepancies between the two. This activity is performed by a third party, known as the independent administrator. The Office of Inspector General (OIG) independently assessed the status of DOI's EITI implementation, as shown in Figure 2.²

OIG Assessment of DOI EITI Implementation		
Requirement	Status	Comments
I – MSG oversight.	Met	MSG formed, with equal representation by government, industry, and civil society. All required meetings and work products achieved.

² The EITI international board is the body that officially determines whether a country has fulfilled the standard, and sets four categories of progress for assessing a country's compliance with each requirement: satisfactory, meaningful, inadequate, and no progress. Our determination of the status does not directly align with those categories identified in the standard. Our assessment was not intended to mirror the board or duplicate any effort. For simplicity, we established our own categories: met, partially met, and not met.

OIG Assessment of DOI EITI Implementation

Requirement	Status	Comments
2 – Legal and institutional framework.	Met	<p>Collaborating with the General Services Administration, DOI produced a public website known as the portal, which houses natural resource data along with the electronic version of the annual EITI report. We found that the portal, which went online in December 2015, presents natural resource-related information in a user-friendly format. The international board has recognized the portal as a model for other countries to emulate.</p> <p>Online data portal provides details on allocation of contracts and licenses, with links to Bureau of Land Management and Bureau of Ocean Energy Management websites.</p>
3 – Exploration and production.	Met	Online data portal provides details on fossil fuels, renewable energy, and non-energy minerals, as well as exports of various commodities.
4 – Revenue collection.	Partially Met	Low disclosure of nontax and tax revenues by companies prevent required comprehensive reconciliation of Government revenue receipts to company payments.
5 – Revenue allocations.	Met	Online data portal provides details on all revenue streams, distribution of revenues, and recipients.
6 – Social and economic spending.	Met	Online data portal provides details on extractive sector contributions to the economy.

OIG Assessment of DOI EITI Implementation		
Requirement	Status	Comments
7 – Outcomes and impact.	Met	<p>Online data portal contains recommendations for addressing reconciliation discrepancies and improving the EITI process.</p> <p>To illustrate extractive industry impacts on local communities, the annual report includes 12 county case studies from across the country, as well as data from 18 states, in an effort to increase public awareness.</p> <p>MSG has actively solicited input from the general public concerning U.S. involvement in EITI. Public interest in EITI is not yet strong, but MSG efforts to obtain outside input and to publish meeting minutes promote EITI's principles of openness and transparency.</p>
8 – Compliance and deadlines for implementing countries.	Met	Deadlines for annual progress reports met, and deadlines for EITI reports surpassed.

Figure 2: OIG's assessment of DOI implementation of EITI requirements.

Challenges in Complying with EITI Revenue Collection Requirement

DOI faces numerous difficulties in trying to meet Requirement 4. Some are less challenging than others, providing opportunities for solutions, while others may offer no alternative course of action.

Voluntary initiative

The voluntary nature of EITI makes full company participation in nontax and tax revenue disclosures difficult to obtain. Companies are not compelled to report revenue and tax data, and do not see the benefit of participation. Consequently, a significant number have chosen not to participate.

U.S. privacy laws

Section 6103 of the Internal Revenue Code (26 U.S.C.) provides for the confidentiality of tax returns and return information. It prevents the U.S. Internal

Revenue Service (IRS) from disclosing returns and return information unless the taxpayer authorizes the release or one of several exceptions are met.

Low company participation

EITI Requirement 4 calls for comprehensive disclosure and reconciliation of company payments and Government revenues from extractive industries. Companies make payments to the U.S., and the payments are considered revenues when collected.

In the U.S., revenues associated with extractive industries consist of two categories—nontax and tax. Nontax revenues are comprised of 11 revenue streams (e.g., royalties, bonuses, rents, inspection and permit fees, and civil penalties), whereas tax revenues represent corporate income tax payments reported to the IRS.

Requirement 4 presents a major challenge for the U.S. because of the numerous companies that operate on Federal lands and large sums of revenue involved. Specifically, more than 3,000 companies paid the Federal Government \$12.64 billion and \$7.80 billion in nontax extractive revenue for the 2015 and 2016 reports, respectively. Since full company participation in the initiative would have been too time consuming and costly to accomplish, the MSG decided to select a manageable sample of companies. This required establishing materiality thresholds, as the standard allows, for company reporting and subsequent reconciliation. The MSG found that a significant and achievable sample of companies could be selected by setting the threshold at \$50 million and \$37.5 million of total annual revenue reported to ONRR by a parent company, including its subsidiaries, for 2015 and 2016. The threshold amount varies yearly due to changes in commodity prices, which in turn affects the amount of payments made to ONRR. For nontax revenues, this reduced the 3,000 company universe to 45 companies for the 2015 annual report, and 41 companies for the 2016 report. For tax revenues, the sample became 41 companies for the 2015 report, and 38 companies for the 2016 report. The number of companies can change from year to year due to factors such as mergers, acquisitions, and bankruptcies.³

Unfortunately, a significant number of companies that were asked to participate declined the request, and so the amount of revenues actually reported and reconciled were far less than the 80 percent target (see Figure 3).⁴ We determined the U.S. has only partially met Requirement 4. This low level of company participation is of concern as the U.S. seeks validation.

³ Companies chosen for participation represent the largest producers of oil, gas, coal, and hard rock in the U.S., including, among others, ExxonMobil Corporation, Chevron Corporation, Shell E&P Company, Arch Coal, Inc., and Peabody Energy Corporation.

⁴ Although the target for reconciling tax revenue was all the companies asked to participate in EITI, the U.S. did not report the total amount of tax revenue because companies are not required to disclose this information.

Results From Companies Subject To Reconciliation (Dollars in Billions)				
Report Year	Nontax		Tax	
	Target	Achieved	Target	Achieved
2015				
Number of Companies Disclosed	45	31 (69%)	41	12 (29%)
Number of Companies Reconciled	45	31 (69%)	41	5 (12%)
Revenues Reconciled	\$10.44	\$8.50 (81%)		
2016				
Number of Companies Disclosed	41	25 (61%)	38	12 (32%)
Number of Companies Reconciled	41	25 (61%)	38	7 (18%)
Revenues Reconciled	\$6.11	\$4.83 (79%)		

Figure 3. Information about companies not disclosing their payments. In the tax column, the target for revenues reconciled could not be established and reconciled because most companies did not report tax data.

Subnational reporting

The EITI standard requires that MSG establish whether or not direct payments from companies to subnational government entities (states and tribes in the U.S.) are significant.⁴ If significant, then disclosure and reconciliation of payments to these entities are included in the EITI report. Given significant practical barriers to collecting data from all 50 states, the MSG focused its efforts on 18 states with the most extractive revenue.

To date, only three of these 18 states have chosen to disclose data about their extractive industries. These three still have not agreed to reconcile company payments to Government receipts. Further, since U.S. law recognizes Tribes as

⁴ Subnational is defined as below the national Government level—in the U.S. this refers primarily to state and tribal governments.

sovereign nations, they are not bound to participate in EITI, and no tribes have volunteered for this purpose.

Although the U.S. received approval from the EITI international board to deviate from full subnational reporting for past reports, it has no guarantee that this approval will continue in the future.

Beneficial ownership

As of January 2020, the standard requires disclosure of beneficial ownership information in the EITI report. Beneficial ownership refers to individuals who directly or indirectly own or control a corporate entity.

In December 2016, the U.S. published its “roadmap” or plan for meeting the future beneficial ownership disclosure requirement. Collection and disclosure of this information may prove problematic, however, since the U.S. does not have an institutional structure for public disclosure of beneficial ownership, and voluntary participation may produce limited results. For example, DOI does not have any mechanism to collect beneficial ownership information when conducting lease sales related to extractive industry operating rights on U.S. Federal lands or for regulating extractive operations, as well as collecting production related fees and royalties.

Mainstreaming

Mainstreaming is a mechanism through which countries disclose revenue collection, accounting, and disbursement as part of routine Government operations. It is advantageous for two reasons – first, it highlights countries that make transparency an integral and routine feature of their management systems. Second, countries that achieve mainstreaming do not have to undergo the reconciliation process. To achieve mainstreaming, the U.S. must submit to a rigorous application process, which is subject to approval by the international board.

We found the U.S. is actively pursuing mainstreaming to satisfy Requirement 4 by reporting that it routinely discloses 100 percent of all nontax revenue streams. In addition, the U.S. is preparing a thorough description of its robust audit processes and procedures for the 2017 annual report. Among these are the following—

- ONRR and its State and tribal partners help ensure that companies pay correctly through the use of audits, compliance reviews, data mining, and an enforcement program;
- ONRR accounts for nontax revenues using company-submitted royalty reports—more than 150 up-front automated edits of these reports help detect irregularities;
- Bureau of Land Management and Bureau of Safety and Environmental Enforcement conduct physical inspections of lease operations;

- An independent accounting firm annually audits DOI's financial statements, which include extractive revenue;
- DOI and DOI's bureaus are independently audited by the Office of Inspector General, and IRS receives audit oversight from the Treasury Inspector General for Tax Administration; and
- IRS verifies tax payments made by companies.

These processes and procedures ensure accountability for 100 percent of natural resource revenues. Accordingly, the U.S. could be in compliance with Requirement 4, even if full reporting and reconciliation from the EITI international board is considered questionable. Although mainstreaming could be a possible solution to demonstrate that the U.S. has complied with Requirement 4, the request has not yet been approved by the international board. Further, it is questionable whether or not the international board would grant such approval. Also, the U.S. still has work left to accomplish in order to develop the contextual narrative of its audit processes and procedures in a manner that fully demonstrates compliance with Requirement 4.

At the close of our field work, Government senior officials disclosed that the U.S. would no longer pursue the validation process because of uncertainties in achieving Requirement 4. Instead, the U.S. will move from being an implementing country to a supporting country of EITI. Nevertheless, the U.S. intends to continue its efforts to disclose revenue and maintain the online data portal.

Appendix I: Scope and Methodology

Scope

Our inspection examined the activities of the United States' implementation of the Extractive Industry Transparency Initiative (EITI) since 2011.

Methodology

We conducted this review from June through March 2017. During our inspection, we—

- reviewed relevant laws, regulations, policies and procedures concerning U.S. EITI implementation;
- reviewed and analyzed data and documents, both hardcopy and electronic;
- reviewed the EITI standard and requirements;
- attended two quarterly multi-stakeholder group meetings;
- interviewed representatives from the EITI international board's secretariat and U.S. Department of State;
- interviewed key members of Government, industry, and civil society sectors;
- interviewed the Director of the Office of Natural Resources Revenue (ONRR) and key agency staff with EITI responsibilities; and
- interviewed key representatives from the independent administrator, Deloitte Touche, LLP.

We visited—

- ONRR offices in Washington, D.C., and Lakewood, CO; and
- Deloitte Touche, LLP, in Arlington, VA.

We did not test operation and reliability of internal controls related to USEITI. We were provided with computer-generated data related to EITI expenditures, which we used but did not test for completeness and accuracy.

We conducted this inspection in accordance with the Quality Standards for Inspection and Evaluation as put forth by the Council of the Inspectors General on Integrity and Efficiency. We believe that the work performed provides a reasonable basis for our conclusion.

Report Fraud, Waste, and Mismanagement



Fraud, waste, and mismanagement in Government concern everyone: Office of Inspector General staff, departmental employees, and the general public. We actively solicit allegations of any inefficient and wasteful practices, fraud, and mismanagement related to departmental or Insular Area programs and operations. You can report allegations to us in several ways.



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Opening Remarks

- o Good morning everyone and welcome back to the Department of the Interior for the 20th Meeting of the USEITI Multistakeholder Group. It's good to see all your familiar faces. I hope your travels have been pleasant.
 - o For record I am Judy Wilson – Program Manager for USEITI and your Designated Federal Official for this USEITI Advisory Committee / MSG.
 - o Last month began the new Administration and the inevitable transfer of power that marks each new Administration. We are still very early in the Administration. We await confirmation of the Honorable Ryan Zinke to Secretary of the Interior, who yesterday was approved by the Senate Committee on Energy and Natural Resources. Once the nominees clear committee, it's up to the Senate Majority Leader (Mitch McConnell to determine the schedule for floor votes). His confirmation vote has not yet been scheduled. We continue to brief the President's advisors and representatives here at Interior. They liked the 2016 USEITI Executive Summary we prepared and said they plan to take a look at the data portal as soon as things settled down.
 - o I know Dodd-Frank 1504 is on your minds. As you are aware the House Rules Committee held a hearing Monday on several Joint Resolutions including Joint Resolution 41 providing for congressional disapproval under chapter 8 of title 5, United States Code, of a rule submitted by the Securities and Exchange Commission relating to "Disclosure of Payments by Resource Extraction Issuers". The Senate has yet to vote on the joint resolution and the President has not yet signed anything. At Interior, we will remain silent on the Joint Resolution to disapprove the Securities and Exchange Commission's rule.
 - o Let's begin today by having everyone introduce themselves for the record.
 - o I'd like to begin with the co-chairs.
- [Danielle, Veronika and Greg introduce themselves]
- o Thank you.
 - o Now let's go around the room, starting to my right.
- [Introductions by all in attendance in person and on the phone lines]
- o Before we jump into the agenda, I'm required to cover a few logistical items.
 - o Our facilitator, Pat Field from the Consensus Building Institute is here today and will be keeping us on track. Thank you for being here.
 - o The meeting is being recorded and minutes are being taken by Toby Berkman / Tushar Kansal of CBI.

o Just a reminder, please state your name and affiliation when you speak today, and for Alternates who wish to speak, please identify yourselves when you come to the table in place of a member.

o Let me introduce Kim Oliver, Kim will go over a few housekeeping and safety items before we begin

[Kim Oliver will review the housekeeping items]

o Thank-you Kim.

o Now I'd like to turn it over to Pat Field to review today's Agenda, which you should all have in your folders.

USEITI PRE-VALIDATION ASSESSMENT

MSG Oversight					
EITI Provisions	Self-Assessment Questions	Progress	Evidence and Rationale	Action points	
Government oversight of the EITI process EITI provision 1.1.	Has the government issued a public statement of its intention to implement the EITI (1.1.a)?	Met	On September 20, 2011, President Obama announced the United States' intention to implement EITI as a signature initiative of the U.S. National Action Plan for the Open Government Partnership.		
	Has the government appointed a senior individual to lead on the implementation of the EITI (1.1.b)?	Met	In October 2011, the President announced that Secretary of the Interior and his staff will work with industry and civil society to develop a sensible plan to disclose relevant information about revenues from oil, gas, and mining assets, and to enhance the accountability and transparency of our revenue collection efforts.		
	Is the government fully, actively and effectively engaged in the EITI process (1.1.c)? Evidence could include input to and attendance at MSG meetings, submission of data required for the EITI reporting process, commitment to resolving bottlenecks such as legal barriers to disclosure or procurement issues, provision of funding for the EITI process, outreach to stakeholders that are not members of the MSG, use of EITI data and other information to promote public debate, etc.	Met	1. Members from both Federal, State, and Subnational Governments are represented on the USEITI MSG Stakeholder Advisory Committee. 2. The list of members can be found online at: https://www.doi.gov/sites/doi.gov/files/uploads/list_of_members_08-11-16.pdf 3. MSG Meeting Summaries can be found at: https://www.doi.gov/eiti/FACA/msg-meeting-minutes		
	Are senior government officials represented on the MSG (1.1.d)?	Met	Gregory Gould (Dir. ONRR) representing Department of Interior and Curtis Carlson (Dir. Business Revenue Division) representing Department of Treasury are both senior officials with the Federal Government.		
Company engagement EITI provision 1.2.	Are companies fully, actively and effectively engaged in the EITI process (1.2.a)? Evidence could include input to and attendance at MSG meetings, submission of data required for the EITI reporting process, commitment to resolving bottlenecks such as legal barriers to disclosure or procurement issues, provision of funding for the EITI process, outreach to stakeholders that are not members of the MSG, use of EITI data and other information to promote public debate, etc.	Met	1. Members from Industry are represented on the USEITI MSG Stakeholder Advisory Committee. 2. The list of Members can be found online at: https://www.doi.gov/sites/doi.gov/files/uploads/list_of_members_08-11-16.pdf 3. For the 2016 USEITI Report 25 out of 41 companies voluntarily reported and reconciled revenues and 12 out of 38 companies voluntarily reported taxes of which 7 authorized the government to report to the IA and reconciled taxes. 4. At the March 2016 MSG Meeting the MSG adopted the Implementation Subcommittee's recommendation on encouraging industry peer discussions. 5. The March 2016 Meeting Summary can be found online at: https://www.doi.gov/sites/doi.gov/files/uploads/useiti_msg_-_mar_2016_mtg_summary_v5_160426.pdf		
	Is there an enabling environment for company participation in the EITI by analysing how relevant laws, regulations, and administrative rules as well as actual practice in implementation of the EITI have affected company participation in the EITI process? Where laws, regulation or administrative rules have constituted an obstacle to implementation, or where there is an enabling legal environment but actual practice differs, the validator should document the circumstances of the case and any efforts to address the issue be it proactive removal of potential obstacles or reactive action to address any obstacles that have arisen. The validator should cite stakeholders' views on whether any obstacles to company participation have been removed. (1.2.b-c).	Met	1. The USEITI Independent Administrator issues to ONRR a final debrief report which captures a number of lessons learned for program implementation, including areas to improve, gaps to fill, and successes to build on. Lessons learned for the reporting and reconciliation process are based on the IA experience as well as feedback received from companies. 2. Key points from this final debrief are shared with the co-chairs and the MSG at the subsequent public meeting. 3. Key points for the debrief for the 2015 Report were shared with the MSG at the March 2016 MSG Meeting. 4. The March 2016 Meeting Summary can be found online at: https://www.doi.gov/sites/doi.gov/files/uploads/useiti_msg_-_mar_2016_mtg_summary_v5_160426.pdf		

USEITI PRE-VALIDATION ASSESSMENT

MSG Oversight				
EITI Provisions	Self-Assessment Questions	Progress	Evidence and Rationale	Action points
Civil society engagement EITI provision 1.3.	In assessing civil society engagement and the environment for civil society participation, the validator is expected to apply the guidance set out in the civil society protocol.	Met	1. Members from Civil Society are represented on the USEITI MSG Stakeholder Advisory Committee. The list of Members can be found online at: https://www.doi.gov/sites/doi.gov/files/uploads/list_of_members_08-11-16.pdf 2. In the Fall of 2013, DOI held several public outreach sessions around the country to ask for stakeholder input on the US Candidacy Application. The summaries and comments received from stakeholders can be found online at: https://www.doi.gov/eiti/FACA/outreach	
MSG governance and functioning EITI provision 1.4.	Information about outreach to stakeholders prior to the establishment of the MSG (1.4.a.i), including whether the invitation to participate in the group was open and transparent;	Met	Prior to the establishment of the MSG, DOI held several public outreach sessions around the country to ask for stakeholder input on the implementation for USEITI. A stakeholder assessment was conducted by the Consensus Building Institute (CBI) and represents CBI's independent findings and recommendations based on input from a public comment period, public listening sessions, and targeted multi-sector interviews.	
	Information on the membership of the multi-stakeholder group, and the process by which each stakeholder group nominated their representatives (1.4.a.ii). With regards to representation on the MSG, the validator should provide evidence that civil society and companies have appointed their own representatives. This could for example include: - evidence of civil society and company outreach efforts to engage a diverse range of stakeholders in the EITI process prior to nomination of MSG representatives, including outreach activities, stakeholder mapping etc.; - details about the civil society and company MSG representation nomination process, including information about election processes, any criteria for diverse representation agreed by civil society (regional, ethnic, indigenous, gender, issues, community groups etc.) and companies (sectors, international, domestic, industry bodies etc.) where applicable; and - where MSG members have changed, details about the reasons for the change and the process for re-nominating members.	Met	Per the MSG Terms of reference and consistent with the MSG Charter, "MSG membership will consist of representatives from government, industry and civil society. The Secretary of the Interior appoints the MSG members and alternates as individuals. Any changes or vacancies in membership require a new appointment by the Secretary under the FACA nomination process as described in the Charter. MSG membership reflects the EITI requirement to include representation from government, industry, and civil society stakeholder sectors (Sectors). The Secretary or her/his designee appoints members from a pool that has been vetted and recommended by each sector per the EITI requirement 1.4i of sectors self-selecting their representatives. " 2. The MSG Terms of Reference can be found online at: https://www.doi.gov/sites/doi.gov/files/uploads/msg_updated_useiti_terms_of_reference_06282016.pdf 3. The MSG nomination process is documented and can be found online at: https://www.doi.gov/sites/doi.gov/files/uploads/msg_eiti_membershipprocess_final.pdf	
	Where multi-stakeholder group membership has changed, documentation of whether there has been any suggestion of coercion or attempts to include members that will not challenge the status quo and whether internal rules for changing MSG representatives have been followed (1.4.a.ii; 1.4.b.vi).	Met	The USEITI Secretariat keeps an official record of all MSG resignations, they are available upon request. The Secretariat also prepares a quarterly vacancy report that is provided to the General Services Administration who oversees all Federal Advisory Committees. Vacancy Reports are also available upon request.	
	Stakeholder views on whether they are adequately represented, including any evidence that stakeholders have provided input to and agreed with the MSG's policy regarding the number of MSG representatives from each stakeholder group, alternates and rotation (1.4.a.ii) as well as stakeholder views on whether their representation sufficiently reflects the diversity of their constituency. (Note: There is no requirement that stakeholders are equally represented numerically.)	Met	At each MSG Meeting there is a public comment period where any member from the public may voice their view or opinion on any topic related to USEITI governance or implementation. The public may also provide comments on an ongoing basis by contacting the USEITI Secretariat at: useiti@ios.doi.gov	

USEITI PRE-VALIDATION ASSESSMENT

MSG Oversight				
EITI Provisions	Self-Assessment Questions	Progress	Evidence and Rationale	Action points
	<p>civil society MSG members are operationally and in policy terms independent of government and companies (1.4.a.ii). In making this assessment, the validator may wish to consider:</p> <ul style="list-style-type: none"> - Evidence of any civil society constituency discussions or agreed consistency policies related to ensuring policy and operational independence from members of parliament from the ruling party, other political parties aligned with the government, or extractive companies. - Evidence that any potential conflict of interests or issues affecting civil society MSG members independence have been transparently disclosed. - Details about the articles of association, objectives, work programmes and funding sources of civil society organisations represented on the MSG. 	Met	<p>Per the MSG Terms of Reference and consistent with the MSG Charter, "MSG membership will consist of representatives from government, industry and civil society. The Secretary of the Interior appoints the MSG members and alternates as individuals. Any changes or vacancies in membership require a new appointment by the Secretary under the FACA nomination process as described in the Charter. MSG membership reflects the EITI requirement to include representation from government, industry, and civil society stakeholder sectors (Sectors). The Secretary or her/his designee appoints members from a pool that has been vetted and recommended by each sector per the EITI requirement 1.4i of sectors self-selecting their representatives."</p> <p>2. The MSG Terms of Reference can be found online at: https://www.doi.gov/sites/doi.gov/files/uploads/msg_updated_u_seiti_terms_of_reference_06282016.pdf</p> <p>3. The MSG nomination process is documented and can be found online at: https://www.doi.gov/sites/doi.gov/files/uploads/msg_eiti_memberprocess_final.pdf</p> <p>4. Each open nomination period is announced in the Federal Register, which also documents the nomination process.</p> <p>5. Section 5703 of Title 5 of the U.S. Code allows travel expenses for MSG Members away from their homes and while engaged in MSG business the same as persons employed by the Federal government.</p> <p>6. Each MSG Public Meeting is preceded by sector caucus and the government makes available during the course of each MSG</p>	
	<p>the MSG includes appropriate stakeholders and whether MSG members appear to have sufficient capacity to carry out their duties (1.4.b.i).</p> <p>decision-making is conducted in an inclusive way which treats each constituency as a partner (1.4.b.vi) (for guidance on the interpretation of this provision please see Guidance Note 14). The validator is expected to assess whether the decision-making rules agreed by the MSG are being followed including by consulting documentation and stakeholder views on how MSG decisions have been taken and whether all stakeholders are involved in decision-making.</p>	Met	Same as above.	
	<p>decision-making is conducted in an inclusive way which treats each constituency as a partner (1.4.b.vi) (for guidance on the interpretation of this provision please see Guidance Note 14). The validator is expected to assess whether the decision-making rules agreed by the MSG are being followed including by consulting documentation and stakeholder views on how MSG decisions have been taken and whether all stakeholders are involved in decision-making.</p>	Met	<p>1. The MSG decision making process is documented in Section VII of the MSG terms of reference which can be found online at: https://www.doi.gov/sites/doi.gov/files/uploads/msg_updated_u_seiti_terms_of_reference_06282016.pdf</p> <p>2. All MSG Meetings are facilitated by an independent third party facilitator, CBI. CBI also facilitates Subcommittee and Workgroup meetings at the request of those committees.</p>	
	<p>The validator is expected to confirm that the MSG has agreed Terms of Reference (TORs) that give the MSG a say over implementation. The Validator is expected to document whether the TORs:</p> <ul style="list-style-type: none"> • outline the role and responsibilities of MSG members and whether MSG members are effectively carrying out their tasks, including evidence of outreach activities and liaison with constituency groups (1.4.b.i-iii); • give the MSG a mandate to approve workplans, the appointment of the Independent Administrator including the Terms of Reference for the Independent Administrator's work, EITI Reports and annual activity reports (1.4.b.iv-v); and • include internal governance rules and procedures (1.4.b.vi-viii), and assess whether these are followed, including whether per diem practices have been published. 	Met	<p>The MSG Terms of Reference are publicly available and can be found online at: https://www.doi.gov/sites/doi.gov/files/uploads/msg_updated_u_seiti_terms_of_reference_06282016.pdf</p>	
	<p>The validator is also expected to note any concerns with regards to adherence to the TOR.</p>	Met	<p>Any issues with adherence to the TOR have been raised either in co-chair meetings or at MSG Meetings. Summaries of each meeting can be found online at: https://www.doi.gov/eiti/FACA/msg-meeting-minutes</p>	

USEITI PRE-VALIDATION ASSESSMENT

MSG Oversight					
EITI Provisions		Self-Assessment Questions		Progress	Evidence and Rationale
Work plan		The validator is expected to document that a publicly accessible EITI workplan has been agreed by the MSG, and assess whether it includes:		Met	The USEITI Workplans for 2014, 2015, 2016 and 2017 are available online and can be found at: https://www.doi.gov/eiti/faca
EITI provision 1.5		<ul style="list-style-type: none"> Objectives for implementation that are linked to the EITI principles and reflect national priorities for the extractive industries (1.5.a). The Validator should document any efforts to consult key stakeholders on the objectives for implementation (1.5.b); Measurable and time-bound activities to achieve the agreed objectives (1.5.c); Activities aimed at addressing any capacity constraints identified (1.5.c.i); Activities related to the scope of EITI reporting (1.5.c.ii); Activities aimed at addressing any legal or regulatory obstacles identified (1.5.c.iii); Plans for implementing the recommendations from Validation and EITI reporting (1.5.c.iv); Costings and funding sources, including domestic and external sources of funding and technical assistance (1.5.d); A timetable for implementation (1.5.g). If the timetable is not being met, the validator – based on evidence from key stakeholders and others – should give an opinion on whether the delays in meeting the timetable are reasonable. The validator is invited to comment on the overall progress in implementing the workplan. 			
		The validator is expected to document whether the workplan has been made widely available to the public (1.5.e) and has been reviewed and updated annually. The validator is expected to note whether or not the MSG has considered extending the detail and scope of EITI reporting to address issues such as revenue management and expenditure, transportation payments, discretionary social expenditures, ad-hoc sub national transfers, beneficial ownership and contracts when reviewing the workplan (1.5.f).		Met	Same as above.
					Same as above.

USEITI PRE-VALIDATION ASSESSMENT

Award of Contracts and Licenses				
EITI Provisions	Self-Assessment Questions	Progress	Evidence and Rationale	Action points
Legal framework EITI provision 2.1.	The validator is expected to document whether a summary description of the fiscal regime has been disclosed, including the level of fiscal devolution, an overview of the relevant laws and regulations, and information on the roles and responsibilities of the relevant government agencies (2.1.a).	Met	This has been documented in the 2015 Executive Summary and is also available on the USEITI Data Portal online at: https://useiti.doi.gov/how-it-works/#laws-governance	
	The validator is expected to document whether the EITI Report includes any information about reforms that are underway (2.1.b). Such disclosures are encouraged, but not required and should not be considered in assessing compliance with the EITI Standard.	Met	This has been documented in the 2015 Executive Summary and is also available on the USEITI Data Portal online at: https://useiti.doi.gov/how-it-works/#laws-governance	
License allocations EITI provision 2.2.	The validator is expected to document whether the information about the process for awarding or transferring the license(s) set out in provision 2.2.a has been comprehensively disclosed for any license awards or transfers pertaining to the companies covered by the EITI Report during the financial year covered by the EITI report. The validator should also comment on the disclose of information regarding license awards and transfers made during the financial year covered by the EITI report that did not generate material revenues in that period, but are expected to generate material revenues in the future, including any legal and practical barriers to such disclosures (2.2.a)		The USEITI Data Portal points to BOEM and BLM websites for current lease information.	
	Where companies covered by the EITI Report hold licenses that were not awarded or transferred during the financial year covered by the EITI Report, the validator may wish to comment on the disclosure of information related the allocation of these licenses. The validator's findings will not have implications for compliance with the EITI Standard (2.2.b).		See above	
	The validator is expected to document whether the government has disclosed the list of applicants and the bid criteria related to any bidding processes that took place in the accounting period covered by the EITI Report (2.2.c).		See above	
	The validator is expected to document whether the EITI Report includes any additional information about the allocation of licenses, including whether the EITI Report includes commentary on the efficiency and effectiveness of these systems (2.2.d). Such disclosures are encouraged, but not required and should not be considered in assessing compliance with the EITI Standard.		See above	
License registers EITI provision 2.3.	The validator is expected to document whether the information set out in provision 2.3.a-b has been disclosed for all the licenses held by companies covered in the EITI reporting process.		The data portal points to BOEM and BLM websites for current lease information.	

USEITI PRE-VALIDATION ASSESSMENT

Award of Contracts and Licenses				
EITI Provisions	Self-Assessment Questions	Progress	Evidence and Rationale	Action points
	The validator is expected to document whether the information set out in provision 2.3.b is also available for the licenses held by entities not covered by the EITI reporting process, and if not, document the reasons for any gaps (2.3.b-c). Comprehensive disclosure is expected, but not required for compliance with the EITI Standard. Where information about licenses held by entities not covered by the EITI reporting process is missing, the validator is expected to evaluate whether the MSG has documented and explained the barriers to provision of this information and any government plans to overcome these barriers.	See above		
Contracts EITI provision 2.4.	The validator is expected to document whether the government's policy on contract transparency has been disclosed. This should include relevant legal provisions, actual disclosure practices and any government reforms that are planned or underway (2.4.b). The validator is expected to document whether the EITI Report includes disclosures of contracts and licenses. Such disclosures are encouraged but not required and should not be considered in assessing compliance with the EITI provisions (2.4.a). Where contracts are disclosed, the validator is expected to document whether the EITI Report provides an overview of the contracts and information on how these can be accessed (2.4.b).	The policy on contract disclosure was explained briefly in the 2015 Executive Summary on page 43 and 44. See above		
Beneficial ownership EITI provision 2.5	The validator is expected to document whether the EITI Report documents the government's policy and MSG's discussion on disclosure of beneficial ownership in accordance with provision 2.5.b.i.		The Beneficial Ownership Work Group prepared the draft Beneficial Ownership Roadmap for Implementation Subcommittee review who subsequently approved to recommend to the MSG to review, discuss and ultimately approve. The MSG approved the Beneficial Ownership Roadmap at the 19th MSG Meeting in November 2016. The approved Roadmap can be found online at: https://www.doi.gov/sites/doi.gov/files/uploads/draft_bo_roadmap_10-30-16_clean.pdf	The MSG approved Beneficial Ownership Roadmap was transmitted to the International Secretariat on 12/15/16.
	Effective as of 1 January 2017 the validator is expected to document whether the MSG has published a roadmap for beneficial ownership disclosure in accordance with provision 2.5.b.ii, including progress with implementation of the roadmap.	See above		See above
	Effective as of 1 January 2020, the validator is expected to document whether beneficial ownership has been disclosed in accordance with provisions 2.5 c-f.	See above		See above
	The validator is also expected to document if the implementing country has a publicly available register of the beneficial owners in accordance with provision 2.5.a. Such disclosures are recommended, but not required and should not be considered in assessing compliance with the EITI Standard.	See above		See above

USEITI PRE-VALIDATION ASSESSMENT

Award of Contracts and Licenses				
EITI Provisions	Self-Assessment Questions	Progress		Evidence and Rationale
State-ownership EITI provisions 2.6	The validator is expected to document whether there are any state-owned enterprises engaged in the extractive sector, and if so, whether the prevailing rules and practices regarding the financial relationship between the government and state-owned enterprises have been disclosed (2.6.a). This could include rules and practices governing transfers of funds between the SOE(s) and the state, retained earnings, reinvestment and third-party financing.	N/A		
	The validator is expected to document whether the government and SOE(s) have disclosed their level of ownership in mining, oil and gas companies operating within the country's oil, gas and mining sector, including those held by SOE subsidiaries and joint ventures, and any changes in the level of ownership during the reporting period in accordance with provision 2.6.c. Where changes to ownership have occurred, the validator is expected to confirm whether the terms of the transactions have been disclosed and the reasons for any gaps in disclosure. Reporting on changes to ownership is expected, but not required and should not be considered in assessing for compliance with the EITI Standard. Where information about changes to ownership is not disclosed, the validator is expected to evaluate whether the MSG has documented and explained the barriers to provision of this information and any government plans to overcome these barriers.	N/A	See above	
	The validator is expected to document whether details about any loans or loan guarantees to mining, oil and gas companies operating within the country have been disclosed (2.6.c).	N/A	See above	

USEITI PRE-VALIDATION ASSESSMENT

Exploration and Production				
EITI Provisions	Self-Assessment Questions	Progress	Evidence and Rationale	Action points
Exploration activities EITI provision 3.1.	The validator is expected to document whether an overview of the extractive industries, including any significant exploration activities, has been disclosed (3.1)	Met	This requirement was met on the USEITI Data Portal found online at: https://useiti.doi.gov/explore/ ; https://useiti.doi.gov/how-it-works/production/ ; https://useiti.doi.gov/search-results/?q=Exploration	
Production data EITI provision 3.2.	The validator is expected to document whether total production volumes and the value of production by commodity have been disclosed, including whether this information is further disaggregated by state/region where relevant (3.2). Where the MSG has disclosed the sources of production data and information on how production data has been calculated, the validator should take note of this. Reporting on such information is encouraged, but not required and should not be considered in assessing for compliance with the EITI Standard.	Met	This requirement was met on the USEITI Data Portal found online at: https://useiti.doi.gov/explore/ ; https://useiti.doi.gov/explore/#production ; https://useiti.doi.gov/downloads/#production-all ; https://useiti.doi.gov/downloads/federal-production/	
Export data EITI provision 3.3.	The validator is expected to document whether total export volumes and the value of exports by commodity have been disclosed, including whether this information is further disaggregated by state/region of origin where relevant (3.3). Where the MSG has disclosed the sources of export data and information on how export data has been calculated, the validator should take note of this. Reporting on such information is encouraged, but not required and should not be considered in assessing for compliance with the EITI Standard.	Met	This requirement was met on the USEITI Data Portal found online at: https://useiti.doi.gov/explore/ ; https://useiti.doi.gov/downloads/#exports ; https://useiti.doi.gov/explore/#economic-impact ; https://www.census.gov/foreign-trade/statistics/state/data/index.html	

USEITI PRE-VALIDATION ASSESSMENT

Revenue Collection				
EITI Provisions	Self-Assessment Questions	Progress	Evidence and Rationale	Action points
Comprehensive disclosure of taxes and revenues EITI provisions 4.1.	The MSG has agreed on a materiality definition, including any reporting thresholds, as well as the options considered and the rationale for the materiality definition (4.1.a).	Met	<p>1. At the 5th MSG Meeting in July 23-24, 2013, the MSG agreed to a reconciliation materiality threshold for companies that pay \$50 million in revenues annually to ONRR, capturing 80% of revenues paid to ONRR in the first report, and a threshold of \$20 million, capturing 90% in the second report. Based on 2013 ONRR data, this would require voluntary participation by 40 companies and 63 payors in the first report, 70 companies and 117 payors in the second report. However, capturing 90% in the second report was pending achieving compliance in the First Annual Report and the MSG reviewing lessons learned and reviewing company reach-out.</p> <p>2. The December 2014 MSG Decision Matrix (http://www.doi.gov/eiti/FACA/upload/USEITI-Company-and-Project-LevelRecommendation.pdf) documents the companies to be included in the 2015 Reconciliation Report are Companies that reported over \$50 million in revenues to ONRR (80% of total revenues). Those identified Companies voluntarily participate in both non-tax revenue and tax revenue reporting and reconciliation. Further, the December Matrix also specifies Companies that voluntarily submit their taxes will be identified; those Companies that choose not to submit will also be identified; Companies can also agree to reconciliation (this recommendation pending MSG approval). At the 13th MSG Meeting in February 24-24, 2015, the MSG approved the incorporation of the content of the tax reporting cover letter into the Reporting Template Guidance. The letter (http://www.doi.gov/eiti/FACA/upload/Tax-Authorization-Memo.pdf) provided the necessary form and instructions to authorize the Internal Revenue Service (IRS) to release certain specified corporate income tax payment and refund transactions data for calendar year 2013 to Deloitte & Touche LLP in order to reconcile corporate income tax payments.</p> <p>3. The March 2016 Decision Matrix subsequently documented Companies should be considered in-scope and their submitted payments will be reconciled if they are part of the top 80% of revenue reported to ONRR for CY 2015. This will include 41 companies with a revenue threshold of \$37 million or more reported to ONRR in CY 2015.</p>	At the 20th MSG Meeting in February 2017 the MSG will decide on mainstreaming which may affect reporting thresholds.
	The revenue streams considered material are listed and described in the EITI Report (4.1.a).	Met	<p>See above</p> <p>1. In-scope revenue streams and companies - https://useiti.doi.gov/downloads/USEITI_executive-summary_2015-12-22.pdf (page 92)</p> <p>2. https://useiti.doi.gov/explore/#revenue; https://useiti.doi.gov/how-it-works/revenues/;</p> <p>3. https://useiti.doi.gov/how-it-works/corporate-income-tax/;</p> <p>https://useiti.doi.gov/downloads/USEITI_extractive-revenue-appendix_2015-12-22.pdf</p> <p>4. https://useiti.doi.gov/downloads/federal-revenue-by-location/</p>	
	The validator is expected to document whether the revenue streams listed in provision 4.1.b have been considered. Where the MSG has agreed to exclude certain revenue streams from the EITI Report, the validator is expected to document and evaluate the rationale for their exclusion (4.1.b).	Met	See above	
	The MSG has identified the companies making material payments and whether these companies fully reported all payments in accordance with the materiality definition (4.1.c; and the IA TOR).	Met	See above	
	The MSG has identified the government entities receiving material revenues and whether these government entities fully reported all receipts in accordance with the materiality definition (4.1.c and the IA TOR).	Met	See above	

USEITI PRE-VALIDATION ASSESSMENT

Revenue Collection				
EITI Provisions	Self-Assessment Questions	Progress	Evidence and Rationale	Action points
	The government fully reported all revenues, including any revenues below the materiality thresholds. (Note: this information can be provided in aggregate.) Where the government has not fully disclosed all revenues, the validator is expected to document the justification provided by the MSG (4.1.d).	Met	This requirement was met in the 2015 and 2016 USEITI Executive Summary Appendices for Reporting and reconciliation found online at: https://useiti.doi.gov/about/report/ The 2015 USEITI Executive Summary Appendix can be found online at: https://useiti.doi.gov/downloads/USEITI_executive-summary_2015-12-22.pdf The 2016 USEITI Executive Summary Appendix can be found online at: https://useiti.doi.gov/downloads/USEITI_executive-summary-combined_2016-11-18.pdf	
	Where companies or government entities paying or receiving material revenues have not submitted reporting templates, or have not fully disclosed all the payments and revenues, the validator is expected to document whether the EITI Report documents these issues and includes an assessment of the impact on the comprehensiveness of the report.	Met	This requirement was met in both the 2015 and 2016 USEITI Executive Summaries and IA Reconciliation Report Appendix to the Executive Summary. The 2015 USEITI Executive Summary and Appendix can be found online at: https://useiti.doi.gov/about/report/ https://useiti.doi.gov/downloads/USEITI_executive-summary_2015-12-22.pdf The 2016 USEITI Executive Summary and Appendix can be found online at: https://useiti.doi.gov/downloads/USEITI_executive-summary_2016-11-18.pdf https://useiti.doi.gov/downloads/USEITI_executive-summary-combined_2016-11-18.pdf	
	In accordance with the IA TOR, the validator is expected to provide a summary of the key findings from the Independent Administrator's assessment with regards to the comprehensiveness of the EITI disclosures and coverage of the reconciliation.	Met	This requirement was met in the 2015 and 2016 USEITI Executive Summaries. The 2015 USEITI Executive Summary and Appendix can be found online at: https://useiti.doi.gov/about/report/ and https://useiti.doi.gov/downloads/USEITI_executive-summary_2015-12-22.pdf The 2016 USEITI Executive Summary and Appendix can be found online at: https://useiti.doi.gov/downloads/USEITI_executive-summary_2016-11-18.pdf	
In-kind revenues EITI provision 4.2	The validator is expected to document and evaluate the MSG's definition of materiality with regards to in-kind revenues. Where in-kind revenues exist and are considered material, the validator is expected to document whether these have been fully disclosed in accordance with provision 4.2.	N/A		
	The validator is expected to comment on whether the EITI Report includes disclosures such as the type of product, price, market and sale volume, and whether the volumes sold and revenues received are reconciled. Such disclosures are encouraged, but not required and should not be considered in assessing compliance with the EITI Standard.		https://useiti.doi.gov/downloads/federal-revenue-by-location/	
Infrastructure provisions and barter arrangements EITI provision 4.3	The validator is expected to document and evaluate the MSG's definition of materiality with regards to infrastructure provisions and barter arrangements. Where infrastructure provisions and barter arrangements exist and are considered material, the validator is expected to document whether these revenue flows or value transfers have been fully disclosed in accordance with provision 4.3	N/A		
Transportation revenues EITI provision 4.4	The validator is expected to document and evaluate the MSG's definition of materiality with regards to transportation revenues. Where transportation revenues exist and are considered material, the validator is expected to document whether these revenue flows have been fully disclosed in accordance with provision 4.4.	N/A		

USEITI PRE-VALIDATION ASSESSMENT

Revenue Collection				
EITI Provisions	Self-Assessment Questions	Progress	Evidence and Rationale	Action points
	Disclosure of material transportation revenues is expected, but not required for compliance with the EITI provisions. Where transportation revenues are material but not disclosed, the validator is expected to evaluate whether the MSG has documented and explained the barriers to provision of this information and any government plans to overcome these barriers. The validator is also expected to comment on whether the EITI Report includes additional disclosures in accordance with provision 4.4.i-v. Such disclosures are encouraged, but not required and should not be considered in assessing compliance with the EITI Standard.	N/A		
Transactions between SOEs and government entities EITI provision 4.5	The validator is expected to verify that the EITI Report describes the role of any SOEs operating in the country. Where SOEs make payments to the government, collect material revenues on behalf of the state, or both, and where financial transfers between government entities and SOEs exist and are material, the validator is expected to document whether they have been fully disclosed in accordance with provision 4.5	N/A		
Subnational direct payments EITI provision 4.6	The validator is expected to document and evaluate the MSG's definition of materiality with regards to direct subnational payments. Where direct subnational payments exist and are considered material, the validator is expected to document whether these revenue flows have been fully reconciled and disclosed in accordance with provision 4.6.	Met	<p>1. At the 19th MSG Meeting in November 2016 the MSG approved the Request for Extending Adapted Implementation. This was transmitted to the International Secretariat and International Board on 12/15/16. The Request for extending Adapted Implementation can be found online at: https://www.doi.gov/sites/doi.gov/files/uploads/request_for_extension_of_adapted_implementation_11172016.pdf</p> <p>2. The 2015 and 2016 Annual Reports disclose payments from the Federal government to States - https://useiti.doi.gov/explore/#federal-disbursements and https://useiti.doi.gov/downloads/disbursements/.</p> <p>3. At the 5th Meeting of the MSG in July 23-24, 2013, the MSG decided to seek adapted implementation for subnational reporting as it relates to states.</p> <p>4. At the 10th Meeting of the MSG in June 10-11, 2014, the MSG charged the State and Tribal Opt-in Subcommittee with proceeding with its work to incorporate into the contextual narrative the 18 target opt-in states. The Subcommittee had identified the 18 states considering revenues and production and those included constitute almost 80% of extractive mineral value.</p> <p>5. For the 2016 Report 3 States have agreed to opt-in to USEITI and the data provided varies state-by-state. State narratives are available online at: https://useiti.doi.gov/how-it-works/state-legal-fiscal-info/; https://useiti.doi.gov/explore/AK/; https://useiti.doi.gov/explore/MT/; and https://useiti.doi.gov/explore/WY/</p>	
Level of disaggregation EITI provision 4.7	The financial data disclosed is disaggregated by individual company, government entity and revenue stream. The financial data is disaggregated by project, provided that it is consistent with the United States Securities and Exchange Commission rules and the European Union rules (4.7).	Met	https://useiti.doi.gov/how-it-works/federal-revenue-by-company/2015/	SEC Dodd Frank Section 1504 regulations promulgated and will be effective 2019
Data timeliness EITI provision 4.8	The validator is expected to document whether the implementing country has produced timely EITI Reports in accordance with provision 4.8.	Met		
Data quality EITI provision 4.9 and the IA TOR	The validator is expected to document if and when the MSG endorsed the selection of the Independent Administrator (4.9).	Met	https://www.doi.gov/sites/doi.gov/files/uploads/useiti_msg_-_sept_2014_mtg_summary.pdf	

USEITI PRE-VALIDATION ASSESSMENT

Revenue Collection				
EITI Provisions	Self-Assessment Questions	Progress	Evidence and Rationale	Action points
	<p>The validator is expected to review the TORs agreed by the MSG and the Independent Administrator and document whether the TORs are in accordance with the standard TORs for EITI reports. The validator is expected to highlight any major deviations. (4.9).</p>	Met	<p>Following the creation and the MSG's approval of the Terms of Reference for the Independent Administrator (IA) and a competitive bidding process, the USEITI MSG also secured the services of Deloitte & Touche, LLP, (Deloitte) as the Independent Administrator of the USEITI process. The MSG worked with the IA to make sure that the IA team reflected the capacities and qualifications outlined in the Terms of Reference and endorsed the IA at the September and December 2014 MSG meetings.</p>	
	<p>In accordance with the IA TOR, the validator is expected to document if and when the MSG and the Independent Administrator have:</p> <ul style="list-style-type: none"> - Agreed on reporting templates; - Undertaken a review of the audit and assurance procedures in companies and government entities participating in EITI reporting; - Agreed on the assurances to be provided to the Independent Administrator by the participating companies and government entities to assure the credibility of the data, including the types of assurances to be provided, the options considered and the rationale for the agreed assurances; - Agreed on appropriate provisions for safeguarding confidential information. 	Met	<p>At the February 2015 MSG meeting, the MSG discussed with the IA the following topics related to reconciliation and validation:</p> <ul style="list-style-type: none"> • The content and design of a Reporting Template—and accompanying guidelines—that companies will use to report their payments to the IA • The timeline by which the IA will manage the reporting and reconciliation process • The margin of variance that the IA will use as part of the reconciliation process <p>The Feb 2015 MSG Meeting Summary can be found online at: https://www.doi.gov/sites/doi.gov/files/uploads/useiti_msg_-_feb_2015_mtg_summary_-_msg_approved.pdf https://useiti.doi.gov/how-it-works/audits-and-assurances/</p> <p>The IA documented in the 2016 Online Report the Government's Audit and Assurances which can be found online at: https://useiti.doi.gov/how-it-works/audits-and-assurances/</p>	<p>At the February 2017 MSG Meeting the MSG will decide on mainstreaming which may affect the TOR for the IA in which case the TOR would be revised and re-submitted to the International Secretariat and Board.</p> <p>At the February 2017 Meeting the IA will propose to the MSG for approval that they will do a deeper dive in the audit and assurance processes for the government and companies which supports that US is already mainstreaming.</p>
	<p>In accordance with the IA TOR, the validator is expected to: verify that the EITI report documents whether reporting companies and government entities had their financial statements audited in the financial year(s) covered by the EITI report, and whether any gaps have been identified;</p> <ul style="list-style-type: none"> - provide a summary of the key findings from the Independent Administrator's assessment with regards to the reliability of the data; - verify that any contextual information not collated by the Independent Administrator is clearly sourced; <p>verify that relevant electronic data files have been published together with the EITI Report and that summary data from the EITI Report has been submitted electronically to the International Secretariat according to the standardised reporting format provided by the International Secretariat.</p>	Met	<p>This requirement was met in the 2015 USEITI Executive Summary The 2015 USEITI Executive Summary and Appendix can be found online at: https://useiti.doi.gov/about/report/</p> <p>The IA documented in the 2016 Online Report the Governments Audit and Assurances which can be found online at: https://useiti.doi.gov/how-it-works/audits-and-assurances/</p>	
		Met	<p>This requirement was met in the 2015 USEITI Executive Summary The 2015 USEITI Executive Summary and Appendix can be found online at: https://useiti.doi.gov/about/report/</p> <p>The IA provided summary data for the 2015 USEITI Report to the International Secretariat on or around September 28, 2016.</p> <p>The IA provided summary data for the 2016 USEITI Report to the International Secretariat on January 3, 2017.</p>	<p>The IA will continue to provide documentation of their transmittal of summary data to the International Secretariat</p>

USEITI PRE-VALIDATION ASSESSMENT

Revenue management and distribution				
EITI Provisions	Self-Assessment Questions	Progress	Evidence and Rationale	Action points
Distribution of revenues EITI provision 5.1.	The validator is expected to document whether the EITI report indicates which extractive industry revenues are recorded in the national budget. Where revenues are not recorded in the budget, the validator is expected to document that the allocation of these revenues has been explained, with links provided to relevant financial reports as applicable (5.1 a).	Met	1. Federal disbursements of revenues were first documented in the 2015 EITI Report at https://useiti.doi.gov/explore/disbursements/ and the data is updated for the 2016 Report for the years 2012 – 2015 at https://useiti.doi.gov/downloads/disbursements/	
	The validator is expected to comment on whether the MSG has referenced any national revenue classification systems or international data standards (3.1.b). Such references are encouraged, but not required and should not be considered in assessing compliance with the EITI Standard.	Met	See above	
Sub-national transfers EITI provision 5.2.	The validator is expected to document constitutional, statutory and other mandatory revenue sharing requirements and the MSG's definition of materiality regarding mandatory subnational transfers. Where mandatory subnational transfers exist and are material, the validator is expected to document whether these have been disclosed in accordance with provision 5.2.a together with any revenue sharing formula.	Met	1. Access to information on subnational transfers on Page 14 of 2015 Reconciliation Report. The Report can be found online at: https://useiti.doi.gov/downloads/USEITI_executive-summary_2015-12-22.pdf 2. https://useiti.doi.gov/how-it-works/federal-laws/	
	The validator is also expected to document if mandatory subnational transfers have been reconciled. Reconciliation is encouraged, but not required and should not be considered in assessing compliance with the EITI Standard.	Met	See above	
	The validator is expected to document whether the MSG has included ad-hoc subnational transfers in the EITI reporting process. Disclosures of ad-hoc subnational transfers are encouraged, but not required and should not be considered in assessing compliance with the EITI Standard (5.2.b).	Met	See above	
Additional information on revenue management and expenditures EITI provision 5.3	The validator is expected to comment on whether the EITI Report includes a description of any extractive revenues earmarked for specific programmes or geographic regions, including a description of the methods for ensuring efficiency and accountability in their use, in accordance with provision 5.3.a. Such disclosures are encouraged, but not required and should not be considered in assessing compliance with the EITI Standard.	Met	https://useiti.doi.gov/explore/#federal-disbursements https://useiti.doi.gov/how-it-works/revenues/	
	The validator is expected to comment on whether the EITI Report includes a description of the country's budget and audit processes and links to publicly available information about budgeting and expenditure (5.3.b). Such disclosures are encouraged, but not required and should not be considered in assessing compliance with the EITI Standard.	Met	1. https://useiti.doi.gov/how-it-works/revenues/ 2. https://useiti.doi.gov/how-it-works/audits-and-assurances/	

USEITI PRE-VALIDATION ASSESSMENT

Revenue management and distribution				
EITI Provisions	Self-Assessment Questions	Progress	Evidence and Rationale	Action points
	The validator is expected to comment on whether the MSG has disclosed any further information related to the budget cycle, production and commodity price assumptionis and revenue sustainability, resource dependence, and revenue forecasting (5.3.c). Such disclosures are encouraged, but not required and should not be considered in assessing compliance with the EITI Standard.	Met	Linked to in the 2015 Executive Summary: https://useiti.doi.gov/downloads/USEITI_executive-summary_2015-12-22.pdf at https://www.doi.gov/sites/doi.gov/files/migrated/pfm/upload/FY-2014-DOI-Citizens-Report.pdf - 2016 relevant data is at: https://www.doi.gov/sites/doi.gov/files/uploads/PFM%20FY%202015%20DOI%20Citizens%20Report.pdf	

USEITI PRE-VALIDATION ASSESSMENT

Social and economic spending				
EITI Provisions	Self-Assessment Questions	Progress	Evidence and Rationale	Action points
Social expenditures EITI provision 6.1	<p>The validator is expected to document the MSG's definition of materiality with regards to mandatory social expenditures. Where mandatory social expenditures exist and are material, the validator is expected to verify whether these have been disclosed and reconciled in accordance with provision 6.1.a, including any gaps.</p> <p>The validator is expected to document whether the MSG has disclosed discretionary social expenditures in accordance with provision 6.1.b. Such disclosures are encouraged, but not required and should not be considered in assessing compliance with the EITI Standard.</p>	N/A		
SOE quasi fiscal expenditures EITI provision 6.2	The validator is expected to document the MSG's definition of materiality with regards to quasi-fiscal expenditures by SOEs, including SOE subsidiaries and joint ventures. Where these exist and are material, the validator is expected to document the reporting process developed by the MSG for disclosure of quasifiscal expenditures and verify that these expenditures have been disclosed accordingly (6.2).	N/A		
Contribution of the extractive sector to the economy EITI provision 6.3	The validator is expected to document whether available information about the contribution of the extractive industries to the economy for the fiscal year covered by the EITI report has been disclosed in accordance with provision 6.3.	Met	<p>1. Federal disbursements of revenues were first documented in the 2015 EITI Report at https://useiti.doi.gov/explore/disbursements/ and the data is updated for the 2016 Report for the years 2012 – 2015 at https://useiti.doi.gov/downloads/disbursements/.</p> <p>2. Economic impact - https://useiti.doi.gov/explore/#economic-impact</p>	

USEITI PRE-VALIDATION ASSESSMENT

Outcomes and impact of EITI implementation				
EITI Provisions	Self-Assessment Questions	Progress	Evidence and Rationale	Action points
Public debate EITI provision 7.1	The validator is expected to document and evaluate whether the EITI disclosures, including the EITI Report, are comprehensible, have been actively promoted, are publicly accessible and have contributed to public debate (7.1). This should include publication of the EITI report virtually and in hard copies; availability in appropriate languages; and the accessibility of dissemination activities. The validator should also document if the MSG has agreed a policy on the access, release and reuse of EITI data.	Met	<ol style="list-style-type: none"> 1. The 2015 USEITI Report is publically available online at: https://useiti.doi.gov/ 2. As part of the 2016 Communications strategy, formal public outreach opportunities began on May 3, 2016, when the USEITI Multi-Stakeholder Group hosted a Public Outreach Webinar on the first Annual USEITI Report and the Online Data Portal. This webinar was attended in-person at the U.S. Department of the Interior and remotely. The government issued a media advisory a week prior to the webinar and posted the webinar video on the MSG website at https://www.doi.gov/eiti/public-engagement following the webinar. Subsequent outreach sessions are scheduled for Congress on September 15; in Montana on October 5-6; and Louisiana on October 19. 3. The USEITI Secretariat printed and distributed 200 hard copies of the 2015 Executive Summary, as well purchased and distributed approximately 1300 flash drives that contained the 2015 Executive Summary. 4. The MSG has agreed that all unilateral disclosure data shall be made publically accessible and can be downloaded and resused by any member of the public. Data can be found online at: https://useiti.doi.gov/explore/ 	
Data accessibility EITI provision 7.2	The validator is expected to comment on any efforts by the MSG to make EITI Reports machine readable, and to code or tag EITI Reports and data files so as to enable EITI data to be compared with other publicly available data (7.2). This could for example include cases where the MSG has decided to reference national revenue classification systems, and international standards such as the IMF Government Finance Statistics Manual; produced summary reports or other types of analysis aimed at improving public understanding of the data and information from the reports; or enabled automated EITI disclosures. Such efforts are encouraged, but not required and should not be considered in assessing compliance with the EITI Standard.	Met	The MSG has agreed that all unilateral disclosure data shall be made publically accessible and can be downloaded and resused by any member of the public. Data can be found online at: https://useiti.doi.gov/explore/	
Lessons learned and follow up on recommendations EITI provision 7.3	The validator is expected to document the government and MSG's progress in taking steps to act upon lessons learned, identifying, investigating and addressing the causes of any discrepancies in EITI reporting, and progress in responding to the recommendations made by the Independent Administrator (7.3).	Met	<ol style="list-style-type: none"> 1. The ONRR staff work closely with both the IA and companies to identify discrepancies. 2. The USEITI Independent Administrator issues to ONRR a final debrief report which captures a number of lessons learned for program implementation, including areas to improve, gaps to fill, and successes to build on. Lessons learned for the reporting and reconciliation process are based on the IA experience as well as feedback received from companies. 3. Key points from this final debrief is shared with the co-chairs and the MSG at the subsequent public meeting. 4. Key points for the debrief for the 2015 Report were shared with the MSG at the March 2016 MSG Meeting. 5. The March 2016 Meeting Summary can be found online at: https://www.doi.gov/sites/doi.gov/files/uploads/useiti_msg_-_mar_2016_mtg_summary_v5_160426.pdf 	

USEITI PRE-VALIDATION ASSESSMENT

Outcomes and impact of EITI implementation				
EITI Provisions	Self-Assessment Questions	Progress	Evidence and Rationale	Action points
Outcomes and impact of EITI implementation on natural resource governance EITI provision 7.4.	The validator is expected to document the MSG's efforts to review outcomes and impact of EITI implementation on natural resource governance, including whether annual activity reports have been produced and contain the information set out in provision 7.4 a. The validator is also expected to comment on any consultations undertaken by the MSG toward giving all stakeholders an opportunity to provide feedback on the EITI process and the impact of the EITI, and have their view reflected in the annual activity report (7.4.b).	Met	<ol style="list-style-type: none"> 1. The Consensus Building Institute issues an Annual Activity Report and the Report is approved by the MSG. The Report can be found online at: https://www.doi.gov/eiti/faca 2. Stakeholders have the opportunity to provide feedback during the public comment period at all MSG Meetings. 3. Stakeholders may provide feedback on the data portal. The online form is available at: https://docs.google.com/forms/d/e/1FAIpQLSefIXdmEhGujpchFPzDKGgBk8GNt1UbpGf15955fgOdh6NkFA/viewform 4. Stakeholders may provide feedback directly to the USEITI Secretariat by email: USEITI@ios.doi.gov 5. Stakeholders have the opportunity to provide feedback at any of the public outreach sessions that have been scheduled in May, Sept and Oct of 2016. 	

The Honorable Raúl M. Grijalva
Ranking Member
Committee on Natural Resources
House of Representatives
Washington, DC 20515

Dear Mr. Grijalva:

The Secretary asked me to respond to your letter dated June 6, 2017, regarding your interest in the Department of the Interior's efforts to implement the Extractive Industries Transparency Initiative (EITI) Standard. Implementing the EITI Standard domestically moved the global conversation about extractive transparency forward. It advanced the mainstreaming of EITI principles and encouraged additional Organisation for Economic Co-operation and Development countries to implement the EITI Standard. Implementing the Standard domestically also demonstrated that a strong commitment to transparency and accountability principles applies equally to developed and developing countries.

In 2012, the U.S. began implementing EITI in the U.S. (USEITI). Key successes include publishing the 2015 and 2016 USEITI Annual Reports on an open source, open code, interactive, web-based data portal (<https://useiti.doi.gov>). On this portal, the Department of the Interior unilaterally discloses 2013, 2014, 2015, and 2016 revenues by company, commodity, and revenue type as well as production data across all commodities. The Annual Reports provide clarity and transparency of the revenues generated by energy development on public lands and waters—a significant source of financial support for local communities, States, Tribes, and the Federal Government. In the spring of 2016, three states (Montana, Wyoming, and Alaska) opted-in to USEITI, allowing for expanded State reporting of extractive revenues. The portal is the new global standard in revenue governance transparency.

The U.S. is scheduled to produce its third Annual Report in December 2017 and undergo validation April 1, 2018. Validation is an independent, external and impartial process that serves to assess performance and promote dialogue and learning at the country level. It also safeguards the integrity of the EITI by holding all EITI implementing countries to the same global Standard. As confirmed in the May 15, 2017, Department of the Interior, Office of the Inspector General Field Inspection Final Report Number 2016 EAU 041, the U.S. has only partially met the revenue collection requirement (Requirement 4) because it has been unable to obtain full disclosure of extractive resource payments from companies, thus preventing the required reconciliation to Government receipts. In addition, the U.S. has encountered challenges as part of its participation

in EITI that could prevent it from reaching the goal of compliant status. Should the U.S. not achieve compliant status and the Board finds inadequate progress implementing the Standard, the standing of the U.S. in EITI would be diminished. Nonetheless, the Department of the Interior is committed to the principles of open government and accountability. As such, the Office of Natural Resources Revenue will begin mainstreaming DOI revenue reporting requirements of the Standard and institutionalizing EITI processes.

As previous Administrations have done in the past, the Department of the Interior is currently conducting a standard review of the charters and charges of Federal Advisory Committee Act (FACA) Advisory Commissions in an effort to maximize feedback from these boards and to ensure their compliance with both FACA and the President's recent executive orders. The review process is meant to identify committees that merit improvement in order to fully support their missions, serve the local communities, and ensure the Department is getting local feedback to the maximum extent possible. This review process necessitates the temporary postponement of advisory committee meetings, including those of the USEITI. As the review proceeds, many committees will resume their regularly scheduled meetings, and the Department fully expects the majority of committees to resume by September.

If you have any comments or questions, please don't hesitate to contact Ms. Judy Wilson at Judith.wilson@onrr.gov or (202) 208-4410.

Sincerely,

Gregory J. Gould
Director, Office Natural Resources Revenue

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The U.S. government committed to implementing EITI in the U.S. (USEITI) in 2011 and in the spring of 2012 designated the Department of the Interior the lead Agency for implementing USEITI. Implementing USEITI provides additional oversight of the collection and disbursement of the Nation's mineral resources revenues. USEITI successfully completed the initial requirements to join EITI as a candidate country when accepted by the International EITI Board in March 2014. Key successes include publishing the 2015 and 2016 USEITI Annual Reports on an open source, open code, interactive, web-based data portal (<https://useiti.doi.gov>). On this portal, the Department of the Interior unilaterally discloses 2013, 2014, 2015, and 2016 revenues by company, commodity, and revenue type as well as production data across all commodities. The portal is the new global standard in revenue governance transparency.

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Sincerely,

Scott Cameron
Principal Deputy Assistant Secretary for
Policy, Management and Budget

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Committee on Natural Resources
Washington, DC 20515

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If you have any comments or questions, please don't hesitate to contact Ms. Judy Wilson at Judith.wilson@onrr.gov or (202) 208-4410.

Sincerely,

Scott Cameron
Principal Deputy Assistant Secretary for
Policy, Management and Budget

Hi Judith,

At our call on 30 March we discussed your pre-validation assessment and the development of an options paper addressing next steps for US EITI implementation. Here are some questions and observations on some the key aspects. I'd be happy to elaborate further if useful.

1. Validation scenarios

We broadly agree with your self-assessment. We have some questions about some technical aspects (e.g., some issues regarding scoping (4.1) and adherence to the standard ToRs for Independent Administrators (4.9). As you have identified, industry participation, the coverage of reconciliation and the coverage of income tax is problematic. In some other respects - such as coverage of the Abandoned Mine Land Reclamation Program and the work on the open data portal - US EITI implementation is exemplary.

Sam I would like to get a better understanding of the issues / questions regarding scoping (4.1) and adherence to the Standard ToRs for Independent Administrators (4.9)?

As you know, the EITI has changed its approach to Validation. We have moved away from a binary “pass/fail”, “candidate/compliant” system. Validation now provides both an “overall assessment” and scorecard addressing adherence to various aspects of the EITI Standard. The most likely scenario is an overall assessment of “meaningful progress”. As you can see here, this is a relatively common outcome. No country has so far achieved an overall assessment of “satisfactory progress”. Most countries have a rather long list of corrective actions.

As you know, Validation in the United States is currently scheduled to commence on 1 April 2018. This implies completion of Validation circa September 2018. We of course don't know what will happen with 1504 until then. Note that the MSG is entitled to seek an extension if it considers that there have been “exceptional circumstances”. If a new 1504 Rule has been released, the MSG might consider requesting an extension. Alternatively, if Validation goes ahead as scheduled, progress based on implementation of 1504 could be considered at the second Validation as late as March 2020.

2. The Royalty Policy Committee acting as the MSG.

There is nothing in the EITI Standard that prevents an implementing country from changing the form and composition of the MSG. It is, however, essential that “each stakeholder group must have the right to appoint its own representatives” (Requirement 1.4.a.ii). The documents that you have provided stipulate that the appointments will be approved by the Secretary. Could you provide some additional detail on how the members will be selected? Is it feasible for the industry and CSO constituencies to appoint their own representatives, even if they are ultimately approved by the Secretary?

The EITI Standard also requires that the MSG agrees clear public terms of reference for its work, approves its own work plans, and its agrees its internal governance rules and procedures. It would be good to consider how this would be done, at least in terms of the Committee's work relating to EITI implementation. I guess one option is that the MSG is formed as a subcommittees of the Royalty Policy Committee.

3. Industry participation and coverage of tax payments

It would be good to get some clarity on the plans for covering income tax in the next report. Specifically: will any companies be invited to report? If not, is there any work planned to collate information from other publically available sources? Will the IRS continue to provide an estimate?

Even if the SEC presented a new rule in the coming months, we assume that this will not come into force for until 2019 or later. It would therefore be good to explore what additional work could be done with existing data. As we have discussed previously, the publically listed firms typically disclose quite a lot of information in their 10-K Reports to the SEC. These include quite detailed reporting on revenues, expenses, production, profitability, depreciation, etc. Most have a line item on segment income taxes. See the latest 10-K from Chevron showing a tax benefit for upstream US of \$1.172 billion, and how this is offset by income tax in other segments:

We know that these figures cannot be reconciled with government data. For a start, Chevron's statement is done on an accrual basis (taking into account various adjustments and provisions) not on a cash flow basis (i.e., actual payments made to the government). I assume Chevron makes its income tax payments on a group basis, and that the IRS doesn't account for the business segments separately. This makes reconciliation impossible, even if 1504 was in place.

Setting reconciliation aside, this is a reliable (audited) statement from Chevron on their US tax liabilities. And, from a user perspective, it is useful to see these numbers presented in their wider financial context. Specifically, by consulting the 10-K Report, you can see how and why the figure is \$1.172 billion. Can we not do more to collate these existing disclosures? Even a simple list of in-scope companies with links to the public filings may help offset the criticism that "industry is not participating".

[I have asked the Secretariat staff to identify the in-scope companies with 10-K Reports and provide a list of direct links to those reports for incorporation in the data portal.](#)

4. Project level reporting

Another issue we should consider is the EITI's requirement on project-level reporting, originally agreed in 2013. It would be good to discuss how the DOI plans to address this. This may help keep civil society engaged.

At the Board meeting in Bogota the EITI Board reaffirmed that project-level reporting is required. EITI countries will be required to:

Publish EITI data disaggregated by individual project, company, government entity and revenue stream. The national multi-stakeholder group should devise and apply a definition of the term project that is consistent with relevant national laws and systems as well as international norms. For example, the EU defines a project as operational activities that are governed by a single contract, license, lease, concession, or similar legal agreement, which form the basis for payment liabilities with a government. Payments that are levied at a company level can be continued to be reported by company.

Project-level reporting will be required for all reports covering fiscal years ending on or after 31 December 2018. Given the EITI's "two-year rule" (requirement 4.8), this would effectively require project-level reporting by all countries by 31 December 2020 at the latest.

The EITI Board will develop further guidance on the implementation of the requirement and issue a schedule for how and when this requirement will be validated.

Following this decision, the EITI International Secretariat is conducting some research on existing practices. Our preliminary assessment of the level of disaggregation in your latest EITI Report is as follows:

Table 2 of the 2015 EITI Report includes a list of the relevant companies included in the scope of reconciliation, but it was not possible to retrieve corresponding licenses or permits for each of the companies, when accessing the online registries. Therefore the level of disaggregation is per government entity, revenue stream and per company, but we were unable to determine whether any of these company-disclosures were on a project level.

[The Table reflects Parent Companies and the data is not disaggregated on a project level.](#)

It would be appreciated if you could help us revise this summary, addressing plans for project-level reporting in the years to come.

Regards,

Sam

Section 1504 of the Dodd-Frank Act added Section 13(q) to the Securities Exchange Act of 1934, which directs the Commission to issue rules requiring resource extraction issuers to include in an annual report information relating to any payment made by the issuer, a subsidiary of the issuer, or an entity under the control of the issuer, to a foreign government or the Federal Government for the purpose of the commercial development of oil, natural gas, or minerals.

Section 13(q) requires a resource extraction issuer to provide information about the type and total amount of such payments made for each project related to the commercial development of oil, natural gas, or minerals, and the type and total amount of payments made to each government. In addition, Section 13(q) requires a resource extraction issuer to provide information about those payments in an interactive data format.

It is important to note that Section 13(q) of the Exchange Act (Section 1504 of the Dodd-Frank Wall Street Reform Act), which requires resource extraction companies to report annually on their payments to foreign governments, remains United States law.

The Administration supported the passage of House Joint Resolution 41 in order to increase American competitiveness in the energy sector.

We cannot predict the future of any rulemaking around Section 1504. The process for finalizing a rule to implement Section 1504 has been ongoing for seven years. I refer you to the SEC for further information.



United States Department of the Interior

OFFICE OF NATURAL RESOURCES REVENUE

P.O. Box 25165
Denver, Colorado 80225-0165

NOV 02 2017

Mr. Fredrik Reinfeldt
Chair, Extractive Industries Transparency Initiative Board
Ruseløkkveien 26
0251 Oslo
Norway

Dear Chair Reinfeldt:

The United States has made significant progress meeting individual requirements of the Extractive Industries Transparency Initiative (EITI) since the fall of 2011 when the U.S. announced that it would begin the multi-year process of becoming an EITI compliant country. The Department of the Interior established a multi-stakeholder group in December 2012 and achieved Candidate Country status in March 2014. Perhaps our most significant accomplishment is the creation of an open source, open code interactive web-based data portal (<https://useiti.doi.gov>) on which the agency has unilaterally disclosed 2013, 2014, and 2015 revenues by company, commodity, and revenue type, as well as production data across all commodities. This portal is the new global standard in revenue governance transparency. We are happy to report that use by state, local and tribal governments is increasing as well. While the U.S. government remains committed to fighting corruption in the extractive industries sector, and the ideals of transparency enshrined in the EITI Principles and the EITI Standard, it is clear that domestic implementation of EITI does not fully account for the U.S. legal framework. Effective immediately, therefore, the United States must withdraw as an EITI Implementing Country.

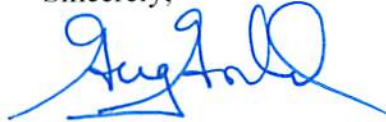
The Office of Natural Resources Revenue (ONRR), which maintains the primary role in the U.S. Government for the collection and disbursement of revenue related to energy and non-energy mineral resources, remains fully committed to institutionalizing the EITI principles of transparency and accountability consistent with U.S. law. ONRR intends to mainstream government reporting of energy production and the associated revenue collection and disbursement. ONRR is also committed to continue its efforts to promote public awareness and engage stakeholders in a public conversation of the potential impacts of proposed policies and regulations related to revenue collection from such development. We will continue to unilaterally disclose revenue payments received for extractive operations on federal land through our open data portal, and we will continue to improve our reporting through the inclusion of additional states and tribes.

Please know that the U.S. Department of State will continue to lead the United States' commitment to the EITI as a Supporting Country, a role that the United States has played since the beginning of the initiative. The U.S. political and financial support of the EITI over many

years has been second to none. In conjunction with the U.S. Agency for International Development, the State Department will continue to promote transparency, fight corruption and ensure good governance, as well as to support country-level EITI implementation. We continue to value the EITI as a critical tool to promote transparency, increase competitiveness, and combat corruption around the world.

Despite the fact that the U. S. laws prevent us from meeting specific provisions of the EITI Standard, we look forward to working together to promote transparency, fight corruption and ensure good governance.

Sincerely,

A handwritten signature in blue ink, appearing to read "Gregory J. Gould", with a stylized flourish extending from the bottom left.

Gregory J. Gould
Director

Draft
Summary of Conclusions
Extractive Industry Transparency Initiative (EITI) Sub-PCC
Wednesday, August 30, 2017, 3:00 p.m. to 4:00 p.m.
EEOB 176

Participants:

Interior

Greg Gould
Judy Wilson

State

Micah Watson
Chanan Weissman

USAID

Erik Pacific
Jennifer Lewis

OMB

Ben Burnett

NSC

James Mazzaella
Tess McEnery
Robert Palladino
Nicholas Coleman

Discussion:

- The Department of the Interior (DOI) informed the interagency that it was impossible for USEITI to meet all eight of the requirements needed for compliance with ~~EITI's the EITI International standards~~. Withdrawal from domestic implementation of EITI, therefore, should happen as soon as feasible.
- The alternative approach (continue an appeal process which would take at least 18 months) would end up, according to DOI, at the same point of failure and therefore is not viable.
- The EITI's ~~transparency international secretariat's~~ rules ~~make require any country that fails failing to meet~~ any one of the eight tests ~~to take corrective actions, and failure to complete those corrective actions within the prescribed timeline will lead to grounds for suspension~~.
- On February 14, 2017, House Joint Resolution 41, enacted in accordance with the Congressional Review Act, repealed the SEC's final rule-regulations that implemented Sec. 1504 of the Dodd Frank Act. These regulations would have forced public disclosure by natural resource extractors of their payments to governments tax liabilities, a condition of certification for EITI. That type of disclosure is required under the EITI Standard.
 - DOI reports that without ~~these regulations~~ a strong final rule that implements Section 1504, ~~EITI's international secretariat EITI~~ will not ~~certify-validate~~ the United States as ~~being~~ in compliance with the EITI Standard. Other U.S. laws and practices which provide for the desired transparency will not meet the ~~secretariat's EITI~~ requirements.

Commented [W1]: (b) (5)

- The Interagency consensus was that, even if the USG appeals the predicted failed grade ~~from that the United States is likely to receive from the EITI Board following our April 2018 validation, EITI, and even if we and asserts the right of to mainstream USEITI's existing implementation effortsing,~~ an alternative approach that highlights ~~the U.S. other~~ transparency laws and practices, the U.S. will still be found out of compliance ~~and fail in 18 months.~~
- Additionally, to be in compliance, a multi-stakeholder (MSG) group would have to reconstituted and at the current time, according to DOI, no path for a constructive dialogue with an MSG exists.
- ~~Validation deadline for~~ USEITI is scheduled to begin validation by the international secretariat on April 6th. If withdrawal does not occur before this date, the US ~~will could be on an irreversible path wherein withdrawal may not be possible until the EITI renders a verdictbe suspended and join countries such as Azerbaijan and Ethiopia.~~
- Despite extremely transparent US domestic federal, state and tribal institutions and laws, withdrawal from USEITI will have serious consequences for the USG push for transparency and anti-corruption overseas and could, if not handled properly, damage our efforts to achieve important foreign policy goals.
- There are also implications for withdrawing from EITI for the USG self-reporting process of the Open Government Partnership. Compliance with EITI has been part of the OGP plan for a number of years and timing on the withdrawal should take into account those deadlines. The report will be finalized in October.
- Given that a) the Department of the Interior would like to relinquish responsibility for EITI compliance and b) EITI is an international body, there was discussion on whether a different agency, such as the Department of State, would be a more appropriate interlocutor with the international secretariat ~~in Norway.~~
 - A withdrawal letter from State could, for example, more clearly express the USG support for international efforts on transparency.
 - The United States would, like many countries, remain a supporting country of the EITI, and perhaps even continue to serve on the EITI International Board in that capacity ~~member of the international body in a supportive role~~ even if domestic reporting was discontinued.
 - USAID made note of the fact it was considering a small grant to the international secretariat to help its efforts. This fact could be represented in the withdrawal letter to reinforce the USG respect for and continuing commitment to the mission of the international efforts.

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It was agreed that:

- Withdrawal from USEITI implementation not later than April 6th (and earlier if feasible) would be in the best interests of the United States.
- The international equities, including reporting for the Open Government Partnership, and ~~messaging to U.S. embassy~~ messaging to relevant host governments ~~ies~~ are significant. Handled incorrectly, there could be severe consequences to the United States' reputation, internationally and domestically, as committed to the ideals of transparency and fighting corruption.
- Agencies will consult internally and revert back with a position on who should send the withdrawal letter (letter attached).

- State will brief relevant Posts and provide talking points, as appropriate. (attached).
- The DOI press office would be synced with the NSC and WH press office to handle questions based on agreed upon talking points that addressed the international ramifications of this situation.
- NSC DOI and State congressional teams should consider proactive outreach prior to USEITI withdrawal.
- USAID would research if/when it could announce funding to support the EITI in Norway international secretariat.
- This would be elevated to a PCC if warranted before action is taken.
- State and USAID would research how many countries had been suspended and how many have withdrawn from the validation process, and which those are. (attached) USAID will report on USG efforts to support EITI member countries' efforts to comply with EITI goals.

Mr. Fredrik Reinfeldt
Chair, EITI Board
Ruseløkkveien 26
0251 Oslo
Norway

Chair Reinfeldt,

~~As you know~~ the United States has made significant progress meeting individual requirements of the Extractive Industries Transparency Initiative (EITI) Standard since the ~~F~~fall of 2011, when the U.S. announced that it would begin the multi-year process of becoming an EITI ~~compliant~~ implementing country. The U.S. Department of the Interior (DOI) established ~~a the USEITI M~~ multi-stakeholder Group (MSG) in December 2012, and the United States achieved Candidate Country status in March 2014. Since its first meeting in 2013, the USEITI MSG has worked collaboratively to reach consensus on how to implement EITI in the United States. Perhaps USEITI's ~~our~~ most significant accomplishment ~~has been~~ the creation of an open source, open code interactive web-based data portal (<https://useiti.doi.gov>) on which ~~the agency~~ DOI has unilaterally disclosed 2013, 2014, and 2015 revenues by company, commodity, and revenue type, as well as production data across all commodities. This portal has truly set a new global standard in revenue governance transparency serving as a model in open data for the EITI Secretariat and other EITI countries. ~~We are~~ DOI is happy to report that use of this portal by state, local and tribal governments throughout the United States is increasing as well. The U. S. government remains committed to fighting corruption in the extractive industries sector, and the ideals of transparency enshrined in the EITI Principles and the EITI Standard. ~~It is clear that~~ Unfortunately, and despite the significant progress made by USEITI, implementation of the EITI Standard does not fully account in the United States is not feasibly for the U.S. due to the realities and requirements of our domestic legal framework. Effective immediately, therefore, the United States ~~must has decided to~~ withdraw as an EITI Implementing Country. ~~The U.S. Department of the Interior~~ DOI which maintains the primary role in the U.S. Government for the governance of energy and non-energy mineral resources, remains fully committed to institutionalizing the EITI principles of transparency and accountability consistent with U.S. law. ~~The Department of the Interior~~ DOI intends to mainstream government reporting of energy production and the associated revenue collection and disbursement. -The Department is also committed to continuing its efforts to promote public awareness and engage stakeholders in a public conversation of the potential impacts of proposed policies and regulations related to revenue collection from such development. ~~We~~ DOI will continue to unilaterally disclose revenue payments received for extractive operations on federal land through ~~our~~ the open data portal, and ~~we will~~ continue to improve ~~our~~ reporting through the inclusion of additional states and tribes.

As an EITI Supporting Country, the United States will continue to ~~work together to~~ promote transparency, fight corruption and ensure good governance as well as to support country-level EITI implementation.

Respectfully,

Greg Gould
Director, Office of Natural Resources Revenue and
USEITI Government Sector Co-Chair

DRAFT
August 2017 USEITI Talking Points
For Transmittal to Posts from Main State

- The United States has notified the EITI International Secretariat of our intention to withdraw as an implementing country.
- The United States is a strong supporter of good governance and transparency, which is why we have implemented the EITI Standard domestically. We have taken a leading role in EITI since its founding in 2003, and continue to support the EITI initiative and the principles it represents.
- Implementing the EITI Standard in the United States was a proactive step in the mainstreaming of EITI principles. It demonstrated that a strong commitment to transparency and accountability principles applies equally to developed and developing countries, providing an example for other OECD economies
- The multi-stakeholder group (MSG) known as “USEITI” will be dechartered as a Federal Advisory Committee. The Department of the Interior intends to continue to advise the Secretary on extractives transparency through the Royalty Policy Committee, which will hold its first meeting on October 4,.
- USEITI has made significant progress on domestic revenue transparency. The Department of the Interior intends to institutionalize transparency measures and mainstream government reporting of energy production and the associated revenue collection and disbursement.
- The Department of the Interior will continue to promote public awareness and engage stakeholders in a public conversation of the potential impacts of proposed policies and regulations related to revenue collection from such development.
- We will continue to unilaterally disclose revenue payments received for extractive operations on federal land through our open data portal, and we will continue to improve our reporting through the inclusion of additional states and tribes.
- Through the data portal, the Department of the Interior will continue to give the public more meaningful access to information about revenues received by the United States for the Nation’s natural resources.

TITLE SLIDE

Good morning. I am Judy Wilson. I work for the Office of Natural Resources Revenue, which is in the Secretary's Office of Policy Management and Budget.

The Department of the Interior has administered the mineral leasing program for Federal and American Indian lands for over a century.

ONRR collects, accounts for, and verifies natural resource and energy revenues due to States, American Indians, and the U.S. Treasury.

Between FY 1982 and 2016, ONRR has disbursed \$287 billion in revenue to the Nation, states, and American Indians

This morning, beginning with the Open Government Partnership as a backdrop, I would like to provide you a few highlights of our extractives industries data portal.

In 2011, the U.S. and seven other governments launched the global Open Government Partnership, a commitment to improve governance and increase citizen participation.

Countries around the world, including the U.S., develop country action plans identifying commitments that promote those principles. In the 1st, 2nd, and 3rd U.S. National Action Plans, the U.S. committed to:

- Ensure that taxpayers receive every dollar due for extraction of our natural resources, building on reforms in the management of our natural resources; and

- Work in partnership with industry and citizens to develop a plan to disclose relevant information, creating additional "sunshine" for the process of collecting revenues from natural resource extraction and enhancing the accountability and transparency of our revenue collection efforts.

The data portal I am about to show you was developed as a pilot in 2014 and has been enhanced every year since then in response to these commitments. We think it will prove to be a valuable resource for you and your ensuing discussions.

SITE NAVIGATION SLIDE

This data Portal is an official government website. The content is restricted to government (federal, state and local) information and data. A multi-stakeholder advisory committee comprised of industry, federal, state and Tribal government and public / civil society

representatives approved by consensus all content that appears on this site. The address for the site is useiti.doi.gov.

Navigating the site is relatively simple. You can either use a series of quick launch bars or select one of several modular blocks on the home page.

GOVERNANCE OF U.S. RESOURCE EXTRACTION SLIDE

The “HOW IT WORKS” quick launch takes you to the information that focuses on the governance and processes associated with energy and non-energy mineral resources.

For example, you can quickly access the Federal, State and Tribal laws and regulations.

WHO IS RESPONSIBLE AT THE FEDERAL LEVEL SLIDE

On the ABOUT Page provides high-level information regarding energy and minerals governance responsibilities, divided among the Department entities:

- Bureau of Indian Affairs (BIA)
- Bureau of Land Management (BLM)
- Bureau of Ocean Energy Management (BOEM)
- Bureau of Safety and Environmental Enforcement (BSEE)
- Office of Natural Resources Revenue (ONRR)

HOW RESOURCES ON FEDERAL LANDS RESULT IN REVENUE SLIDE

There are modules on the home page that take you to our archived Executive Summaries. The 2015 Executive is perhaps the most encompassing and helpful for depicting for the first time how Natural Resources on Federal Lands Result in DOI Revenue (PG 39) in a visual format.

ENERGY AND MINERAL RESOURCES REVENUE STREAMS SLIDE

Another very useful graphic (PG 46) in this Executive Summary visually depicts for the first time, the Federal Revenue Streams and the Statutory and Regulatory Rates by Resource Commodity.

HOW NATURAL RESOURCES RESULT IN FEDERAL REVENUES SLIDE

Still accessible by means of the “How it Works Quick Launch” one can learn about the governance processes, responsible Bureaus, opportunities for Public Engagement, and the associated Revenue Streams collected for Oil and Gas, Coal, Non-Energy Minerals, and Renewables.

FEDERAL PRODUCTION SLIDE

Now, I would like to draw your attention on the HOME PAGE to the “EXPLORE DATA” quick Launch Bar. Everything here, the information and the data has a geographic component.

On this part of the Data Portal you will find data related to Production, Revenue, Disbursements, and Economic Impact both Nation-wide and with-in State and County boundaries for all commodities.

The Nation-Wide data is presented for a ten-year span, by commodity to provide a quick trending visual.

FEDERAL REVENUES SLIDE

When visualizing the Revenues on Federal Lands, you will see the most recent complete year (2016) total revenues received by commodity and production phase when using the Federal Revenue by Phase Tab OR

When using the Revenue Details by Phase Tab, you will see the revenues by phase and the associated statutory rates.

FEDERAL REVENUE BY COMMODITY SLIDE

Every visualization on the data portal has an associated link to the data and documentation for that visual.

Also note that when viewing the Federal Revenues by Commodity you are again seeing a ten-year span to provide a quick trending visual.

NATIONAL AND LOCAL DATA SLIDE

When exploring data with a geographic reference, at the State level (for example Wyoming) the data we used comes from the Energy Information Administration and it includes data about all energy-related natural resources produced on federal, state, and privately owned land.

Once you drill down to Federal lands within the State you are able to visualize the federal production data at the County level of granularity.

FEDERAL REVENUE BY COMPANY SLIDE

While you can visualize the relative contribution of revenue streams by commodity using the EXPLORE DATA Quick Launch Bar; for the first time in 2015 ONRR began making available to the public an even more interesting data set which you can access using the HOW-IT-WORKS Quick Launch bar, and select Revenues under Resources to Revenues on the right side navigator.

You can filter this data aggregated at the Company level, by year (2013-2016), commodity, or revenue stream.

DOWNLOAD DATA SLIDE

There are two different ways to access the actual DOI/ONRR data sets associated with revenues and production.

One is to click on the “DATA AND DOCUMENTATION LINK” associated with each visual.

The other way is to go back to the home page and at the top of any page select the “DOWNLOADS” quick launch tab. This is where we provide you the direct link to the data that powers the many interactive visualizations on the page.

COMING SOON SLIDE

On last note, we will continue to roll out and update revenue and production data on this data portal in a dynamic fashion, as complete fiscal year and calendar year data sets become available. Also new this year, will be an addition to the Federal Revenue Aggregated by Company. We are providing additional geographic information for revenue streams onshore within a state boundary or if offshore in a particular area.

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July 2017 USEITI Talking Points

- The United States has notified the EITI International Secretariat of our intention to withdraw as an implementing country.
- ~~The multi-stakeholder group (MSG) known as "USEITI" will be dechartered as a Federal Advisory Committee. The Department of the Interior intends to continue to advise the Secretary on extractives transparency through an alternative mechanism to be announced at a later date.~~
- The United States is a strong supporter of good governance and transparency, which is why we have implemented the EITI Standard domestically. We have taken a leading role in EITI since its founding in 2003 and remain fully engaged in promoting the global initiative.
- Implementing the EITI Standard in the United States was a proactive step in the mainstreaming of EITI principles. It demonstrated that a strong commitment to transparency and accountability principles applies equally to developed and developing countries, providing an example for other OECD economies
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- ~~We~~DOI will continue to unilaterally disclose revenue payments received for extractive operations on federal land through our open data portal, and ~~we~~DOI will continue to improve our reporting through the inclusion of additional states and tribes.

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Approved: ENR –

Drafted: ENR/EGA/PAPD – Micah Watson, 7-7959

Cleared: ENR/FO –
DOI/ONRR –
NSC –
USAID –

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Approved: ENR –

Drafted: ENR/EGA/PAPD – Micah Watson, 7-7959

Cleared: ENR/FO –
DOI/ONRR –
NSC –
USAID –

March 2017 USEITI Talking Points for use with Civil Society Organizations

- The United States remains a strong supporter of EITI and continues to implement the EITI Standard domestically. We have supported and played a leadership role in EITI since its founding almost 14 years ago.
- Implementing the EITI Standard domestically moved the global conversation about extractive transparency forward. It advanced the mainstreaming of EITI principles and encouraged additional OECD economies to implement the EITI Standard. Implementing the Standard domestically also demonstrated that a strong commitment to transparency and accountability principles applies equally to developed and developing countries.
- The multi-stakeholder group (MSG) known as “USEITI” remains chartered as a Federal Advisory Committee with responsibility to advise on the domestic implementation of the Standard. ~~and continues to oversee domestic implementation of USEITI. The USEITI MSG is no longer scheduled to meet during the remainder of 2017.~~
- It is important to note the significant progress that USEITI has made over the past four years. The Department of the Interior intends to institutionalize EITI and mainstream government reporting of energy production and the associated revenue collection and disbursement.
- In addition, the Department of the Interior will continue to promote public awareness and engage stakeholders in a public conversation of the potential impacts of proposed policies and regulations related to revenue collection from such development.
- No decision has been made by the U.S. government on future implementation of EITI. Any future change in our implementation will be announced publicly.

March 2017 USEITI Talking Points for use with EITI and Foreign Governments

- The United States remains a strong supporter of EITI and continues to implement the EITI Standard domestically. We have supported and played a leadership role in EITI since its founding almost 14 years ago. Promotion and support of EITI is a key component of U.S. efforts to advance transparency in the extractive industries worldwide.
- Implementing the EITI Standard domestically moved the global conversation about extractive transparency forward. It advanced the mainstreaming of EITI principles and encouraged additional OECD economies to implement the EITI Standard. Implementing the Standard domestically also demonstrated that a strong commitment to transparency and accountability principles applies equally to developed and developing countries.
- The multi-stakeholder group (MSG) known as “USEITI” remains chartered and has responsibility to advise on the ~~continues to oversee~~ domestic implementation of the Standard ~~USEITI.~~

- Unfortunately the Department of the Interior's decision to cancel the remaining ~~final~~ two MSG meetings scheduled for 2017 has led to confusion and speculation.
- It is important to note the significant progress that USEITI has made over the past four years. The Department of the Interior intends to institutionalize EITI and mainstream government reporting of energy production and the associated revenue collection and disbursement.
- In addition, the Department of the Interior will continue to promote public awareness and engage stakeholders in a public conversation of the potential impacts of proposed policies and regulations related to revenue collection from such development.
- No decision has been made by the U.S. government on future implementation of EITI. As with any transition of Administrations, we are currently reviewing our approach to many public initiatives.
- Any future change in our EITI implementation will be announced publicly.

Terminating the USEITI Federal Advisory Committee

The USEITI Federal Advisory Committee was established in August 2012. The Committee's purpose was to serve as the initial EITI Multistakeholder Group (MSG) and its duties included consideration and fulfillment of the tasks required to achieve candidate and compliant status in the EITI. The Committee's Charter was renewed in 2014, and again in 2016. The MSG each year developed and recommended to the Secretary a fully-costed work plan, containing measurable targets and a timetable for implementation, and an assessment of capacity constraints. Each year the MSG developed and recommended to the Secretary an Annual Activity Report documenting the decisions and accomplishment, and progress in meeting the EITI Standard. The MSG advised the Secretary on long-term oversight and other activities necessary to achieve EITI candidate and compliant status.

On December 11, 2013, the MSG approved the U.S. EITI Candidacy Application. On December 19, 2013, the Secretary of the Interior submitted the Application to the EITI International Board who formally accepted the Application on March 19, 2014. The U.S. became the first G7 country to achieve Candidate Country status.

Key successes include publishing the 2015 and 2016 USEITI Annual Reports on an open source, open code interactive web-based data portal (<https://useiti.doi.gov>). On this portal, the Department of the Interior unilaterally discloses 2013, 2014, 2015, 2016 revenues by company, commodity, and revenue type as well as production data across all commodities. The portal is the new global standard in revenue governance transparency. The Annual Reports provide clarity and transparency of the revenues generated by energy development on public lands and waters—a significant source of financial support for local communities, States, Tribes, and the Federal Government. To date, four states (Montana, Wyoming, Alaska, and Colorado) opted-in to USEITI, allowing for expanded State reporting of extractive revenues.

The U.S. is scheduled to produce its third Annual Report in December 2017 and undergo independent, third party validation April 1, 2018. In May 2017, the DOI Office of the Inspector General released a final inspection report on the U.S. implementation of the EITI. The report included observations and no recommendations. Their review found the U.S. has met 8 of the 9 elements of the standard but will not be found in compliance with the EITI standard because of low level disclosure of revenues by Companies (particularly tax payments) thus impeding independent reconciliation of payments and receipts. The EITI Board is likely to find USEITI to have made inadequate progress or be suspended.

The Department, through ONRR will continue to mainstream (publicly disclose) DOI revenue reporting in lieu of redundant company reporting and Independent Administrator reconciliation. The Department, as managed by ONRR, has robust audit and assurances practices in place to demonstrate accountability for the revenues paid and received for our country's oil, gas, and mineral resources.

The USEIT MSG has therefore fulfilled its responsibilities to the Secretary as documented in the Charter and will now be terminated in the fall of 2017.

Memorandum

To: Amy Holley
Acting Assistant Secretary for Policy, Management and Budget

Through: Greg Gould
Director, Office of Natural Resources Revenue

From: Judith Wilson
Program Manager, U.S. Extractive Industries Transparency Initiative Secretariat

Subject: Response to the Honorable the Honorable Raúl M. Grijalva, Ranking Member, House
Natural Resources Committee

Attached for your review and signature is the response to the Honorable Raúl M. Grijalva, Ranking Member, House Natural Resources Committee, for his letter regarding the status of Department of the Interior's implementation of the Extractive Industries Transparency Initiative Standard.

I recommend that you sign the attached letter.

Attachment

OFFICE: Office of Natural Resources Revenue (ONRR)

MEMBER: General Interest

ISSUE: U.S. Extractive Industries Transparency Initiative

Key Points: The U.S. government committed to implementing EITI in the U.S. (USEITI) in 2011 and in the spring of 2012 designated the Department of the Interior the lead Agency for implementing USEITI. Implementing USEITI provides additional oversight of the collection and disbursement of the Nation's mineral resources revenues. USEITI successfully completed the initial requirements to join EITI as a candidate country when accepted by the International EITI Board in March 2014. Key successes include publishing the 2015 and 2016 USEITI Annual Reports on an open source, open code interactive web-based data portal (<https://useiti.doi.gov>). On this portal, the Department of the Interior unilaterally discloses 2013, 2014, and 2015 revenues by company, commodity, and revenue type as well as production data across all commodities. The portal is the new global standard in revenue governance transparency.

Background: The Extractive Industries Transparency Initiative, or EITI, is a voluntary, global effort designed to strengthen accountability and public trust for the revenues paid and received for a country's oil, gas, and mineral resources. Beyond identifying opportunities for reform, a major outcome of implementing the standard is to engage the public and increase public dialogue on the issues surrounding governance of extractive industry revenues and activities. EITI brings together a coalition of government, companies, and civil society (the Multistakeholder Group or MSG), to oversee the domestic implementation of the voluntary framework in which governments disclose revenues received from oil, gas, and mining assets, in with parallel disclosure by companies of what they have paid to the government in royalties, rents, bonuses, taxes, and other payments. In March 2014, the U.S. became the first G7 country to achieve Candidate Country status. Both the United Kingdom and Germany have followed the U.S. lead and have both become Candidate countries. The Annual Reports provide clarity and transparency of the revenues generated by energy development on public lands and waters—a significant source of financial support for local communities, States, Tribes, and the Federal Government. In the spring of 2016, three states (Montana, Wyoming, and Alaska) opted-in to USEITI, allowing for expanded State reporting of extractive revenues.

Current: The U.S. is scheduled to produce its third Annual Report in December 2017 and undergo validation April 1, 2018. Validation is an independent, external and impartial process that serves to assess performance and promote dialogue and learning at the country level. It also safeguards the integrity of the EITI by holding all EITI implementing countries to the same global Standard. USEITI has met 8 of the 9 elements of the standard but will not be found in compliance with the EITI standard until companies timely and comprehensively report tax revenues, project-level non-tax revenues, and beneficial owners. The EITI Board is likely to find USEITI to have made inadequate progress or be suspended. ONRR will begin mainstreaming DOI revenue reporting and institutionalizing EITI processes. ONRR will no longer support an Independent Administrator to reconcile government revenue disclosures with company disclosed payments and can reduce the funding needed for this effort.

Prepared by: Greg Gould, ONRR Director, (303) 231-XXXX

Date: May 5, 2017

UNITED STATES EXTRACTIVE INDUSTRIES TRANSPARENCY INITIATIVE
MULTI-STAKEHOLDER GROUP CO-CHAIRS MEETING
MAY 11, 2017

MEETING SUMMARY

Background

The USEITI MSG co-chairs, along with a colleague from each other their sectors, met with representatives from the EITI International Secretariat and the US Department of State to discuss possible future directions for USEITI. This meeting took place on May 11, 2017 in Washington DC.

This summary provides a high-level synthesis of the key options with regards to the future direction of USEITI explored during the meeting. No decisions about USEITI's future were made at this meeting. Rather, each sector will discuss internally and the co-chairs are planning to reconvene on June 22 for an anticipated decision on that date.

Options Considered for USEITI's Future

Meeting participants considered the following four options for the future of USEITI:

- 1) Request a temporary, voluntary suspension from EITI
- 2) The International EITI Board could create a new path for USEITI to continue under different requirements / protocols
- 3) Mainstreaming of USEITI reporting into US government reporting
- 4) Withdrawal of the United States from EITI

Option 1: Request a temporary, voluntary suspension from EITI

In this option, the US government would formally write to the International EITI board for a two-year "pause" on implementation of EITI in the United States. The following activities would take place during this two-year pause:

- Congress and the SEC will have time to move forward around the Dodd-Frank Act, and specifically rule making under Section 1504 of the Dodd-Frank Act, which will clarify publicly traded USEITI-participating companies' requirements for corporate income tax disclosure.
- ONRR will continue to update the online data portal (the USEITI website) on a regular basis with unilateral disclosure of non-tax revenues from the US government. ONRR will also proceed with a pilot rollout of one state's revenue information. The USEITI name would be removed from the website for the duration of the pause.
- There would *not* be any USEITI MSG meetings held.
- Ambassador Warlick will continue participating on the EITI International Board.

- There is an opportunity to see if the EITI Standard evolves in a way to allow greater flexibility for countries like the United States that have very robust transparency and reporting procedures already in place.
- The CSO and industry sectors can explore whether to pursue outreach and advocacy efforts to the government to create a true multistakeholder forum for the USEITI MSG that is not constrained by FACA.

Considerations around this option:

- The provision in the EITI Standard outlining the conditions in which an implementing country can request a “pause” generally is envisioned for situations of civil conflict in the form of a coup or civil war.
- Inherent in the concept of a “pause” is that there exists a clear pathway and timeframe for USEITI to restart its work in compliance with the EITI Standard and have a strong case for validation.
 - Outstanding questions about the prospects for corporate income tax reporting in quantities that would meet the requirements of the EITI Standard in the United States raise questions about USEITI’s future pathway to validation under the EITI Standard.
 - Standing up the USEITI MSG as a FACA subcommittee within the Department of the Interior may need to be revisited. FACA committees are advisory to the US Government, whereas EITI MSGs are intended to be independent decision-making bodies.

Option 2: The International EITI Board could create a new path for USEITI to continue under different requirements / protocols

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Considerations around this option:

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UNITED STATES EXTRACTIVE INDUSTRIES TRANSPARENCY INITIATIVE
MULTI-STAKEHOLDER GROUP CO-CHAIRS MEETING
MAY 11, 2017

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USEITI ACCOMPLISHMENTS

Talking Points

- In September 2011, as part of the U.S. Open Government Partnership, the Office of Natural Resources Revenue (ONRR) began collaborating with other government Agencies, Departmental Bureaus and offices, and industry and civil society stakeholders, to implement the United States Extractive Industries Transparency Initiative (USEITI). Since its first public meeting in 2013, through to its 20th meeting in 2017, the USEITI Multistakeholder Group worked collaboratively to successfully reach consensus on how to implement USEITI. This initiative highlights the U.S.'s commitment to transparency and good governance of domestic extractive sector revenues.
- In March 2014, the U.S. became the first G7 and second OECD country to achieve Candidate Country status and become an EITI implementing country.
- In December 2015 the first online Report and Executive Summary were published on the DOI data portal and in November 2016 the second online Report and Executive Summary were published. ONRR will complete a third online report in December 2017.
- Through the 2015 and 2016 Reports, the DOI was able to demonstrate, due to our robust audit and assurance practices, zero unresolved discrepancies between federal government disclosed revenues received from oil, gas, and mining companies, with parallel disclosure by companies of what they have paid to the government in royalties, rents, bonuses, taxes, and other payments.
- The DOI data portal was built with modern, open-source technologies so that techniques and tools can be shared and replicated throughout the U.S. and in other EITI countries around the world. The public can access and interact with the portal on a desktop, lap top, tablet or smart phone. The website's data sets and visualizations can also be reused for strategic reporting and reposted and sent through social media, thus further informing the public and open debate on the extractives industry in the U.S.
- The DOI launched online data portal allows for easy access to data about the extractive industries in the U.S. (<https://useiti.doi.gov/>). Our approach represents a paradigm shift from the government deciding what information is important and relevant to the public and how to convey that information to partnering with the public to understand what is important and asking the public how they can best receive information.
- In 2014, for the first time, the DOI unilaterally disclosed production data and calendar year revenue data by company, revenue type, and commodity. DOI unilaterally disclosed for calendar years 2013-2015, \$33.1 billion in revenues paid by companies for extraction on federal lands and waters.

- In the spring of 2016, three states (Montana, Wyoming, and Alaska) opted-in to USEITI, allowing for expanded State reporting of extractive revenues. This collaboration with states expands public access to local-level natural resource data on revenues, distribution of those revenues, and legal and fiscal governance of the extractive industries, as well as the economic impact of extraction in their states.
- The interactive data portal also is a proven demonstration of mainstreaming revenue collection and energy related data across all Interior Bureaus and provides Department of the Interior company-level revenue data by revenue stream and commodity. Not only does this report makes us more accountable to the American people, but on a on a global scale our user-centered design approach and commitment to open data and open source code internationally recognized as exemplary best practice in reporting revenue data.
- Publishing two Reports combined with diligent outreach efforts has led to increased citizen participation, enhanced access to data to inform public debate, improved management of public resources, and increased government collaboration and overall transparency.
- In the long term, extractive industry transparency should not be confined to EITI reporting, but become an integral part of how government manages. Therefore, at DOI we have initiated steps to move towards institutionalizing innovation in digital services and mainstreaming government extractives revenue data pipelines and end-user needs.
- EITI fits within ONRR's guiding principles of Accountability, Professionalism, Integrity, Partnerships and Innovation and guiding vision to be recognized as a world-class natural resources revenue management program, setting the standard for accountability and transparency.

OFFICE: Office of Natural Resources Revenue (ONRR)
MEMBER: General Interest
ISSUE: U.S. Extractive Industries Transparency Initiative (USEITI)

Key Points:

- Under the leadership of the Director, Office of Natural Resources Revenue and the Program Manager of the U.S. Extractive Industries Transparency Initiative (USEITI), the Department of the Interior is leading the implementation of the 2016 EITI Standard.
- In March 2014, the U.S. became the first G7 country to achieve Candidate Country status and become an EITI implementing country.
- Interior achieved an important milestone in December 2015, when it raised the bar on transparency of natural resource revenue governance with the release of the first annual USEITI Report.
- This innovative and interactive, web-based report offers a wealth of information to the public in a comprehensive and accessible fashion and is another step in efforts to reform and modernize natural resource revenue management by the Department.

Background:

- EITI is a global voluntary partnership to strengthen the accountability of natural resource revenue reporting and build public trust for the governance of these vital activities.
- EITI offers a voluntary framework for governments to disclose revenues received from oil, gas, and mining assets belonging to the state, with parallel disclosure by companies of what they have paid the government in royalties, rents, bonuses, taxes and other payments.
- The USEITI Report provides clarity and transparency on the revenues generated by energy development on public lands and waters—a significant source of financial support for local communities, States, Tribes, and the Nation.
- The design of each EITI framework is country-specific, and is developed through a collaborative process by a Multi-Stakeholder Group (MSG) comprised of government, industry, and civil society representatives. The MSG ensures opportunities for collaboration and consultation among stakeholders so that every decision reflects each of the stakeholder sectors.
- The EITI principles align with the administration's pledge of a more transparent, participatory, and collaborative government and USEITI implementation supports the International Open Government Partnership.

Prepared by: Gregory J. Gould, ONRR Director, (202) 513-0600

Date: January 22, 2016

USEITI notables for 1/24/2017/ ASPMB Meeting

1) USEITI MSG Meeting: ONRR will host the first USEITI MSG meeting of 2017 on February 1 (10 am – 3:30 pm and 2 (9 am – 1 pm) in the MIB, South Penthouse. The public meeting agenda and supporting materials are posted on the MSG website at <https://www.doi.gov/eiti/faca/meetings>. The MSG will: approve the November Meeting Minutes; receive an update from the Independent Administrator on the Mainstreaming Feasibility Report; receive updates from the three Subcommittees (Implementation, Communications and Outreach and State and Tribal Opt-in; discuss potential improvements to revenue and USEITI reconciliation procedures; and approve the three new additions to the contextual narrative for the 2017 USEITI Annual Report.

2) EITI Board Meeting No. 36: The 36th Board meeting will be held March 8-9, 2017 in Bogota, Colombia. Some likely items of significance include the Implementation Committee considerations of the validation safeguards and possible recommendation to the Board; compliance and instances of non-compliance with the beneficial ownership roadmaps; further action on supporting mainstreaming by adapting and refining existing support to implementing countries; and pending validations and Candidacy applications. USEITI submitted to the Board in December 2016, the MSG approved USEITI 2017 Annual Work, the Beneficial Ownership Roadmap, and the USEITI Request to Extend Partial Adapted Implementation for USEITI Subnational Revenues. We expect feedback / approvals from the Board on our submissions. In addition, the USEITI Secretariat submitted to the EITI Secretariat in November 2016, an informal validation self-assessment. We expect discussion and feedback from the Secretariat at the Board meeting.

INFORMATION MEMORANDUM FOR THE ASSISTANT SECRETARY

FROM: Greg Gould, Director, Office of Natural Resources Revenue Management

SUBJECT: USEITI – Options for Implementing the 2016 Extractive Industries Transparency Initiative (EITI) Standard

DATE: May 11, 2017

ISSUE

The Department of the Interior, which leads U.S. implementation of the EITI Standard, began in the fall of 2011 an aggressive timeline to establish a multi-stakeholder group (MSG); achieve Candidate Country status in March 2014; and ultimately begin the validation process by April 1, 2018. However, despite having met or exceeded 22 of 26 individual elements of the Standard (8 of the 9 requirements), at the conclusion of the validation process, the USEITI will not be found in compliance with the EITI Standard and is thus likely to be suspended from the initiative. This paper presents options for avoiding such an outcome, improving our management of the USEITI process, and maintaining DOI's commitment to transparent, collaborative and participatory government.

BACKGROUND

Prior to DOI taking the lead in 2011 to implement EITI in the United States, the Department of State (State) strongly supported EITI and coordinated U.S. participation in the global effort as a supporting country. Since EITI's inception in 2002, State has played a key role in shaping the EITI into the global standard for revenue transparency. Through its representation of the United State as a supporting country on the EITI Board and participation in the Finance and Governance and Oversight Committees, State works to clarify, interpret, and promote the rules of the EITI Standard, including by helping to draft guidance documents on how to assess country compliance. U.S. leadership has played a crucial role in the endorsement of the EITI by the G-7, the G-20, and the United Nations Security Council.

The United States Agency for International Development (USAID) has provided significant support to EITI both at the multilateral level and through direct bilateral support for implementation through USAID Missions around the world. USAID has provided over \$30 million in assistance for EITI implementation, peer exchange, and research.

Domestic implementation of EITI is subject to existing laws and regulations. For example, the Trade Secrets Act and the Federal Oil and Gas Royalty Management Act (FOGRMA) of 1982, prohibit the Federal government from releasing company pricing information and Federal employees are subject to criminal penalties if they violate these laws. Section 6103 of the Internal Revenue Code (IRC) provides that tax returns and tax return information are confidential and prohibited from disclosure, unless an exception identified in the IRC is

applicable. The IRC imposes civil and criminal penalties for violations of the disclosure prohibitions.

INTRODUCTION

The Extractive Industries Transparency Initiative, or EITI, is a voluntary, global effort designed to strengthen accountability and public trust for the revenues paid and received for a country's oil, gas, and mineral resources. EITI brings together a coalition of government, companies, and civil society, or Multi-stakeholder Groups (MSG's), to strengthen government and company systems, inform public debate, and promote understanding.

The U.S. government successfully completed the initial requirements to join EITI as a candidate country when the EITI International Board accepted our candidacy application in March 2014. Key successes to date include publishing the 2015 and 2016 USEITI Annual Reports on an open source, open code interactive web-based data portal (<https://useiti.doi.gov>). On this portal, the Department of the Interior unilaterally disclosed 2013, 2014, and 2015 revenues by company, commodity, and revenue type as well as production data across all commodities. The portal is the new global standard in revenue governance transparency.

In 2016, the Department of the Interior (the lead federal agency) entered a new phase in implementing EITI. The EITI International Board revised the EITI Standard in February 2016, to include requirements for disclosure of beneficial owners of extractive companies and to provide the opportunity to "mainstream" revenue data by governments and companies in lieu of an independent reconciliation of reported revenues. The work of the USEITI MSG (39 members and alternates from federal, state, and tribal governments, civil society and industry) is to ensure that the USEITI framework is tailored to U.S. laws, regulations, and culture, and that it is implementable by government and industry.

The USEITI primary challenges for compliance are: corporate income tax reporting; project-level reporting and beneficial owner disclosure of the corporate entity(ies) that bid for, operate or invest in extractive assets. Unlike other implementing countries, company reporting in the United States is entirely voluntary. Despite current setbacks there is a path forward for U.S. commitment to EITI -- implementing with the expectation of achieving compliance and sustaining our role in the global Open Government Partnership. The path forward parallels the Department's commitment to reforming revenue management and royalty collections. This memorandum addresses considerations of this phase of USEITI implementation and provides options to resolve implementing challenges in successfully achieving compliance with the EITI standard.

I. AREAS FOR CONSIDERATION

Implementing EITI will continue to improve government revenue transparency in the United States and continue to serve as an example internationally. The primary areas of consideration for 2017 and leading to the validation on April 1, 2018, are multi-agency involvement, governance of the USEITI multi-stakeholder group, institutionalizing the principles of EITI in

the Department of the Interior and mainstreaming government data. In order to recommend appropriate options for a government position, this paper takes into account the U.S. legal context, legal constraints, feasibility, and the international EITI requirements.

MULTI-AGENCY INVOLVEMENT

In July 2012, the Department of the Interior established the USEITI Sub-Interagency Policy Committee (Sub-IPC) to discuss the status of implementation of the EITI Standard and make decisions requiring interagency input. The Sub-IPC consisted of the following agencies: Office of Management and Budget (OMB); National Security Council (NSC); and Office of Science and Technology Policy (OSTP); as well as the Departments of State, Treasury, and Energy. The Sub-IPC was led by the National Security Council. The National Security Council, Securities Exchange Commission, Treasury Department and Department of the Interior are all critical to the ultimate success of the U.S. implementation of the EITI Standard.

On June 27, 2016 the Securities and Exchange Commission (SEC) issued a final rule, Disclosure of Payments by Resource Extraction Issuers, implementing section 1504 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Pub. L. No. 111-203, July 21, 2010), which required certain companies to report to the SEC their payments related to extractive industries activities. The payments that issuers were to report under the rule included taxes, royalties, fees, production entitlements, bonuses, social responsibility payments (if required by law or contract), dividends, payments for infrastructure improvements. In July 2016, the SEC issued an order recognizing the resource extraction payment disclosure requirements of the European Union, Canada and the U.S. Extractive Industries Transparency Initiative as substantially similar to the requirements of Rule 13q-1 under the Securities Exchange Act of 1934. The SEC requirements were both broader and narrower than EITI requirements. EITI does not require reporting of payments for social responsibility, infrastructure improvements or dividends, but does require reporting of fines or payments, which are not within in the scope of Dodd-Frank or the SEC rule. Congress disapproved the SEC regulations in February 2017; however, the Act still requires the SEC to promulgate regulations to implement section 1504 of the Act.

The Internal Revenue Service (IRS) is the primary Government body in charge of managing all tax payments, including payment of corporate income tax, which falls under the purview of USEITI. In the United States there are two key sources of publicly available information about federal income taxes for the extractive industries: the government and the filings of companies that are publicly listed. As mandated by the Revenue Act of 1916, the IRS publishes statistics related to “the operations of the internal revenue laws” as they affect individuals, corporations, and various other entities. The IRS Statistics of Income (SOI) program is responsible for executing this function by collecting, processing, and presenting this data, and then sharing information about how the tax system works with other government agencies and the general public.

The Department of the Treasury, in May 2016, issued a customer due diligence rule (CDD Rule), which streamlines and clarifies several components of customer due diligence under the Bank Secrecy Act to promote consistency and added a key new requirement for U.S. financial institutions to know the real people who own, control, and profit from companies (the “beneficial

owners”)—and verify their identities. U.S. law requires all legal entities that open a U.S. bank account or have a Federal or State tax filing requirement obtain an EIN for tax administration purposes. Further, an entity is required to obtain an EIN if it has employees, or is required to file any documents including tax returns, with the IRS. An EIN (also known as a taxpayer identification number) is also required, under the Banking Secrecy Act, to open a bank account. Section 13(d) of the Securities Exchange Act of 1934 requires any person or group that acquires more than five percent “beneficial ownership” of public company equity securities to disclose its position within 10 days of crossing the threshold. There is no institutional framework for public disclosure of beneficial ownership disclosure information in the United States as required by the EITI Standard. There is, however, a substantial and growing framework for the collection of beneficial ownership information from both public and private companies operating in the U.S.

The Department of the Interior maintains the primary role in the U.S. Government for the governance of energy and non-energy mineral resources. Several different Bureaus within the Department of the Interior collect non-tax payments depending on the type of payment, the location of exploration and production, and the type of resource being extracted. These include: Interior’s Office of Natural Resources Revenue, the Bureau of Land Management, and the Office of Surface Mining Reclamation and Enforcement. The Office of Natural Resources Revenue manages and ensures full payment of revenues owed for the development of the nation’s energy and natural resources on the Outer Continental Shelf and onshore Federal and Indian lands.

MULTISTAKEHOLDER COMMITTEE MANAGEMENT

In 2012, the Department of the Interior conducted a series of stakeholder engagements to ascertain the optimal course for USEITI multi-stakeholder committee management. The options included a Federal Operating Committee, an existing FACA Committee, Non-Federal Entity and a New FACA Committee.

Federal Operating Committees are established by Congress through legislation. An operating committee is established to perform primarily ‘operational as opposed to ‘advisory’ functions. While providing legitimacy and decision-making authority, this legislative option does not allow for expediency. An Existing FACA Committee would require the Charter to address the scope and the Secretary to appoint new members. A Non-Federal Entity, a non-governmental organization, such as a 501(c)(3) allows the two non-governmental sectors (industry and civil society) to come together to create a committee or group, and then seek participation by the federal government in that entity; or the federal government could use a contract, grant, or cooperative agreement to ask a separate, “third-party” entity to convene and/or operate the MSG as a non-Federal entity. In this case, there does not appear to be enough certainty around the mechanism and the authority for creation, thus drawing into question the legitimacy of such a group. Additionally, creating a 501(c)(3) would require an investment of time and money that does not support expediency and sustainability. A non-federal entity would require recognition by the Federal government to bestow decision-making authority and most likely, any changes in federal rules or regulations proposed by the MSG would trigger FACA requirements. Finally, a new FACA Committee could be convened by either the Department of the Interior or the Office of President. Because a FACA Committee only provides advice to the federal government, and the federal government appoints its members, there is concern that a FACA might not meet the

EITI expectation of collaboration, sector self-selection, and responsibility for implementing EITI.

After careful consideration of input from the public at large and stakeholders, the FACA committee option provides the legitimacy, expediency, and sustainability required to ensure the successful implementation of USEITI. In 2012, with assurances from the government, the FACA committee should be able to fulfill the initial functions of an MSG, to develop a fully-costed work plan to design and implement the USEITI framework and obtain EITI compliance, within the spirit and framework of the EITI requirements. The Government noted at the time, that making a decision to set-up the initial U.S. MSG as a FACA did not mean the U.S. MSG would remain so as USEITI implementation moved forward. The MSG, as part of its deliberations, could decide to seek legislation or another option to reform the USEITI MSG.

2017 CHALLENGES TO IMPLEMENTING EITI REQUIREMENTS

The USEITI primary challenges for 2017 are: corporate income tax reporting (Congressionally disapproved Dodd-Frank §1504 regulations required a resource extraction issuer to disclose taxes); project-level reporting (Congressionally disapproved Dodd-Frank §1504 regulations defined project as operational activities that are governed by a single contract, license, lease, concession, or similar legal agreement, which form the basis for payment liabilities with a government); mainstreaming reporting requirements; and beneficial owner disclosure (of the corporate entity(ies) that bid for, operate or invest in extractive assets). Unlike other implementing countries, company reporting in the U.S. is entirely voluntary.

The EITI Standard requires reporting on “profits taxes,” or taxes on income, where material. Section 6103 of the Internal Revenue Code (IRC) provides that tax returns and tax return information are confidential and prohibited from disclosure, unless an exception identified in the IRC is applicable. The MSG requested companies to voluntarily report the sum of all federal corporate income tax payments and encouraged reconciliation. For the 2015 USEITI Report, 12 out of 41 applicable companies reported \$190 million in corporate income taxes and in the 2016 USEITI Report, 12 out of 38 applicable companies reported -\$308 million in corporate income taxes.

The EITI Standard states that the MSG is required to agree on the level of disaggregation for publishing data, that EITI data must be presented by individual company, government entity, and revenue stream, and requires that reporting at project level. The standard does not provide a specific definition of “project,” but states it should be consistent with the SEC rules and European Union laws. Section 1504 of the Dodd-Frank Act requires extractive industries companies registered with the SEC to separately disclose information about payments to governments around the world in an interactive data format.

Options for Implementing the 2016 EITI Standard:

1) In 2017, the United States seeks adapted implementation of the company reporting requirements required under the 2010 Dodd Frank Act until such time as the Securities Exchange Commission promulgates regulations under the Act. The request for adapted implementation,

made to the EITI International Board, acknowledges the Congressional disapproval of the Dodd Frank §1504 SEC Regulations. The Board will consider this option in light of MSG support and decide whether to approve adapted implementation. This option requires USEITI MSG support and there is no change to the USEITI MSG Federal Advisory Committee structure or the governance of domestic implementation. The Department of State continues to coordinate U.S. participation in the global effort as a supporting country.

2) The United States requests the EITI International Board to approve an implementation ‘pause’ for one year combined with a one-year extension to the April 1, 2018, timeframe for initiating validation. We would argue that the “pause” and extension would allow the new Administration time to place senior leadership critical to decision making in all the key Agencies (i.e., DOI, State, Treasury). This option requires the USEITI MSG support and there is no change to the USEITI MSG Federal Advisory Committee or the governance of domestic implementation. The Department of State continues to coordinate U.S. participation in the global effort as a supporting country.

3) The USEITI MSG is reformulated in a streamlined fashion. The MSG remains a FACA committee that advises the Secretary of the Interior and also remains consistent with the EITI principles of governance. Having demonstrated significant accomplishments over the past five years and relying on the willingness of many dedicated members of the MSG to continue to volunteer their time, this option would reduce the burden of participation on all sectors. This option requires USEITI MSG support. The Department of State continues to coordinate U.S. participation in the global effort as a supporting country.

4) The lead for domestic implementation of the EITI Standard shifts to the White House, National Security Council, with Interior, Treasury and the SEC partnering in implementation. The USEITI MSG is reformulated in a streamlined fashion, incorporating option 3 above. The Department of State continues to coordinate U.S. participation in the global effort as a supporting country.

5) The U.S. government unilaterally decides to no longer participate and withdraws as an implementing country. The Department of State continues to coordinate U.S. participation in the global effort as a supporting country.

RECOMMENDATION:

Despite current setbacks there is a path forward for: U.S. commitment to EITI; implementing EITI with the expectation of achieving compliance; and sustaining our role in the global Open Government Partnership.

We recommend Option 4 as the most feasible path forward to achieve compliance with the Standard. It will be necessary to have full support from State, Treasury, SEC and the National Security Council to implement this option. Interior has lead domestic implementation to date yet only has jurisdiction with respect to governance associated with natural resource extraction on federal and Indian Lands and associated non-tax revenue management. In light of the April 3, 2017, Federal Register notice of the Secretary of the Interior establishing and seeking

nominations for the Royalty Policy Committee (RPC or Committee) there may be a path forward for the streamlined MSG approach. The Committee will advise on current and emerging issues related to the determination of fair market value, and the collection of revenue from energy and mineral resources on Federal and Indian lands. The Committee also will advise on the potential impacts of proposed policies and regulations related to revenue collection from such development, including whether a need exists for regulatory reform. We believe the purpose of the Committee aligns with principles of EITI that address the valuable role of stakeholders in seeking solutions to issues in the area of natural resource extraction and revenue management. A streamlined USEITI MSG can be a significant source of support to the RPC in their discussions and deliberations

In addition to Option 4 above, we also recommend institutionalizing appropriate EITI requirements within the Office of Natural Resources Revenue. The path forward parallels the Department's commitment to reforming revenue management and royalty collections. We recognize that public understanding of government revenues and expenditures over time informs public debate and informs choice of appropriate and realistic options for sustainable energy development. Maintaining the USEITI data portal and integrating even more government revenue data and information is vital to support public policy and is fundamental to the Royalty Policy Committee discussions and deliberations. We also remain committed to encouraging high standards of transparency and accountability to the public for our mission and in our everyday operations.

We also welcome the idea of mainstreamed EITI non-tax revenue disclosures in lieu of company reporting and Independent Administrator reconciliation. The rationale for the 2016 refinement to the Standard is that extractive industry transparency should not be confined to EITI reports and expensive reconciliation exercises, but become an integral part of how governments manage their sector. Rather than simply relying on the EITI reporting mechanism to bring about transparency, governments implementing the EITI could to a greater extent make the information required by the EITI Standard available through government and corporate reporting systems such as databases, websites, annual reports, portals etc. The Department, as managed by ONRR, has robust audit and assurances practices in place to demonstrate accountability for the revenues paid and received for our country's oil, gas, and mineral resources. ONRR is now further integrating how we manage data and the EITI Standard by disclosing for the first time project-level reporting. In the 2017 USEITI Annual Report, ONRR will disclose in addition to the unilateral disclosure of revenues by revenue stream, commodity and company the ONRR and Office of Surface Mining revenue streams by parent company and by State. USEITI has already demonstrated global leadership and through the data portal, an effective means of providing transparency around the governance of extractive industries revenue management and ensuring improved public awareness. Mainstreaming government data will continue to demonstrate leadership in transparency.

INFORMATION MEMORANDUM FOR THE ASSISTANT SECRETARY

FROM: Greg Gould, Director, Office of Natural Resources Revenue Management

SUBJECT: USEITI – Options for Implementing the 2016 Extractive Industries Transparency Initiative (EITI) Standard

DATE: April 4, 2017

ISSUE

The Department of the Interior, leading U.S. implementation of the EITI Standard, began in the fall of 2011, an aggressive timeline to establish a multistakeholder group (MSG); achieve Candidate Country status in March 2014; and ultimately begin the validation process April 1, 2018. In spite of having met or exceed 22 of 26 individual elements of the Standard (or 8 of the 9 requirements) the USEITI will not be found in compliance with the EITI standard and is likely to be suspended. This paper will present options for improving the process to manage for USEITI compliance and ensuring DOI maintains its commitment to transparent, collaborative and participatory government.

BACKGROUND

Prior to DOI taking the lead in 2011 to implement EITI in the U.S., the U.S. State Department (State) strongly supported EITI. Since EITI's inception in 2002, State has played a key role in shaping the EITI into the global standard it is today. State participated and continues to participate as a supporting country. Through its representation on the EITI Board and the Finance and Governance and Oversight Committees, State works to clarify, interpret, and promote the rules of the EITI Standard, including by helping to draft guidance documents on how to assess country compliance. U.S. leadership has played a crucial role in the endorsement of the EITI by the G-7, the G-20, and the United Nations Security Council.

The United States Agency for International Development (USAID) has provided significant support to EITI both at the multilateral level and through direct bilateral support for implementation through USAID Missions around the world. Specifically USAID has provided over \$30 million in assistance for EITI implementation, peer exchange, and research.

Domestic implementation of EITI is subject to existing laws and regulations. For example, the Trade Secrets Act and the Federal Oil and Gas Royalty Management Act (FOGRMA) of 1982, prohibit the Federal government from releasing company pricing information and Federal employees are subject to criminal penalties if they violate these laws. Section 6103 of the Internal Revenue Code (IRC) provides that tax returns and tax return information are confidential and prohibited from disclosure, unless an exception identified in the IRC is applicable. The IRC imposes civil and criminal penalties for violations of the disclosure prohibitions.

INTRODUCTION

The Extractive Industries Transparency Initiative, or EITI, is a voluntary, global effort designed to strengthen accountability and public trust for the revenues paid and received for a country's oil, gas, and mineral resources. EITI brings together a coalition of government, companies, and civil society, or Multistakeholder Group (MSG), to strengthen government and company systems, inform public debate, and promote understanding.

The U.S. government successfully completed the initial requirements to join EITI as a candidate country when the International EITI Board accepted our candidacy application in March 2014. Key successes to date include publishing the 2015 and 2016 USEITI Annual Reports on an open source, open code interactive web-based data portal (<https://useiti.doi.gov>). On this portal, the Department of the Interior unilaterally disclosed 2013, 2014, and 2015 revenues by company, commodity, and revenue type as well as production data across all commodities. The portal is the new global standard in revenue governance transparency.

In 2016, the Department of the Interior (the lead federal agency) entered a new phase in implementing EITI. The EITI International Board revised the EITI Standard in February 2016, to include requirements for disclosure of beneficial owners of extractive companies and to provide opportunity to “mainstream” revenue data by governments and companies in lieu of an independent reconciliation of reported revenues. The work of the USEITI MSG (39 members and alternates from federal, state, and tribal governments, civil society and industry) is to ensure that the USEITI framework is tailored to U.S. laws, regulations, and culture, and that it is implementable by government and industry.

The USEITI primary challenges for compliance are: corporate income tax reporting; project-level reporting and beneficial owner disclosure of the corporate entity(ies) that bid for, operate or invest in extractive assets. Unlike other implementing countries, company reporting in the U.S. is entirely voluntary. Despite current setbacks there is a path forward for U.S. commitment to EITI; implementing with the expectation of achieving compliance and sustaining our role in the global Open Government Partnership. The path forward parallels the Department's commitment to reforming revenue management and royalty collections. This memorandum addresses considerations of this phase of USEITI implementation and provides options to resolve implementing challenges in successfully achieving compliance with the EITI standard.

I. AREAS FOR CONSIDERATION

Implementing EITI will continue to improve government revenue transparency in the U.S. and continue to serve as an example internationally. The primary areas of consideration for 2017 and leading to the validation on April 1, 2018, are multi-agency involvement, governance of the USEITI multistakeholder group, institutionalizing the principles of EITI in the U.S. Department of the Interior and mainstreaming government data. In order to recommend appropriate options for a government position, this paper takes into account the U.S. legal context, legal constraints, feasibility, and the international EITI requirements.

MULTI-AGENCY INVOLVEMENT

In July 2012, the Department of the Interior established the USEITI-Sub-Interagency Policy Committee (Sub-IPC) to discuss the status of implementation of the EITI Standard and make decisions requiring interagency input. The Sub-IPC consisted of the following agencies: Office of Management and Budget (OMB); National Security Council (NSC); and Office of Science and Technology Policy (OSTP); as well as the Departments of State, Treasury, and Energy. The Sub-IPC was led by the National Security Council. The National Security Council, Securities Exchange Commission; Treasury Department and Department of the Interior are all critical to the ultimate success of the U.S. implementation of the EITI Standard.

On June 27, 2016 the Securities and Exchange Commission (SEC) issued a final rule, Disclosure of Payments by Resource Extraction Issuers, implementing section 1504 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Pub. L. No. 111-203, July 21, 2010), which required certain companies to report to the SEC their payments related to extractive industries activities. The payments that issuers were to report under the rule included taxes, royalties, fees, production entitlements, bonuses, social responsibility payments (if required by law or contract), dividends, payments for infrastructure improvements. In July 2016, the SEC issued an order recognizing the resource extraction payment disclosure requirements of the European Union, Canada and the U.S. Extractive Industries Transparency Initiative as substantially similar to the requirements of Rule 13q-1 under the Securities Exchange Act of 1934. The SEC requirements were both broader and narrower than EITI requirements. EITI does not require reporting of payments for social responsibility, infrastructure improvements or dividends, but does require reporting of fines or payments, which are not within in the scope of Dodd-Frank or the SEC rule. Congress disapproved the SEC regulations in February 2017 however, the Act still requires the SEC to promulgate regulations to implement section 1504 of the Act.

The Internal Revenue Service (IRS) is the primary Government body in charge of managing all tax payments, including payment of corporate income tax, which falls under the purview of USEITI. In the U.S. there are two key sources of publicly available information about federal income taxes for the extractive industries: the government and the filings of companies that are publicly listed. As mandated by the Revenue Act of 1916, the IRS publishes statistics related to “the operations of the internal revenue laws” as they affect individuals, corporations, and various other entities. The IRS Statistics of Income (SOI) program is responsible for executing this function by collecting, processing, and presenting this data, and then sharing information about how the tax system works with other government agencies and the general public.

The Department of the Treasury, in May 2016, issued a customer due diligence rule (CDD Rule), which streamlines and clarifies several components of customer due diligence under the Bank Secrecy Act to promote consistency and added a key new requirement for U.S. financial institutions to know the real people who own, control, and profit from companies (the “beneficial owners”)—and verify their identities. U.S. law requires all legal entities that open a U.S. bank account or have a Federal or State tax filing requirement obtain an EIN for tax administration purposes. Further, an entity is required to obtain an EIN if it has employees, or is required to file any documents including tax returns, with the IRS. An EIN (also known as a taxpayer identification number) is also required, under the Banking Secrecy Act, to open a bank account.

Section 13(d) of the Securities Exchange Act of 1934 requires any person or group that acquires more than five percent “beneficial ownership” of public company equity securities to disclose its position within 10 days of crossing the threshold. There is no institutional framework for public disclosure of beneficial ownership disclosure information in the U.S. as required by the EITI Standard. There is, however, a substantial and growing framework for the collection of beneficial ownership information from both public and private companies operating in the U.S.

The Department of the Interior maintains the primary role in the U.S. Government for the governance of energy and non-energy mineral resources. Several different Bureaus within the Department of the Interior collect non-tax payments depending on the type of payment, the location of exploration and production, and the type of resource being extracted. These include: Interior’s Office of Natural Resources Revenue, the Bureau of Land Management, and the Office of Surface Mining Reclamation and Enforcement. The Office of Natural Resources Revenue manages and ensures full payment of revenues owed for the development of the nation’s energy and natural resources on the Outer Continental Shelf and onshore Federal and Indian lands.

MULTISTAKEHOLDER COMMITTEE MANAGEMENT

In 2012, The Department of the Interior conducted a series of stakeholder engagements to ascertain the optimal course for USEITI multistakeholder committee management. The options included a Federal Operating Committee, an existing FACA Committee, Non-Federal Entity and a New FACA Committee.

Federal Operating Committees are established by Congress through legislation. An operating committee is established to perform primarily ‘operational as opposed to ‘advisory’ functions. While providing legitimacy and decision-making authority, this legislative option does not allow for expediency. An Existing FACA Committee would require the Charter to address the scope and the Secretary to appoint new members. A Non-Federal Entity, a non-governmental organization, such as a 501(c)(3) allows the two non-governmental sectors (industry and civil society) to come together to create a committee or group, and then seek participation by the federal government in that entity; or the federal government could use a contract, grant, or cooperative agreement to ask a separate, “third-party” entity to convene and/or operate the MSG as a non-Federal entity. In this case, there does not appear to be enough certainty around the mechanism and the authority for creation, thus drawing into question the legitimacy of such a group. Additionally, creating a 501(c)(3) would require an investment of time and money that does not support expediency and sustainability. A non-federal entity would require recognition by the Federal government to bestow decision-making authority and most likely, any changes in federal rules or regulations proposed by the MSG would trigger FACA requirements. Finally, a new FACA Committee could be convened by either the Department of the Interior or the Office of President. Because a FACA Committee only provides advice to the federal government, and the federal government appoints its members, there is concern that a FACA might not meet the EITI expectation of collaboration, sector self-selection, and responsibility for implementing EITI.

After careful consideration of input from the public at large and stakeholders, the FACA committee option provides the legitimacy, expediency, and sustainability required to ensure the

successful implementation of USEITI. In 2012, with assurances from the government, the FACA committee should be able to fulfill the initial functions of an MSG, to develop a fully-costed work plan to design and implement the USEITI framework and obtain EITI compliance, within the spirit and framework of the EITI requirements. The Government noted at the time, that making a decision to set-up the initial U.S. MSG as a FACA did not mean the U.S. MSG would remain so as US EITI implementation moved forward. The MSG, as part of its deliberations, could decide to seek legislation or another option to reform the USEITI MSG.

2017 CHALLENGES TO IMPLEMENTING EITI REQUIREMENTS

The USEITI primary challenges for 2017 are: corporate income tax reporting (Congressionally disapproved Dodd-Frank §1504 regulations required a resource extraction issuer to disclose taxes); project-level reporting (Congressionally disapproved Dodd-Frank §1504 regulations defined project as operational activities that are governed by a single contract, license, lease, concession, or similar legal agreement, which form the basis for payment liabilities with a government); mainstreaming reporting requirements; and beneficial owner disclosure (of the corporate entity(ies) that bid for, operate or invest in extractive assets). Unlike other implementing countries, company reporting in the U.S. is entirely voluntary.

The EITI Standard requires reporting on “profits taxes,” or taxes on income, where material. Section 6103 of the Internal Revenue Code (IRC) provides that tax returns and tax return information are confidential and prohibited from disclosure, unless an exception identified in the IRC is applicable. The MSG requested companies to voluntarily report the sum of all federal corporate income tax payments and encouraged reconciliation. For the 2015 USEITI Report, 12 out of 41 applicable companies reported \$190 million in corporate income taxes and in the 2016 USEITI Report, 12 out of 38 applicable companies reported -\$308 million in corporate income taxes.

The EITI Standard states that the MSG is required to agree on the level of disaggregation for publishing data, that EITI data must be presented by individual company, government entity, and revenue stream, and requires that reporting at project level. The standard does not provide a specific definition of “project,” but states it should be consistent with the SEC rules and European Union laws. Section 1504 of the Dodd-Frank Act requires extractive industries companies registered with the SEC to separately disclose information about payments to governments around the world in an interactive data format.

Options for Implementing the 2016 EITI Standard:

1) In 2017, the U.S. seeks adapted implementation of the company reporting requirements required under the 2010 Dodd Frank Act until such time that the Securities Exchange Commission promulgates regulations under the Act. The request for adapted implementation acknowledges the Congressional disapproval of the Dodd Frank §1504 SEC Regulations. This option requires the USEITI MSG support and there is no change to the USEITI MSG Federal Advisory Committee or governance of domestic implementation.

- 2) The U.S. seeks an extension to the April 1, 2018, timeframe for initiating validation. This option requires the USEITI MSG support and there is no change to the USEITI MSG Federal Advisory Committee or governance of domestic implementation.
- 3) The USEITI MSG is reformulated in a streamlined fashion and yet still consistent with the EITI principles of governance. This option requires the USEITI MSG support.
- 4) The lead for domestic implementation of the EITI Standard shifts to the White House, National Security Council with Interior, Treasury and the SEC all partnering in implementation and that the USEITI MSG is reformulated in a streamlined fashion, incorporating option 3 above.

RECOMMENDATION:

Despite current setbacks there is a path forward for: U.S. commitment to EITI; implementing EITI with the expectation of achieving compliance; and sustaining our role in the global Open Government Partnership.

We recommend Option 4 as the most feasible path forward to achieve compliance with the Standard. It will be necessary to have full support from State, Treasury, SEC and the National Security Council to implement this option. Interior has lead domestic implementation to date yet only has jurisdiction with respect to governance associated with natural resource extraction on federal and Indian Lands and associated non-tax revenue management.

In addition to Option 4 above, we recommend institutionalizing appropriate EITI requirements within the Office of Natural Resources Revenue. The path forward parallels the Department's commitment to reforming revenue management and royalty collections. We recognize that public understanding of government revenues and expenditures over time informs public debate and informs choice of appropriate and realistic options for sustainable energy development. We also remain committed to encouraging high standards of transparency and accountability to the public for our mission and in our everyday operations.

We also welcome the idea of mainstreamed EITI non-tax revenue disclosures in lieu of company reporting and Independent Administrator reconciliation. The rationale for the 2016 refinement to the Standard is that extractive industry transparency should not be confined to EITI reports and expensive reconciliation exercises, but become an integral part of how governments manage their sector. Rather than simply relying on the EITI reporting mechanism to bring about transparency, governments implementing the EITI could to a greater extent make the information required by the EITI Standard available through government and corporate reporting systems such as databases, websites, annual reports, portals etc. The Department, as managed by ONRR, has robust audit and assurances practices in place to demonstrate accountability for the revenues paid and received for our country's oil, gas, and mineral resources. USEITI has also demonstrated global leadership and through the data portal, an effective means of providing transparency around the governance of extractive industries revenue management and ensuring improved public awareness.

INFORMATION MEMORANDUM FOR THE ASSISTANT SECRETARY

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The Department of the Interior, leading U.S. implementation of the EITI Standard, began in the fall of 2011, an aggressive timeline to establish a multistakeholder group (MSG); achieve Candidate Country status in March 2014; and ultimately begin the validation process April 1, 2018. In spite of having met or exceed 22 of 26 individual elements of the Standard (or 8 of the 9 requirements) the USEITI will not be found in compliance with the EITI standard and is likely to be suspended. This paper will present options for improving the process to manage for USEITI compliance and ensuring DOI maintains its commitment to transparent, collaborative and participatory government.

BACKGROUND

Prior to DOI taking the lead in 2011 to implement EITI in the U.S., the U.S. State Department (State) strongly supported EITI. Since EITI's inception in 2002, State has played a key role in shaping the EITI into the global standard it is today. State participated and continues to participate as a supporting country. Through its representation on the EITI Board and the Finance and Governance and Oversight Committees, State works to clarify, interpret, and promote the rules of the EITI Standard, including by helping to draft guidance documents on how to assess country compliance. U.S. leadership has played a crucial role in the endorsement of the EITI by the G-7, the G-20, and the United Nations Security Council.

The United States Agency for International Development (USAID) has provided significant support to EITI both at the multilateral level and through direct bilateral support for implementation through USAID Missions around the world. Specifically USAID has provided over \$30 million in assistance for EITI implementation, peer exchange, and research.

Domestic implementation of EITI is subject to existing laws and regulations. For example, the Trade Secrets Act and the Federal Oil and Gas Royalty Management Act (FOGRMA) of 1982, prohibit the Federal government from releasing company pricing information and Federal employees are subject to criminal penalties if they violate these laws. Section 6103 of the Internal Revenue Code (IRC) provides that tax returns and tax return information are confidential and prohibited from disclosure, unless an exception identified in the IRC is applicable. The IRC imposes civil and criminal penalties for violations of the disclosure prohibitions.

INTRODUCTION

The Extractive Industries Transparency Initiative, or EITI, is a voluntary, global effort designed to strengthen accountability and public trust for the revenues paid and received for a country's oil, gas, and mineral resources. EITI brings together a coalition of government, companies, and civil society, or Multistakeholder Group (MSG), to strengthen government and company systems, inform public debate, and promote understanding.

The U.S. government successfully completed the initial requirements to join EITI as a candidate country when the International EITI Board accepted our candidacy application in March 2014. Key successes to date include publishing the 2015 and 2016 USEITI Annual Reports on an open source, open code interactive web-based data portal (<https://useiti.doi.gov>). On this portal, the Department of the Interior unilaterally disclosed 2013, 2014, and 2015 revenues by company, commodity, and revenue type as well as production data across all commodities. The portal is the new global standard in revenue governance transparency.

In 2016, the Department of the Interior (the lead federal agency) entered a new phase in implementing EITI. The EITI International Board revised the EITI Standard in February 2016, to include requirements for disclosure of beneficial owners of extractive companies and to provide opportunity to “mainstream” revenue data by governments and companies in lieu of an independent reconciliation of reported revenues. The work of the USEITI MSG (39 members and alternates from federal, state, and tribal governments, civil society and industry) is to ensure that the USEITI framework is tailored to U.S. laws, regulations, and culture, and that it is implementable by government and industry.

The USEITI primary challenges for compliance are: corporate income tax reporting; project-level reporting and beneficial owner disclosure of the corporate entity(ies) that bid for, operate or invest in extractive assets. Unlike other implementing countries, company reporting in the U.S. is entirely voluntary. Despite current setbacks there is a path forward for U.S. commitment to EITI; implementing with the expectation of achieving compliance and sustaining our role in the global Open Government Partnership. The path forward parallels the Department's commitment to reforming revenue management and royalty collections. This memorandum addresses considerations of this phase of USEITI implementation and provides options to resolve implementing challenges in successfully achieving compliance with the EITI standard.

I. AREAS FOR CONSIDERATION

Implementing EITI will continue to improve government revenue transparency in the U.S. and continue to serve as an example internationally. The primary areas of consideration for 2017 and leading to the validation on April 1, 2018, are multi-agency involvement, governance of the USEITI multistakeholder group, institutionalizing the principles of EITI in the U.S. Department of the Interior and mainstreaming government data. In order to recommend appropriate options for a government position, this paper takes into account the U.S. legal context, legal constraints, feasibility, and the international EITI requirements.

MULTI-AGENCY INVOLVEMENT

In July 2012, the Department of the Interior established the USEITI-Sub-Interagency Policy Committee (Sub-IPC) to discuss the status of implementation of the EITI Standard and make decisions requiring interagency input. The Sub-IPC consisted of the following agencies: Office of Management and Budget (OMB); National Security Council (NSC); and Office of Science and Technology Policy (OSTP); as well as the Departments of State, Treasury, and Energy. The Sub-IPC was led by the National Security Council. The National Security Council, Securities Exchange Commission; Treasury Department and Department of the Interior are all critical to the ultimate success of the U.S. implementation of the EITI Standard.

On June 27, 2016 the Securities and Exchange Commission (SEC) issued a final rule, Disclosure of Payments by Resource Extraction Issuers, implementing section 1504 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Pub. L. No. 111-203, July 21, 2010), which required certain companies to report to the SEC their payments related to extractive industries activities. The payments that issuers were to report under the rule included taxes, royalties, fees, production entitlements, bonuses, social responsibility payments (if required by law or contract), dividends, payments for infrastructure improvements. In July 2016, the SEC issued an order recognizing the resource extraction payment disclosure requirements of the European Union, Canada and the U.S. Extractive Industries Transparency Initiative as substantially similar to the requirements of Rule 13q-1 under the Securities Exchange Act of 1934. The SEC requirements were both broader and narrower than EITI requirements. EITI does not require reporting of payments for social responsibility, infrastructure improvements or dividends, but does require reporting of fines or payments, which are not within in the scope of Dodd-Frank or the SEC rule. Congress disapproved the SEC regulations in February 2017 however, the Act still requires the SEC to promulgate regulations to implement section 1504 of the Act.

The Internal Revenue Service (IRS) is the primary Government body in charge of managing all tax payments, including payment of corporate income tax, which falls under the purview of USEITI. In the U.S. there are two key sources of publicly available information about federal income taxes for the extractive industries: the government and the filings of companies that are publicly listed. As mandated by the Revenue Act of 1916, the IRS publishes statistics related to “the operations of the internal revenue laws” as they affect individuals, corporations, and various other entities. The IRS Statistics of Income (SOI) program is responsible for executing this function by collecting, processing, and presenting this data, and then sharing information about how the tax system works with other government agencies and the general public.

The Department of the Treasury, in May 2016, issued a customer due diligence rule (CDD Rule), which streamlines and clarifies several components of customer due diligence under the Bank Secrecy Act to promote consistency and added a key new requirement for U.S. financial institutions to know the real people who own, control, and profit from companies (the “beneficial owners”)—and verify their identities. U.S. law requires all legal entities that open a U.S. bank account or have a Federal or State tax filing requirement obtain an EIN for tax administration purposes. Further, an entity is required to obtain an EIN if it has employees, or is required to file any documents including tax returns, with the IRS. An EIN (also known as a taxpayer identification number) is also required, under the Banking Secrecy Act, to open a bank account.

Section 13(d) of the Securities Exchange Act of 1934 requires any person or group that acquires more than five percent “beneficial ownership” of public company equity securities to disclose its position within 10 days of crossing the threshold. There is no institutional framework for public disclosure of beneficial ownership disclosure information in the U.S. as required by the EITI Standard. There is, however, a substantial and growing framework for the collection of beneficial ownership information from both public and private companies operating in the U.S.

The Department of the Interior maintains the primary role in the U.S. Government for the governance of energy and non-energy mineral resources. Several different Bureaus within the Department of the Interior collect non-tax payments depending on the type of payment, the location of exploration and production, and the type of resource being extracted. These include: Interior’s Office of Natural Resources Revenue, the Bureau of Land Management, and the Office of Surface Mining Reclamation and Enforcement. The Office of Natural Resources Revenue manages and ensures full payment of revenues owed for the development of the nation’s energy and natural resources on the Outer Continental Shelf and onshore Federal and Indian lands.

MULTISTAKEHOLDER COMMITTEE MANAGEMENT

In 2012, The Department of the Interior conducted a series of stakeholder engagements to ascertain the optimal course for USEITI multistakeholder committee management. The options included a Federal Operating Committee, an existing FACA Committee, Non-Federal Entity and a New FACA Committee.

Federal Operating Committees are established by Congress through legislation. An operating committee is established to perform primarily ‘operational as opposed to ‘advisory’ functions. While providing legitimacy and decision-making authority, this legislative option does not allow for expediency. An Existing FACA Committee would require the Charter to address the scope and the Secretary to appoint new members. A Non-Federal Entity, a non-governmental organization, such as a 501(c)(3) allows the two non-governmental sectors (industry and civil society) to come together to create a committee or group, and then seek participation by the federal government in that entity; or the federal government could use a contract, grant, or cooperative agreement to ask a separate, “third-party” entity to convene and/or operate the MSG as a non-Federal entity. In this case, there does not appear to be enough certainty around the mechanism and the authority for creation, thus drawing into question the legitimacy of such a group. Additionally, creating a 501(c)(3) would require an investment of time and money that does not support expediency and sustainability. A non-federal entity would require recognition by the Federal government to bestow decision-making authority and most likely, any changes in federal rules or regulations proposed by the MSG would trigger FACA requirements. Finally, a new FACA Committee could be convened by either the Department of the Interior or the Office of President. Because a FACA Committee only provides advice to the federal government, and the federal government appoints its members, there is concern that a FACA might not meet the EITI expectation of collaboration, sector self-selection, and responsibility for implementing EITI.

After careful consideration of input from the public at large and stakeholders, the FACA committee option provides the legitimacy, expediency, and sustainability required to ensure the

successful implementation of USEITI. In 2012, with assurances from the government, the FACA committee should be able to fulfill the initial functions of an MSG, to develop a fully-costed work plan to design and implement the USEITI framework and obtain EITI compliance, within the spirit and framework of the EITI requirements. The Government noted at the time, that making a decision to set-up the initial U.S. MSG as a FACA did not mean the U.S. MSG would remain so as US EITI implementation moved forward. The MSG, as part of its deliberations, could decide to seek legislation or another option to reform the USEITI MSG.

2017 CHALLENGES TO IMPLEMENTING EITI REQUIREMENTS

The USEITI primary challenges for 2017 are: corporate income tax reporting (Congressionally disapproved Dodd-Frank §1504 regulations required a resource extraction issuer to disclose taxes); project-level reporting (Congressionally disapproved Dodd-Frank §1504 regulations defined project as operational activities that are governed by a single contract, license, lease, concession, or similar legal agreement, which form the basis for payment liabilities with a government); mainstreaming reporting requirements; and beneficial owner disclosure (of the corporate entity(ies) that bid for, operate or invest in extractive assets). Unlike other implementing countries, company reporting in the U.S. is entirely voluntary.

The EITI Standard requires reporting on “profits taxes,” or taxes on income, where material. Section 6103 of the Internal Revenue Code (IRC) provides that tax returns and tax return information are confidential and prohibited from disclosure, unless an exception identified in the IRC is applicable. The MSG requested companies to voluntarily report the sum of all federal corporate income tax payments and encouraged reconciliation. For the 2015 USEITI Report, 12 out of 41 applicable companies reported \$190 million in corporate income taxes and in the 2016 USEITI Report, 12 out of 38 applicable companies reported -\$308 million in corporate income taxes.

The EITI Standard states that the MSG is required to agree on the level of disaggregation for publishing data, that EITI data must be presented by individual company, government entity, and revenue stream, and requires that reporting at project level. The standard does not provide a specific definition of “project,” but states it should be consistent with the SEC rules and European Union laws. Section 1504 of the Dodd-Frank Act requires extractive industries companies registered with the SEC to separately disclose information about payments to governments around the world in an interactive data format.

Options for Implementing the 2016 EITI Standard:

1) In 2017, the U.S. seeks adapted implementation of the company reporting requirements required under the 2010 Dodd Frank Act until such time that the Securities Exchange Commission promulgates regulations under the Act. The request for adapted implementation acknowledges the Congressional disapproval of the Dodd Frank §1504 SEC Regulations. The Board will consider this option in light of MSG support and decide whether to approve adapted implementation. This option requires the USEITI MSG support and there is no change to the USEITI MSG Federal Advisory Committee structure or the governance of domestic implementation.

- 2) The U.S. requests the Board to approve a ‘pause’ for one year seeks a 1-year extension to the April 1, 2018, timeframe for initiating validation. The reason for the “pause” and extension is to allow the new Administration time to place senior leadership, critical to decision making, in all the key Agencies (i.e., DOI, State, Treasury). This option requires the USEITI MSG support and there is no change to the USEITI MSG Federal Advisory Committee or the governance of domestic implementation.
- 3) The USEITI MSG is reformulated in a streamlined fashion, it remains a FACA committee that advises the Secretary of the Interior and also remains consistent with the EITI principles of governance. Having demonstrated significant accomplishments over the past 5 years and relying on the willingness of many dedicated members of the MSG to continue to volunteer their time, it may be time to reduce the burden on all sectors. This option requires the USEITI MSG support.
- 4) The lead for domestic implementation of the EITI Standard shifts to the White House, National Security Council with Interior, Treasury and the SEC all partnering in implementation and that the USEITI MSG is reformulated in a streamlined fashion, incorporating option 3 above.
- 5) The U.S. government unilaterally decided to no longer participate and withdraws as an implementing country. State Department will remain in the Supporting Country role.

RECOMMENDATION:

Despite current setbacks there is a path forward for: U.S. commitment to EITI; implementing EITI with the expectation of achieving compliance; and sustaining our role in the global Open Government Partnership.

We recommend Option 4 as the most feasible path forward to achieve compliance with the Standard. It will be necessary to have full support from State, Treasury, SEC and the National Security Council to implement this option. Interior has lead domestic implementation to date yet only has jurisdiction with respect to governance associated with natural resource extraction on federal and Indian Lands and associated non-tax revenue management. In light of the April 3, 2017, Federal Register notice of the Secretary of the Interior establishing and seeking nominations for the Royalty Policy Committee (RPC or Committee) there may be a path forward for the streamlined MSG approach. The Committee will advise on current and emerging issues related to the determination of fair market value, and the collection of revenue from energy and mineral resources on Federal and Indian lands. The Committee also will advise on the potential impacts of proposed policies and regulations related to revenue collection from such development, including whether a need exists for regulatory reform. We believe the purpose of the Committee aligns with principles of EITI that address the valuable role of stakeholders in seeking solutions to issues in the area of natural resource extraction and revenue management. A streamlined USEITI MSG can be a significant source of support to the RPC in their discussions and deliberations.

In addition to Option 4 above, we also recommend institutionalizing appropriate EITI requirements within the Office of Natural Resources Revenue. The path forward parallels the

Department's commitment to reforming revenue management and royalty collections. We recognize that public understanding of government revenues and expenditures over time informs public debate and informs choice of appropriate and realistic options for sustainable energy development. Maintaining the USEITI data portal and integrating even more government revenue data and information is vital to support public policy and is fundamental to the Royalty Policy Committee discussions and deliberations. We also remain committed to encouraging high standards of transparency and accountability to the public for our mission and in our everyday operations.

We also welcome the idea of mainstreamed EITI non-tax revenue disclosures in lieu of company reporting and Independent Administrator reconciliation. The rationale for the 2016 refinement to the Standard is that extractive industry transparency should not be confined to EITI reports and expensive reconciliation exercises, but become an integral part of how governments manage their sector. Rather than simply relying on the EITI reporting mechanism to bring about transparency, governments implementing the EITI could to a greater extent make the information required by the EITI Standard available through government and corporate reporting systems such as databases, websites, annual reports, portals etc. The Department, as managed by ONRR, has robust audit and assurances practices in place to demonstrate accountability for the revenues paid and received for our country's oil, gas, and mineral resources. ONRR is now further integrating how we manage data and the EITI Standard by disclosing for the first time project-level reporting. In the 2017 USEITI Annual Report, ONRR will disclose in addition to the unilateral disclosure of revenues by revenue stream, commodity and company the ONRR and Office of Surface Mining revenue streams by parent company and by State. USEITI has already demonstrated global leadership and through the data portal, an effective means of providing transparency around the governance of extractive industries revenue management and ensuring improved public awareness. Mainstreaming government data will continue to demonstrate leadership in transparency.

INFORMATION MEMORANDUM FOR THE ASSISTANT SECRETARY

FROM: Greg Gould, Director, Office of Natural Resources Revenue Management

SUBJECT: USEITI – Options for Implementing the 2016 Extractive Industries Transparency Initiative (EITI) Standard

DATE: April 4, 2017

ISSUE

The Department of the Interior, which leads U.S. implementation of the EITI Standard, began in the fall of 2011 an aggressive timeline to establish a multi-stakeholder group (MSG); achieve Candidate Country status in March 2014; and ultimately begin the validation process by April 1, 2018. However, despite having met or exceeded 22 of 26 individual elements of the Standard (8 of the 9 requirements), at the conclusion of the validation process, the USEITI will not be found in compliance with the EITI Standard and is thus likely to be suspended from the initiative. This paper presents options for avoiding such an outcome, improving our management of the USEITI process, and maintaining DOI's commitment to transparent, collaborative and participatory government.

BACKGROUND

Prior to DOI taking the lead in 2011 to implement EITI in the United States, the Department of State (State) strongly supported EITI and coordinated U.S. participation in the global effort as a supporting country. Since EITI's inception in 2002, State has played a key role in shaping the EITI into the global standard for revenue transparency. Through its representation of the United State as a supporting country on the EITI Board and participation in the Finance and Governance and Oversight Committees, State works to clarify, interpret, and promote the rules of the EITI Standard, including by helping to draft guidance documents on how to assess country compliance. U.S. leadership has played a crucial role in the endorsement of the EITI by the G-7, the G-20, and the United Nations Security Council.

The United States Agency for International Development (USAID) has provided significant support to EITI both at the multilateral level and through direct bilateral support for implementation through USAID Missions around the world. USAID has provided over \$30 million in assistance for EITI implementation, peer exchange, and research.

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INTRODUCTION

The Extractive Industries Transparency Initiative, or EITI, is a voluntary, global effort designed to strengthen accountability and public trust for the revenues paid and received for a country's oil, gas, and mineral resources. EITI brings together a coalition of government, companies, and civil society, or Multi-stakeholder Groups (MSG's), to strengthen government and company systems, inform public debate, and promote understanding.

The U.S. government successfully completed the initial requirements to join EITI as a candidate country when the EITI International Board accepted our candidacy application in March 2014. Key successes to date include publishing the 2015 and 2016 USEITI Annual Reports on an open source, open code interactive web-based data portal (<https://useiti.doi.gov>). On this portal, the Department of the Interior unilaterally disclosed 2013, 2014, and 2015 revenues by company, commodity, and revenue type as well as production data across all commodities. The portal is the new global standard in revenue governance transparency.

In 2016, the Department of the Interior (the lead federal agency) entered a new phase in implementing EITI. The EITI International Board revised the EITI Standard in February 2016, to include requirements for disclosure of beneficial owners of extractive companies and to provide the opportunity to "mainstream" revenue data by governments and companies in lieu of an independent reconciliation of reported revenues. The work of the USEITI MSG (39 members and alternates from federal, state, and tribal governments, civil society and industry) is to ensure that the USEITI framework is tailored to U.S. laws, regulations, and culture, and that it is implementable by government and industry.

The USEITI primary challenges for compliance are: corporate income tax reporting; project-level reporting and beneficial owner disclosure of the corporate entity(ies) that bid for, operate or invest in extractive assets. Unlike other implementing countries, company reporting in the United States is entirely voluntary. Despite current setbacks there is a path forward for U.S. commitment to EITI -- implementing with the expectation of achieving compliance and sustaining our role in the global Open Government Partnership. The path forward parallels the Department's commitment to reforming revenue management and royalty collections. This memorandum addresses considerations of this phase of USEITI implementation and provides options to resolve implementing challenges in successfully achieving compliance with the EITI standard.

I. AREAS FOR CONSIDERATION

Implementing EITI will continue to improve government revenue transparency in the United States and continue to serve as an example internationally. The primary areas of consideration for 2017 and leading to the validation on April 1, 2018, are multi-agency involvement, governance of the USEITI multi-stakeholder group, institutionalizing the principles of EITI in

the Department of the Interior and mainstreaming government data. In order to recommend appropriate options for a government position, this paper takes into account the U.S. legal context, legal constraints, feasibility, and the international EITI requirements.

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MULTISTAKEHOLDER COMMITTEE MANAGEMENT

In 2012, the Department of the Interior conducted a series of stakeholder engagements to ascertain the optimal course for USEITI multi-stakeholder committee management. The options included a Federal Operating Committee, an existing FACA Committee, Non-Federal Entity and a New FACA Committee.

Federal Operating Committees are established by Congress through legislation. An operating committee is established to perform primarily ‘operational as opposed to ‘advisory’ functions. While providing legitimacy and decision-making authority, this legislative option does not allow for expediency. An Existing FACA Committee would require the Charter to address the scope and the Secretary to appoint new members. A Non-Federal Entity, a non-governmental organization, such as a 501(c)(3) allows the two non-governmental sectors (industry and civil society) to come together to create a committee or group, and then seek participation by the federal government in that entity; or the federal government could use a contract, grant, or cooperative agreement to ask a separate, “third-party” entity to convene and/or operate the MSG as a non-Federal entity. In this case, there does not appear to be enough certainty around the mechanism and the authority for creation, thus drawing into question the legitimacy of such a group. Additionally, creating a 501(c)(3) would require an investment of time and money that does not support expediency and sustainability. A non-federal entity would require recognition by the Federal government to bestow decision-making authority and most likely, any changes in federal rules or regulations proposed by the MSG would trigger FACA requirements. Finally, a new FACA Committee could be convened by either the Department of the Interior or the Office of President. Because a FACA Committee only provides advice to the federal government, and the federal government appoints its members, there is concern that a FACA might not meet the

EITI expectation of collaboration, sector self-selection, and responsibility for implementing EITI.

After careful consideration of input from the public at large and stakeholders, the FACA committee option provides the legitimacy, expediency, and sustainability required to ensure the successful implementation of USEITI. In 2012, with assurances from the government, the FACA committee should be able to fulfill the initial functions of an MSG, to develop a fully-costed work plan to design and implement the USEITI framework and obtain EITI compliance, within the spirit and framework of the EITI requirements. The Government noted at the time, that making a decision to set-up the initial U.S. MSG as a FACA did not mean the U.S. MSG would remain so as USEITI implementation moved forward. The MSG, as part of its deliberations, could decide to seek legislation or another option to reform the USEITI MSG.

2017 CHALLENGES TO IMPLEMENTING EITI REQUIREMENTS

The USEITI primary challenges for 2017 are: corporate income tax reporting (Congressionally disapproved Dodd-Frank §1504 regulations required a resource extraction issuer to disclose taxes); project-level reporting (Congressionally disapproved Dodd-Frank §1504 regulations defined project as operational activities that are governed by a single contract, license, lease, concession, or similar legal agreement, which form the basis for payment liabilities with a government); mainstreaming reporting requirements; and beneficial owner disclosure (of the corporate entity(ies) that bid for, operate or invest in extractive assets). Unlike other implementing countries, company reporting in the U.S. is entirely voluntary.

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Options for Implementing the 2016 EITI Standard:

1) In 2017, the United States seeks adapted implementation of the company reporting requirements required under the 2010 Dodd Frank Act until such time as the Securities Exchange Commission promulgates regulations under the Act. The request for adapted implementation,

made to the EITI International Board, acknowledges the Congressional disapproval of the Dodd Frank §1504 SEC Regulations. The Board will consider this option in light of MSG support and decide whether to approve adapted implementation. This option requires USEITI MSG support and there is no change to the USEITI MSG Federal Advisory Committee structure or the governance of domestic implementation. The Department of State continues to coordinate U.S. participation in the global effort as a supporting country.

2) The United States requests the EITI International Board to approve an implementation ‘pause’ for one year combined with a one-year extension to the April 1, 2018, timeframe for initiating validation. We would argue that the “pause” and extension would allow the new Administration time to place senior leadership critical to decision making in all the key Agencies (i.e., DOI, State, Treasury). This option requires the USEITI MSG support and there is no change to the USEITI MSG Federal Advisory Committee or the governance of domestic implementation. The Department of State continues to coordinate U.S. participation in the global effort as a supporting country.

3) The USEITI MSG is reformulated in a streamlined fashion. The MSG remains a FACA committee that advises the Secretary of the Interior and also remains consistent with the EITI principles of governance. Having demonstrated significant accomplishments over the past five years and relying on the willingness of many dedicated members of the MSG to continue to volunteer their time, this option would reduce the burden of participation on all sectors. This option requires USEITI MSG support. The Department of State continues to coordinate U.S. participation in the global effort as a supporting country.

Commented [W1]: (b) (5)

4) The lead for domestic implementation of the EITI Standard shifts to the White House, National Security Council, with Interior, Treasury and the SEC partnering in implementation. The USEITI MSG is reformulated in a streamlined fashion, incorporating option 3 above. The Department of State continues to coordinate U.S. participation in the global effort as a supporting country.

Commented [W2]: (b) (5)

5) The U.S. government unilaterally decides to no longer participate and withdraws as an implementing country. The Department of State continues to coordinate U.S. participation in the global effort as a supporting country.

RECOMMENDATION:

Despite current setbacks there is a path forward for: U.S. commitment to EITI; implementing EITI with the expectation of achieving compliance; and sustaining our role in the global Open Government Partnership.

We recommend Option 4 as the most feasible path forward to achieve compliance with the Standard. It will be necessary to have full support from State, Treasury, SEC and the National Security Council to implement this option. Interior has lead domestic implementation to date yet only has jurisdiction with respect to governance associated with natural resource extraction on federal and Indian Lands and associated non-tax revenue management. In light of the April 3, 2017, Federal Register notice of the Secretary of the Interior establishing and seeking

nominations for the Royalty Policy Committee (RPC or Committee) there may be a path forward for the streamlined MSG approach. The Committee will advise on current and emerging issues related to the determination of fair market value, and the collection of revenue from energy and mineral resources on Federal and Indian lands. The Committee also will advise on the potential impacts of proposed policies and regulations related to revenue collection from such development, including whether a need exists for regulatory reform. We believe the purpose of the Committee aligns with principles of EITI that address the valuable role of stakeholders in seeking solutions to issues in the area of natural resource extraction and revenue management. A streamlined USEITI MSG can be a significant source of support to the RPC in their discussions and deliberations

In addition to Option 4 above, we also recommend institutionalizing appropriate EITI requirements within the Office of Natural Resources Revenue. The path forward parallels the Department's commitment to reforming revenue management and royalty collections. We recognize that public understanding of government revenues and expenditures over time informs public debate and informs choice of appropriate and realistic options for sustainable energy development. Maintaining the USEITI data portal and integrating even more government revenue data and information is vital to support public policy and is fundamental to the Royalty Policy Committee discussions and deliberations. We also remain committed to encouraging high standards of transparency and accountability to the public for our mission and in our everyday operations.

We also welcome the idea of mainstreamed EITI non-tax revenue disclosures in lieu of company reporting and Independent Administrator reconciliation. The rationale for the 2016 refinement to the Standard is that extractive industry transparency should not be confined to EITI reports and expensive reconciliation exercises, but become an integral part of how governments manage their sector. Rather than simply relying on the EITI reporting mechanism to bring about transparency, governments implementing the EITI could to a greater extent make the information required by the EITI Standard available through government and corporate reporting systems such as databases, websites, annual reports, portals etc. The Department, as managed by ONRR, has robust audit and assurances practices in place to demonstrate accountability for the revenues paid and received for our country's oil, gas, and mineral resources. ONRR is now further integrating how we manage data and the EITI Standard by disclosing for the first time project-level reporting. In the 2017 USEITI Annual Report, ONRR will disclose in addition to the unilateral disclosure of revenues by revenue stream, commodity and company the ONRR and Office of Surface Mining revenue streams by parent company and by State. USEITI has already demonstrated global leadership and through the data portal, an effective means of providing transparency around the governance of extractive industries revenue management and ensuring improved public awareness. Mainstreaming government data will continue to demonstrate leadership in transparency.

INFORMATION MEMORANDUM FOR THE ASSISTANT SECRETARY

FROM: Greg Gould, Director, Office of Natural Resources Revenue Management

SUBJECT: USEITI – Options for Implementing the 2016 Extractive Industries Transparency Initiative (EITI) Standard

DATE: April 4, 2017

ISSUE

The Department of the Interior, which leads U.S. implementation of the EITI Standard, began in the fall of 2011 an aggressive timeline to establish a multi-stakeholder group (MSG); achieve Candidate Country status in March 2014; and ultimately begin the validation process by April 1, 2018. However, despite having met or exceeded 22 of 26 individual elements of the Standard (8 of the 9 requirements), at the conclusion of the validation process, the USEITI will not be found in compliance with the EITI Standard and is thus likely to be suspended from the initiative. This paper presents options for avoiding such an outcome, improving our management of the USEITI process, and maintaining DOI's commitment to transparent, collaborative and participatory government.

BACKGROUND

Prior to DOI taking the lead in 2011 to implement EITI in the United States, the Department of State (State) strongly supported EITI and coordinated U.S. participation in the global effort as a supporting country. Since EITI's inception in 2002, State has played a key role in shaping the EITI into the global standard for revenue transparency. Through its representation of the United States as a supporting country on the EITI Board and participation in the Finance and Governance and Oversight Committees, State works to clarify, interpret, and promote the rules of the EITI Standard, including by helping to draft guidance documents on how to assess country compliance. U.S. leadership has played a crucial role in the endorsement of the EITI by the G-7, the G-20, and the United Nations Security Council.

The United States Agency for International Development (USAID) has provided significant support to EITI both at the multilateral level and through direct bilateral support for implementation through USAID Missions around the world. USAID has provided over \$30 million in assistance for EITI implementation, peer exchange, and research.

Domestic implementation of EITI is subject to existing laws and regulations. For example, the Trade Secrets Act and the Federal Oil and Gas Royalty Management Act (FOGRMA) of 1982, prohibit the Federal government from releasing company pricing information and Federal employees are subject to criminal penalties if they violate these laws. Section 6103 of the Internal Revenue Code (IRC) provides that tax returns and tax return information are confidential and prohibited from disclosure, unless an exception identified in the IRC is

applicable. The IRC imposes civil and criminal penalties for violations of the disclosure prohibitions.

INTRODUCTION

The Extractive Industries Transparency Initiative, or EITI, is a voluntary, global effort designed to strengthen accountability and public trust for the revenues paid and received for a country's oil, gas, and mineral resources. EITI brings together a coalition of government, companies, and civil society, or Multi-stakeholder Groups (MSG's), to strengthen government and company systems, inform public debate, and promote understanding.

The U.S. government successfully completed the initial requirements to join EITI as a candidate country when the EITI International Board accepted our candidacy application in March 2014. Key successes to date include publishing the 2015 and 2016 USEITI Annual Reports on an open source, open code interactive web-based data portal (<https://useiti.doi.gov>). On this portal, the Department of the Interior unilaterally disclosed 2013, 2014, and 2015 revenues by company, commodity, and revenue type as well as production data across all commodities. The portal is the new global standard in revenue governance transparency.

In 2016, the Department of the Interior (the lead federal agency) entered a new phase in implementing EITI. The EITI International Board revised the EITI Standard in February 2016, to include requirements for disclosure of beneficial owners of extractive companies and to provide the opportunity to "mainstream" revenue data by governments and companies in lieu of an independent reconciliation of reported revenues. The work of the USEITI MSG (39 members and alternates from federal, state, and tribal governments, civil society and industry) is to ensure that the USEITI framework is tailored to U.S. laws, regulations, and culture, and that it is implementable by government and industry.

The USEITI primary challenges for compliance are: corporate income tax reporting; project-level reporting and beneficial owner disclosure of the corporate entity(ies) that bid for, operate or invest in extractive assets. Unlike other implementing countries, company reporting in the United States is entirely voluntary. Despite current setbacks there is a path forward for U.S. commitment to EITI -- implementing with the expectation of achieving compliance and sustaining our role in the global Open Government Partnership. The path forward parallels the Department's commitment to reforming revenue management and royalty collections. This memorandum addresses considerations of this phase of USEITI implementation and provides options to resolve implementing challenges in successfully achieving compliance with the EITI standard.

I. AREAS FOR CONSIDERATION

Implementing EITI will continue to improve government revenue transparency in the United States and continue to serve as an example internationally. The primary areas of consideration for 2017 and leading to the validation on April 1, 2018, are multi-agency involvement, governance of the USEITI multi-stakeholder group, institutionalizing the principles of EITI in

the Department of the Interior and mainstreaming government data. In order to recommend appropriate options for a government position, this paper takes into account the U.S. legal context, legal constraints, feasibility, and the international EITI requirements.

MULTI-AGENCY INVOLVEMENT

In July 2012, the Department of the Interior established the USEITI Sub-Interagency Policy Committee (Sub-IPC) to discuss the status of implementation of the EITI Standard and make decisions requiring interagency input. The Sub-IPC consisted of the following agencies: Office of Management and Budget (OMB); National Security Council (NSC); and Office of Science and Technology Policy (OSTP); as well as the Departments of State, Treasury, and Energy. The Sub-IPC was led by the National Security Council. The National Security Council, Securities Exchange Commission, Treasury Department and Department of the Interior are all critical to the ultimate success of the U.S. implementation of the EITI Standard.

On June 27, 2016 the Securities and Exchange Commission (SEC) issued a final rule, Disclosure of Payments by Resource Extraction Issuers, implementing section 1504 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Pub. L. No. 111-203, July 21, 2010), which required certain companies to report to the SEC their payments related to extractive industries activities. The payments that issuers were to report under the rule included taxes, royalties, fees, production entitlements, bonuses, social responsibility payments (if required by law or contract), dividends, payments for infrastructure improvements. In July 2016, the SEC issued an order recognizing the resource extraction payment disclosure requirements of the European Union, Canada and the U.S. Extractive Industries Transparency Initiative as substantially similar to the requirements of Rule 13q-1 under the Securities Exchange Act of 1934. The SEC requirements were both broader and narrower than EITI requirements. EITI does not require reporting of payments for social responsibility, infrastructure improvements or dividends, but does require reporting of fines or payments, which are not within in the scope of Dodd-Frank or the SEC rule. Congress disapproved the SEC regulations in February 2017; however, the Act still requires the SEC to promulgate regulations to implement section 1504 of the Act.

The Internal Revenue Service (IRS) is the primary Government body in charge of managing all tax payments, including payment of corporate income tax, which falls under the purview of USEITI. In the United States there are two key sources of publicly available information about federal income taxes for the extractive industries: the government and the filings of companies that are publicly listed. As mandated by the Revenue Act of 1916, the IRS publishes statistics related to “the operations of the internal revenue laws” as they affect individuals, corporations, and various other entities. The IRS Statistics of Income (SOI) program is responsible for executing this function by collecting, processing, and presenting this data, and then sharing information about how the tax system works with other government agencies and the general public.

The Department of the Treasury, in May 2016, issued a customer due diligence rule (CDD Rule), which streamlines and clarifies several components of customer due diligence under the Bank Secrecy Act to promote consistency and added a key new requirement for U.S. financial institutions to know the real people who own, control, and profit from companies (the “beneficial

owners”)—and verify their identities. U.S. law requires all legal entities that open a U.S. bank account or have a Federal or State tax filing requirement obtain an EIN for tax administration purposes. Further, an entity is required to obtain an EIN if it has employees, or is required to file any documents including tax returns, with the IRS. An EIN (also known as a taxpayer identification number) is also required, under the Banking Secrecy Act, to open a bank account. Section 13(d) of the Securities Exchange Act of 1934 requires any person or group that acquires more than five percent “beneficial ownership” of public company equity securities to disclose its position within 10 days of crossing the threshold. There is no institutional framework for public disclosure of beneficial ownership disclosure information in the United States as required by the EITI Standard. There is, however, a substantial and growing framework for the collection of beneficial ownership information from both public and private companies operating in the U.S.

The Department of the Interior maintains the primary role in the U.S. Government for the governance of energy and non-energy mineral resources. Several different Bureaus within the Department of the Interior collect non-tax payments depending on the type of payment, the location of exploration and production, and the type of resource being extracted. These include: Interior’s Office of Natural Resources Revenue, the Bureau of Land Management, and the Office of Surface Mining Reclamation and Enforcement. The Office of Natural Resources Revenue manages and ensures full payment of revenues owed for the development of the nation’s energy and natural resources on the Outer Continental Shelf and onshore Federal and Indian lands.

MULTISTAKEHOLDER COMMITTEE MANAGEMENT

In 2012, the Department of the Interior conducted a series of stakeholder engagements to ascertain the optimal course for USEITI multi-stakeholder committee management. The options included a Federal Operating Committee, an existing FACA Committee, Non-Federal Entity and a New FACA Committee.

Federal Operating Committees are established by Congress through legislation. An operating committee is established to perform primarily ‘operational as opposed to ‘advisory’ functions. While providing legitimacy and decision-making authority, this legislative option does not allow for expediency. An Existing FACA Committee would require the Charter to address the scope and the Secretary to appoint new members. A Non-Federal Entity, a non-governmental organization, such as a 501(c)(3) allows the two non-governmental sectors (industry and civil society) to come together to create a committee or group, and then seek participation by the federal government in that entity; or the federal government could use a contract, grant, or cooperative agreement to ask a separate, “third-party” entity to convene and/or operate the MSG as a non-Federal entity. In this case, there does not appear to be enough certainty around the mechanism and the authority for creation, thus drawing into question the legitimacy of such a group. Additionally, creating a 501(c)(3) would require an investment of time and money that does not support expediency and sustainability. A non-federal entity would require recognition by the Federal government to bestow decision-making authority and most likely, any changes in federal rules or regulations proposed by the MSG would trigger FACA requirements. Finally, a new FACA Committee could be convened by either the Department of the Interior or the Office of President. Because a FACA Committee only provides advice to the federal government, and the federal government appoints its members, there is concern that a FACA might not meet the

EITI expectation of collaboration, sector self-selection, and responsibility for implementing EITI.

After careful consideration of input from the public at large and stakeholders, the FACA committee option provides the legitimacy, expediency, and sustainability required to ensure the successful implementation of USEITI. In 2012, with assurances from the government, the FACA committee should be able to fulfill the initial functions of an MSG, to develop a fully-costed work plan to design and implement the USEITI framework and obtain EITI compliance, within the spirit and framework of the EITI requirements. The Government noted at the time, that making a decision to set-up the initial U.S. MSG as a FACA did not mean the U.S. MSG would remain so as USEITI implementation moved forward. The MSG, as part of its deliberations, could decide to seek legislation or another option to reform the USEITI MSG.

2017 CHALLENGES TO IMPLEMENTING EITI REQUIREMENTS

The USEITI primary challenges for 2017 are: corporate income tax reporting (Congressionally disapproved Dodd-Frank §1504 regulations required a resource extraction issuer to disclose taxes); project-level reporting (Congressionally disapproved Dodd-Frank §1504 regulations defined project as operational activities that are governed by a single contract, license, lease, concession, or similar legal agreement, which form the basis for payment liabilities with a government); mainstreaming reporting requirements; and beneficial owner disclosure (of the corporate entity(ies) that bid for, operate or invest in extractive assets). Unlike other implementing countries, company reporting in the U.S. is entirely voluntary.

The EITI Standard requires reporting on “profits taxes,” or taxes on income, where material. Section 6103 of the Internal Revenue Code (IRC) provides that tax returns and tax return information are confidential and prohibited from disclosure, unless an exception identified in the IRC is applicable. The MSG requested companies to voluntarily report the sum of all federal corporate income tax payments and encouraged reconciliation. For the 2015 USEITI Report, 12 out of 41 applicable companies reported \$190 million in corporate income taxes and in the 2016 USEITI Report, 12 out of 38 applicable companies reported -\$308 million in corporate income taxes.

The EITI Standard states that the MSG is required to agree on the level of disaggregation for publishing data, that EITI data must be presented by individual company, government entity, and revenue stream, and requires that reporting at project level. The standard does not provide a specific definition of “project,” but states it should be consistent with the SEC rules and European Union laws. Section 1504 of the Dodd-Frank Act requires extractive industries companies registered with the SEC to separately disclose information about payments to governments around the world in an interactive data format.

Options for Implementing the 2016 EITI Standard:

1) In 2017, the United States seeks adapted implementation of the company reporting requirements required under the 2010 Dodd Frank Act until such time as the Securities Exchange Commission promulgates regulations under the Act. The request for adapted implementation,

made to the EITI International Board, acknowledges the Congressional disapproval of the Dodd Frank §1504 SEC Regulations. The Board will consider this option in light of MSG support and decide whether to approve adapted implementation. This option requires USEITI MSG support and there is no change to the USEITI MSG Federal Advisory Committee structure or the governance of domestic implementation. The Department of State continues to coordinate U.S. participation in the global effort as a supporting country.

2) The United States requests the EITI International Board to approve an implementation ‘pause’ for one year combined with a one-year extension to the April 1, 2018, timeframe for initiating validation. We would argue that the “pause” and extension would allow the new Administration time to place senior leadership critical to decision making in all the key Agencies (i.e., DOI, State, Treasury). This option requires the USEITI MSG support and there is no change to the USEITI MSG Federal Advisory Committee or the governance of domestic implementation. The Department of State continues to coordinate U.S. participation in the global effort as a supporting country.

3) The USEITI MSG is reformulated in a streamlined fashion. The MSG remains a FACA committee that advises the Secretary of the Interior and also remains consistent with the EITI principles of governance. Having demonstrated significant accomplishments over the past five years and relying on the willingness of many dedicated members of the MSG to continue to volunteer their time, this option would reduce the burden of participation on all sectors. This option requires USEITI MSG support. The Department of State continues to coordinate U.S. participation in the global effort as a supporting country.

4) The lead for domestic implementation of the EITI Standard shifts to the White House, National Security Council, with Interior, Treasury and the SEC partnering in implementation. The USEITI MSG is reformulated in a streamlined fashion, incorporating option 3 above. The Department of State continues to coordinate U.S. participation in the global effort as a supporting country.

5) The U.S. government unilaterally decides to no longer participate and withdraws as an implementing country. The Department of State continues to coordinate U.S. participation in the global effort as a supporting country.

RECOMMENDATION:

Despite current setbacks there is a path forward for: U.S. commitment to EITI; implementing EITI with the expectation of achieving compliance; and sustaining our role in the global Open Government Partnership.

We recommend Option 4 as the most feasible path forward to achieve compliance with the Standard. It will be necessary to have full support from State, Treasury, SEC and the National Security Council to implement this option. Interior has lead domestic implementation to date yet only has jurisdiction with respect to governance associated with natural resource extraction on federal and Indian Lands and associated non-tax revenue management. In light of the April 3, 2017, Federal Register notice of the Secretary of the Interior establishing and seeking

nominations for the Royalty Policy Committee (RPC or Committee) there may be a path forward for the streamlined MSG approach. The Committee will advise on current and emerging issues related to the determination of fair market value, and the collection of revenue from energy and mineral resources on Federal and Indian lands. The Committee also will advise on the potential impacts of proposed policies and regulations related to revenue collection from such development, including whether a need exists for regulatory reform. We believe the purpose of the Committee aligns with principles of EITI that address the valuable role of stakeholders in seeking solutions to issues in the area of natural resource extraction and revenue management. A streamlined USEITI MSG can be a significant source of support to the RPC in their discussions and deliberations

In addition to Option 4 above, we also recommend institutionalizing appropriate EITI requirements within the Office of Natural Resources Revenue. The path forward parallels the Department's commitment to reforming revenue management and royalty collections. We recognize that public understanding of government revenues and expenditures over time informs public debate and informs choice of appropriate and realistic options for sustainable energy development. Maintaining the USEITI data portal and integrating even more government revenue data and information is vital to support public policy and is fundamental to the Royalty Policy Committee discussions and deliberations. We also remain committed to encouraging high standards of transparency and accountability to the public for our mission and in our everyday operations.

We also welcome the idea of mainstreamed EITI non-tax revenue disclosures in lieu of company reporting and Independent Administrator reconciliation. The rationale for the 2016 refinement to the Standard is that extractive industry transparency should not be confined to EITI reports and expensive reconciliation exercises, but become an integral part of how governments manage their sector. Rather than simply relying on the EITI reporting mechanism to bring about transparency, governments implementing the EITI could to a greater extent make the information required by the EITI Standard available through government and corporate reporting systems such as databases, websites, annual reports, portals etc. The Department, as managed by ONRR, has robust audit and assurances practices in place to demonstrate accountability for the revenues paid and received for our country's oil, gas, and mineral resources. ONRR is now further integrating how we manage data and the EITI Standard by disclosing for the first time project-level reporting. In the 2017 USEITI Annual Report, ONRR will disclose in addition to the unilateral disclosure of revenues by revenue stream, commodity and company the ONRR and Office of Surface Mining revenue streams by parent company and by State. USEITI has already demonstrated global leadership and through the data portal, an effective means of providing transparency around the governance of extractive industries revenue management and ensuring improved public awareness. Mainstreaming government data will continue to demonstrate leadership in transparency.

Mr. Fredrik Reinfeldt
Chair, EITI Board
Ruseløkkveien 26
0251 Oslo
Norway

Chair Reinfeldt,

The United States has made significant progress meeting individual requirements of the Extractive Industries Transparency Initiative (EITI) since the Department of the Interior, which leads U.S. implementation of the EITI Standard, began in the fall of 2011 the fall of 2011 when the U.S. Department of the Interior an aggressive timeline to established a multi-stakeholder group (MSG); achieved Candidate Country status in March 2014; and ultimately begin the EITI the validation process. process by April 1, 2018. The U.S. has made significant progress meeting individual requirements of the Extractive Industries Transparency Initiative (EITI). Key successes to date Perhaps most significant milestone has been the creation of include publishing the 2015 and 2016 USEITI Annual Reports on an open source, open code interactive web-based data portal (<https://useiti.doi.gov>). On this portal, the Department of the Interior on which the agency has unilaterally disclosed 2013, 2014, and 2015 revenues by company, commodity, and revenue type, as well as production data across all commodities. This e-portal is the new global standard in revenue governance transparency. We are happy to report that use by state, local and tribal governments are to increase transparency is increasing as well.

While the United States government remains committed to fighting corruption in the extractive industries sector, and the ideals of transparency enshrined in your charter, it is clear that Domestic implementation of EITI does not must fully account for the U.S. legal framework. context, legal constraints and feasibility. Effective immediately, therefore, the USEITI must withdraws as an EITI Implementing Country from the EITI.

Despite this, tThe U.S. Department of the Interior, which maintains the primary role in the U.S. Government for the governance of energy and non-energy mineral resources, remains fully committed to institutionalizing the principles of EITI that are allowed under U.S. law. The Department of the Interior intends to institutionalize transparency measures and mainstream government reporting of energy production and the associated revenue collection and reimbursement. The Office of Natural Resources Revenue within the Department of the Interior ensures full payment, disbursement and verification of non tax revenues owed for the development of the nation's energy and natural resources on the Outer Continental Shelf and onshore Federal and Indian lands. Despite current setbacks there is a path forward for the Department of the Interior institutionalizing fundamental principles of EITI that parallel the Department's commitment to reforming revenue management and royalty collections.

The Department is also committed to continue its efforts to promote public awareness and engage stakeholders in a public conversation of the potential impacts of proposed policies and regulations related to revenue collection from such development. We will continue to unilaterally disclose revenue payments received for extractive operations on federal land through our open data portal, and we will continue to improve our reporting through the inclusion of additional states and tribes.

We hope that despite the fact that the United States laws prevent us from meeting one of the eight EITI standards, we will continue to work together to promote transparency, fight corruption and ensure good governance.

Respectfully,

Greg Gould
Director, Office of Natural Resources Revenue and
USEITI Government Sector Co-Chair

Drafted by _____ DOI ONRR: Greg Gould/Judith Wilson

Reviewed by _____

Cleared by _____ NSC ITID: _____
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Drafted by _____ DOI ONRR: Greg Gould/Judith Wilson

Reviewed by _____

Cleared by _____ NSC ITID: _____
_____ State _____
_____ USAID _____

Mr. Fredrik Reinfeldt
Chair, EITI Board
Ruseløkkveien 26
0251 Oslo
Norway

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**UNITED STATES EXTRACTIVE INDUSTRIES TRANSPARENCY INITIATIVE
MULTI-STAKEHOLDER GROUP ADVISORY COMMITTEE MEETING
JUNE 27-28, 2016**

SUMMARY OF PROCEEDINGS

**U.S. DEPARTMENT OF THE INTERIOR
PREPARED: JULY 2016**

I. Introduction

The U.S. Department of the Interior (DOI), with Kris Sarri presiding as Designated Federal Official (DFO) and Paul Mussenden and Judy Wilson presiding as acting DFO, convened the eighteenth meeting of the U.S. Extractive Industries Transparency Initiative (USEITI) Multi-Stakeholder Group Advisory Committee (MSG) on June 27-28, 2016, in Washington, DC. The purpose of the meeting was to receive updates from the Independent Administrator on various aspects of developing the online report and executive summary for the 2016 USEITI Report and how to move forward with these; discuss communications and state and tribal opt-in efforts; and discuss the prospects for proceeding with mainstreaming of USEITI reporting into US government processes, the inclusion of beneficial ownership information, and validation of US EITI Reports.

Please note that, throughout this meeting summary, comments made by presenters, Independent Administrator team members, other non-MSG members, and those directly pertaining to an MSG decision are attributed to specific speakers. Other comments are provided without attribution in order to foster open discussion among MSG members excepting final deliberations prior to specific MSG decisions.

Interested parties are asked to contact USEITI at useiti@ios.doi.gov or 202-208-0272 with any questions, comments, or concerns regarding the content of this meeting summary.

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II. Summary of Endorsements, Decisions, Approvals, and Action Items

A. Endorsements

- No endorsements were made by the MSG at the June 2016 MSG meeting.

B. Decisions

- The MSG forwarded the content created by the IA about the Abandoned Mine Land (AML) Reclamation Program to 18F. *(see page 8)*
- The MSG approved the Montana template as a general template for state and tribal reporting, subject to tailoring by each entity participating. *(see page 9)*
- The MSG forwarded the US budget, audit, and assurance processes content created by the IA to 18F while the IA works with the Online Advisory Work Group and MSG subject matter experts to further revise any content that needs further work. *(see page 13)*
- The MSG forwarded the coal excise tax contextual information to 18F for inclusion in the 2016 USEITI Report, with additional review and comment to be provided by industry sector coal industry representatives, as needed. *(see page 14)*
- The MSG approved the Executive Summary Outline with revisions suggested by MSG members: inclusion of background on USEITI, guidance about how to navigate the online report, and year-to-year comparative information. *(see page 15)*

C. Approvals

- The MSG approved the March 2016 MSG meeting summary. *(see page 5)*
- The MSG approved the updated Terms of Reference. *(see page 5)*
- The MSG approved the 2015 USEITI Annual Activity Report for submission to the International EITI Secretariat. *(see page 6)*
- The MSG approved the renaming and reconstitution of the Reporting and Reconciliation Work Group as the “Beneficial Ownership Work Group.” *(see page 21)*
- The MSG approved the undertaking of a pre-feasibility exercise for mainstreaming of USEITI. *(see page 23)*

D. Confirmations

- No confirmations were made by the MSG at the June 2016 MSG meeting.

E. Action Items

- **Co-Chairs:**
 - Review and distribute meeting summary from June 2016 MSG meeting to MSG members.
 - Develop agenda for November 2016 MSG meeting.
- **USEITI Secretariat:**

- Find usage information about non-service government websites to compare to usage of the USEITI site. *(see page 6)*
- Work with the International EITI Secretariat and the IA to conduct a pre-feasibility exercise for mainstreaming of USEITI. Report on results at November MSG meeting. *(see page 23)*
- Consider the role and participation of the US State Department in the USEITI process. *(see page 26)*
- Work with the International Secretariat and the IA to explore the prospects and risks for USEITI validation and provide a recommendation to the MSG at the November 2016 MSG meeting. *(see page 27)*
- MSG decisions will be recorded in an updated MSG Decision Matrix by the Secretariat. *(see page 28)*
- **State and Tribal Opt-in Subcommittee**
 - Consider how the North Slope Borough case study should be revised to reflect Alaska's unique circumstances. *(see page 8)*
 - State and Tribal Opt-in Subcommittee and the IA ask state-level contacts about additional data sources for county write-ups. *(see page 14)*
 - Prepare an amendment/extension application for adapted implementation. *(see page 26)*
- **CSO Sector**
 - Search for additional County-level data sources and provide them to the IA for consideration to be included in future years of USEITI reporting. *(see page 14)*
- **Beneficial Ownership Work Group**
 - Meet with technical experts, as needed, and provide a report and proposal of a draft roadmap for compliance with the EITI beneficial ownership disclosure requirement to the MSG at the November 2016 MSG meeting. *(see page 21)*
- **Independent Administrator (Deloitte)**
 - Articulate a formal process for the development and final approval of content for USEITI reports. *(see page 7)*
 - Clearly articulate the distinction between reconciled federal data and un-reconciled state and tribal data in the report. *(see page 8)*
 - State and Tribal Opt-in Subcommittee and the IA ask state-level contacts about additional data sources for county write-ups. *(see page 14)*
 - Include year-to-year comparison information between the 2015 and 2016 USEITI reports in the 2016 Report. *(see page 15)*
- **USEITI Process Facilitator (Consensus Building Institute)**
 - Create a meeting summary for the June 2016 MSG meeting.

III. Presentations and Key Discussions

Kris Sarri, Principle Deputy Assistant Secretary, Policy Management and Budget at the U.S. Department of the Interior (DOI) and Designated Federal Officer (DFO) for the

USEITI MSG, opened the meeting and welcomed participants. All individuals in attendance introduced themselves. A full attendance list can be found in Section VI – Meeting Participants, page 28.

A. Opening Remarks

Ms. Sarri provided opening remarks by stating that USEITI will be working towards launching the 2016 USEITI Report. She recognized the hard work of the subcommittees and work groups between MSG meetings and the importance of open dialogue and discussion between the sectors.

B. USEITI MSG Business

The MSG conducted the following items of business during the course of the MSG meeting.

1. Terminology and USEITI December 2015 Meeting Summary

Judy Wilson, USEITI Secretariat, reminded meeting participants that the MSG has agreed to employ three terms to differentiate between different types of actions that the MSG takes:

- “Decisions” will indicate significant actions and agreements by the MSG key to meeting EITI international standards.
- “Approvals” will indicate lower-level decisions by the MSG, such as approving work plans, meeting summaries, process changes or additions, etc.
- “Confirmations” will confirm decisions that the MSG has previously made.

The MSG approved the meeting summary of the March 2016 MSG Meeting. A copy of the final, approved meeting summary is available online at:

https://www.doi.gov/sites/doi.gov/files/uploads/useiti_msg_mar_2016_mtg_summary_v5_160426.pdf.

- **Approval: The MSG approved the meeting summary from the March 2016 USEITI MSG meeting.**

2. MSG Terms of Reference

Judy Wilson noted that she had provided an overview of updated Terms of Reference (TOR) at the March 2016 MSG meeting and that a final draft version of the TOR was posted to the USEITI website two weeks before the June MSG meeting.

Danielle Brian, Project on Government Oversight and CSO sector co-chair, suggested that some language be included in the TOR articulating the prerogative of each sector to put forward members for inclusion on the MSG, i.e., the principle of self-selection of sector representatives without interference. With the inclusion of language to this effect, the MSG approved the updated Terms of Reference. The final, approved version of the TOR is available online at:

https://www.doi.gov/sites/doi.gov/files/uploads/msg_updated_useiti_terms_of_reference_06282016.pdf

- **Approval: The MSG approved the updated Terms of Reference.**

3. Update on USEITI Website User Analytics

Judy Wilson gave a brief presentation to the MSG about the nature of user visits to the USEITI Report website (available online at: <https://useiti.doi.gov/>). Ms. Wilson described the trends in user visits, the length of time that visitors spent on the website, and the breakdown between new and repeat users. More information is available in Ms. Wilson's presentation slides, available online at: https://www.doi.gov/sites/doi.gov/files/uploads/google_analytics_2016.pdf.

In response to Ms. Wilson's comments, MSG members asked the following questions; *responses from Ms. Wilson are provided in italics:*

- Is 4,000 users during the first half of 2016 a lot of users? How does this compare to other popular government websites? *Ms. Wilson: The most visited government websites tend to be service-oriented websites that users visit to access a specific service that the government provides to people. So it does not make much sense to compare the usage of an informational website like the USEITI site to service websites.*
- Would it be possible to find usage information about non-service government websites so that we can make an appropriate comparison? *Ms. Wilson: Yes, the Secretariat will find that information.*

4. 2015 Annual Activity Report

Chris Mentasti, USEITI Secretariat, introduced the 2015 USEITI Annual Activity Report as a product created by the USEITI facilitator, the Consensus Building Institute. Tushar Kansal, Consensus Building Institute, added that the Annual Activity Report summarized activities undertaken by USEITI during 2015 and also speaks to concepts included in the 2016 EITI Standard, such as mainstreaming.

- **Approval: The MSG approved the 2015 USEITI Annual Activity Report for submission to the International EITI Secretariat.**

5. Subcommittee and Work Group Organization

The Reporting and Reconciliation Work Group was renamed and reconstituted as the "Beneficial Ownership Work Group."

C. Independent Administrator's Updates

Members of the Independent Administrator (IA) team from Deloitte provided updates on their progress towards preparation of the 2016 USEITI Report. IA team members provided updates on components of the online component of the 2016 report, the executive summary, and the reporting and reconciliation process. These updates and accompanying MSG discussions are summarized below.

1. Updates to Online Report Revisions/Additions

Sarah Platts, Independent Administrator team member from Deloitte, presented an overview of the IA's project plan for creating the USEITI 2016 Report. She explained that, among other work to update online report contents for 2016, the IA team is creating the content for three new visualizations: 1) Abandoned Mine Lands (AML) Fund; 2) State & Tribal Additions; and Budget; and, 3) Audit, and Assurance Process. The IA is also updating information in the twelve county case studies from the 2015 report and updating contextual information about the coal excise tax. Ms. Platts clarified that, although the IA team creates the content for visualizations, 18F designs the visualizations that will appear in the online report. She also noted that the pdf/printed report for 2016 is intended to be an Executive Summary that will be significantly shorter than the 2015 pdf/printed report, as discussed at the completion of the lengthy 2015 report. Additional information is available in Ms. Platt's presentation slides, available online at:

https://www.doi.gov/sites/doi.gov/files/uploads/20160717_ia_project_plan_v_send.pdf.

MSG members made the following comments and asked the following questions following Ms. Platts' presentation; *direct responses to questions and comments are indicated in italics, with the speaker indicated, as relevant:*

- What will the process be moving forward with decision-making and finalization of the content that the IA is creating? *Members of the IA team: The IA has already worked with the relevant work groups, subcommittees, and with the Online Advisory Work Group to vet the content that is being presented to the MSG at this meeting. Once the MSG approves these items, the IA will send the content that it has created to 18F, which will then turn the content into visualizations and other material that will be incorporated into the online report website. 18F will also continue to work with the Online Advisory Work Group to make sure that the final formatting and presentation that 18F is creating remains true to the MSG's intent. Last year, having a full-day session with the Co-Chairs to make final decisions on outstanding sector comments worked well and it could be productive to have a similar process this year. Additional information about the content and visualization development process is available online in the following slide:*
https://www.doi.gov/sites/doi.gov/files/uploads/20160628_18f_visualization_process.pdf.
- Is it correct that the USEITI contract with 18F only runs until September? *Director of ONRR: Yes, that is correct. However, ONRR will be bringing "in-house" the 18F process by hiring three Innovation Fellows to join the USEITI Secretariat team. This will give us more flexibility in the future about how to build out the report website without having the constraints of a contracted approach.*
- Which states and tribes are being included in the "State and Tribal Additions" visualization material? *Chair of the State and Tribal Opt-In Subcommittee: The*

visualization will be focused on those states and tribes that have expressed an interest in opting into USEITI.

- When I do a Google search for “USEITI,” the online report website does not come up within the first five search results. Could this be fixed? *Representative from the USEITI Secretariat: The online report website is being revamped such that it should better catch the Google crawlers and fix this issue.*
- The content that is being shown to the MSG at this meeting has not been previously reviewed by the sectors as a whole. Should another work group be tasked with working with the IA on new content? Will the sectors still be able to provide additional comments and edits before this material is finalized?
 - *Ms. Platts: Minor edits and suggestions are welcome.*
 - *Chair of the Implementation Subcommittee: Although the content has not been reviewed by all of the MSG members or the sectors as a whole prior to this meeting, the three additional visualization topics were approved by the MSG towards the end of 2015 and the IA has been vetting the content with MSG work groups and subcommittees.*
- There is a distinction between including Federal data, which has been reconciled, and state data, which USEITI will be including in its report without vetting or verification. This distinction should be clearly stated in the report.
- It is the MSG’s responsibility to approve all of the content that is included in the USEITI report but the industry sector has been very resource-constrained this year and has had little opportunity to review the new content. The industry sector has been very clear this year that the MSG should remain focused on its top priorities, which the MSG previously identified as income tax reporting, reconciliation, and state and tribal opt-in.
- Similarly to the industry sector, I am also resource constrained since I work without an organization supporting me. I provided extensive edits to the North Slope Borough case study and, while many of my edits were incorporated, I also provided context and background around governance in Alaska that was not included. Why was this material not included?
 - *Member of the IA team: The IA cannot automatically incorporate all of the edits provided by a representative of one sector. The IA must work with all three sectors to secure consensus around revisions.*
 - *The Chair of the State and Tribal Opt-in Subcommittee recognized that the context for Alaska is substantively different from other states (and county case studies) and suggested that the State and Tribal Opt-in Subcommittee consider how the North Slope Borough case study should be revised to reflect these circumstances.*

a) Abandoned Mine Lands (AML) Reclamation Program Addition

Luke Hawbaker, IA team member, presented an overview of the content that the IA created about the Abandoned Mine Land (AML) Reclamation Program. He explained that the IA organized the material into three sections: Abandoned Mine Land Overview, AML Revenue & Disbursements, and The AML Fund. Once the MSG approves the

content created by the IA, the IA will send the content to 18F for design and finalization of presentation. The content presented by Mr. Hawbaker is available online at: https://www.doi.gov/sites/doi.gov/files/uploads/useiti_aml_visualization_20160607_vs_end.pdf.

MSG members made the following comments and asked the following questions following Mr. Hawbaker's presentation; *direct responses to questions and comments are indicated in italics*:

- Veronika Kohler, National Mining Association and industry sector co-chair, thanked the IA for accommodating the industry sector's capacity gap between the departure of coal company representatives from the MSG and awaiting the seating of a new representative. She added that she has heard widespread praise of the AML material prepared by the IA.
 - Dan Dudis, Public Citizen, inquired whether the maps of coal mines would be interactive and would allow users to identify which mines have been reclaimed. *Mr. Hawbaker indicated that the maps would not be interactive in the 2016 Report but that this functionality could be considered for incorporation in future years.*
 - Paul Mussenden and Ms. Kohler inquired about the process for finalizing the presentation of content once the MSG approves it.
 - *Greg Gould, ONRR and government sector co-chair, responded that the Online Advisory Work Group would work closely with 18F and MSG members to make sure that 18F's final presentation of content aligns with the MSG's intentions.*
 - *John Mennel, IA team member, noted that 18F may make some revisions in formatting and verbiage based on its design work and user-testing process.*
 - *In response to suggestions from Ms. Kohler and Ms. Brian, Ms. Platts agreed to provide a process schema for tracking work products through the review and finalization process. John Cassidy, IA team member, requested that the MSG try to abide by the process laid out by the IA.*
 - The MSG approved the content created by the IA about the Abandoned Mine Land (AML) Reclamation Program.
- **Decision: The MSG decided to send the content created by the IA about the Abandoned Mine Land (AML) Reclamation Program to 18F.**

b) State and Tribal Addition

Mr. Hawbaker presented an overview of the content that the IA created about Montana, one of the states and tribes exploring USEITI opt-in. He explained that the process of creating the Montana content included collecting input from the State of Montana and from MSG members and working with the State and Tribal Opt-In Subcommittee to review and revise the content. The IA is putting forward the Montana content as a template for approval by the MSG; if the MSG approves the Montana

content, the IA will create similar content for other states and tribes. The Montana content is available online at:
https://www.doi.gov/sites/doi.gov/files/uploads/state_opt-in_visualization_montana_6_10_2016_vmsg.pdf with enlarged mock-ups of components of the Montana content available online at:
https://www.doi.gov/sites/doi.gov/files/uploads/2016june10_montana_enlarged_mock-ups_vmsg.pdf.

Editor's Note: For purposes of continuity, MSG discussion that was conducted during the "State and Tribal Opt-in Subcommittee Update" session (see page 17) is included in this section of the meeting summary.

MSG members made the following comments and asked the following questions following Mr. Hawbaker's presentation; *direct responses to questions and comments are indicated in italics:*

- Johanna Nesseth, Chevron, noted that whereas the MSG took the approach of informing the counties that were profiled in the county case studies that narratives based on publicly available information would be included in the USEITI report, the process has been more interactive with the opting-in states and tribes. *Mr. Hawbaker explained that the IA is sending draft versions of write-ups to states for multiple rounds of review and comment. Tribes have an exclusive right of final approval and sign-off on their write-ups. Danielle Brian added that the tribes are accorded this higher level of editorial authority due to the Federal government's trust responsibility with them.*
- Michael Gardner, Rio Tinto, inquired about whom the IA is speaking with at the state level. *Sarah Platts explained that the State and Tribal Opt-in Subcommittee provides the IA with a state point of contact who then also provides contact information for other state officials. Ms. Brian added that the State and Tribal Opt-in Subcommittee and the IA are also working to consult with state-level representatives from the industry and CSO sectors in addition to state government representatives.*
- Ms. Nesseth also suggested that Federal and state data would need to be very clearly differentiated and that revenue information be presented before regulatory information.
 - *Mr. Hawbaker responded that it should be relatively easy for 18F to identify data sources.*
 - *Paul Mussenden noted that both Federal and state data are forms of public data and that state regulatory agencies are accorded the same weight as Federal agencies. Kris Sarri suggested that it may be helpful to readers to make it very easy to find information about data sources so that readers can themselves explore the data sources.*
 - *John Mennel stated that both Federal and state/tribal data should come from credible public sector resources and should be well-cited. He added that a difference between Federal and state/tribal data is that, while the*

MSG has decided what data should be included, the states and tribes are largely defining what data to include in the USEITI report through the opt-in process.

- John Harrington suggested that it could be helpful to provide the states and tribes opting into USEITI with a summary of the factors and criteria that the MSG considered when deciding which revenue streams to include at the Federal level. If states or tribes define a revenue stream as material, then the MSG should defer to their decision. Paul Bugala, George Washington University, expressed agreement.
- David Romig, Freeport-McMoRan Oil & Gas, added that, while the MSG should defer to states and tribes, the included revenue streams should relate to the extractive industries.
- Mike Matthews, State of Wyoming, suggested that, if a state or tribe wants to include revenue streams that are not included at the Federal level, that the jurisdiction in question be asked to provide the relevant data.
- Ms. Nessith suggested that the MSG create a mechanism to vet revenue streams such that, for example, the State and Tribal Opt-in Subcommittee consider the revenue streams proposed by states and tribes that maybe or are beyond the scope of the Federal report.
- Dan Dudis suggested that a materiality threshold could be established for including revenue streams and that resources that are not included at the Federal level, such as forestry and fisheries.
- Veronica Slajer, North Star Group, noted that the Red Dog Mine in Alaska would not meet the USEITI materiality threshold but is a very significant mine in Alaska. She suggested creating a template for state and tribal opt-in that is based on the standards defined by the MSG for Federal reporting but also providing a space in the template for states and tribes to propose inclusion of other extractive commodities and revenue streams that are significant for them.
 - *John Cassidy noted that the state and tribal sections may end up looking somewhat different in content and format. In 2015, the MSG sought a uniform format and presentation for the country write-ups.*
- Patrick Field, USEITI facilitator from the Consensus Building Institute, synthesized the discussion and suggested the following process: a template based on the Montana model will be distributed to states and tribes opting into USEITI that would provide them with guidance about revenue reporting for participation in USEITI while also allowing them the opportunity to suggest additional commodities and revenue streams that are locally significant. Those proposed additions that are relatively straightforward would be handled by the IA while those that are further outside Federal scope would be considered by the State and Tribal Opt-in Subcommittee. In addition, the Co-Chairs will circulate drafts of content from the states and tribes that are opting into USEITI to MSG members via email for prompt review and comment.

- David Romig suggested that the acronyms for government agencies used in the report be hyperlinked to the names of the agencies. Lynda Farrell, Pipeline Safety Coalition, inquired about how decisions about hyperlinking are made. *Mr. Hawbaker explained that hyperlinks are generally used the first time that a term is used but that 18F would make final decisions about hyperlinking through design and usability testing.*
 - Keith Romig, United Steelworkers, suggested that the content more clearly differentiate between extractive commodities and primary products.
 - Dan Dudis noted that revenue information seems to be presented more prominently than cost information, in some cases.
 - Mike Matthews noted that many of the larger mine sites are pretty self-contained in terms of equipment and resources and therefore impose minimal costs on the local government. There are also some cases, such as Gillette, Wyoming, where the local mine is significantly supporting the town. This can make it difficult to determine what “fiscal costs” should be included.
 - *Ms. Brian agreed and noted that the IA is only including those costs that states and tribes have themselves directly attributed to extractive industry activity.*
 - Veronika Kohler suggested that, if cost information is going to be included, that contributions from industry be included next to the costs.
 - Ms. Brian added that she would be in favor of that as long as revenue and cost information are presented side-by-side.
 - Mr. Dudis expressed discomfort with presenting revenue and cost information side-by-side because cost information is often under-documented.
 - *Mr. Mennel explained that the IA is using the same criteria for including revenue and cost information that the MSG agreed on for the 2015 report: that the data source be a credible government data source and that the revenue or cost be directly attributed to extractive industry activity by a government entity. He added that, if any sector has concerns about a specific item, it can flag that item for the IA, and if a sector would like to see content presented differently, the IA can communicate that to 18F.*
 - Mr. Dudis inquired whether Montana is particularly rich in available data about the extractive industries. *Ms. Platts responded that Montana, Wyoming, and Alaska are all notably rich in available data among the states, which may be why they are the first three states to be opting into USEITI.*
- **Decision: The MSG decided to approve the Montana template for state and tribal reporting. The template based on the Montana model will be distributed to states and tribes opting into USEITI that would provide them with guidance about revenue reporting for participation in USEITI while also allowing them the opportunity to suggest additional commodities and revenue streams that are locally significant. Those proposed additions that are relatively**

straightforward would be handled by the IA while those that are further outside Federal scope would be considered by the State and Tribal Opt-in Subcommittee. In addition, the Co-Chairs will circulate drafts of content from the states and tribes that are opting into USEITI to MSG members via email for prompt review and comment.

c) Budget, Audit, and Assurance Process Addition

Andrew Varnum, IA team member, presented an overview of the content that the IA created about US budget, audit, and assurance processes. Once the MSG approves the content created by the IA, the IA will send the content to 18F for design and finalization of presentation. The content presented by Mr. Varnum is available online at:

https://www.doi.gov/sites/doi.gov/files/uploads/budget_and_audit_visualization_160610_junemsg.pdf.

MSG members made the following comments and asked the following questions following Mr. Varnum's presentation; *direct responses to questions and comments are indicated in italics*. A number of commenters identified gaps in the information presented:

- John Harrington, ExxonMobil, noted that the large number of linkages to other data and information sources makes it hard to understand exactly what information will be presented but that he could identify some gaps at present, such as that IRS auditors are continuously present onsite at companies, not just when audits are taking place.
- Aaron Padilla, American Petroleum Institute, suggested that more information could be included about non-tax revenues and that steps 2 and 3 presently have some redundancy that could be eliminated.
- Mike Matthews noted that companies are audited at the state level in addition to being audited by the Federal IRS.
- Danielle Brian identified a few linguistic concerns, such as the use of "such as" before "accounting principles" in the Data Validation introduction.

Given the need for further review and revision of portions of the Budget, Audit, and Assurance Process Addition, the MSG agreed to send the content created by the IA to 18F to begin creating the visualization while the IA works with the Online Advisory Work Group and the following subject matter experts to further revise any content that needs further work: Paul Bugala (George Washington University), Aaron Padilla (American Petroleum Institute), Phil Denning (Shell Oil Company), and Curtis Carlson (US Department of the Treasury).

- Sam Bartlett, International EITI Secretariat, commended USEITI on the high quality and clarity of the content created about US budget, audit, and assurance processes.

➤ **Decision: The MSG decided to send the US budget, audit, and assurance processes content created by the IA to 18F while the IA works with the Online**

Advisory Work Group and MSG subject matter experts to further revise any content that needs further work.

d) Twelve County Case Studies

Sarah Platts explained that the IA is updating the twelve county case studies included in the 2015 USEITI Report and is adding some minor content in some cases. Drafts of the case studies are available online at: <https://www.doi.gov/eiti/june-27-28-2016-meeting>.

MSG members made the following comments and asked the following questions following Ms. Platts' comments; *direct responses to questions and comments are indicated in italics*:

- Dan Dudis stated that the draft write-up for the State of Montana is at the scale and depth that he had been anticipating for the county write-ups in 2015. He inquired as to the possibility of trying to find additional data sources for the counties.
- Danielle Brian suggested that the sectors could search for additional data sources and provide them to the IA for consideration to be included in future years of USEITI reporting.
- In response to a question from Mr. Dudis about the possibility of including additional data in the county case studies for the 2016 USEITI Report, Ms. Brian and Greg Gould explained that expanding the county case studies is not included in the work plan for 2016. Mr. Gould added that the budget for contracts with the IA and 18F would need to be considered when deciding whether expanded county write-ups could be included in the 2017 work plan.
- Johanna Nesseth suggested that the State and Tribal Opt-in Subcommittee and the IA could ask state-level contacts about additional data sources.
- Veronika Kohler recommended that decisions about how to expand the report be based on input and requests received from the public.

e) Coal Excise Tax Contextual Information

A draft of the information prepared by the IA about the coal excise tax is available online at:

https://www.doi.gov/sites/doi.gov/files/uploads/coal_excise_msg_20160607_vf.pdf.

While suggesting that the MSG move forward with deciding that the coal excise tax contextual information be sent to 18F for inclusion in the 2016 USEITI Report, Veronika Kohler noted that coal mining company representatives have recently left the MSG due to cut backs in the coal industry and thereby requested that the representative from Peabody Energy that is awaiting confirmation to join the MSG be allowed to review the coal excise tax information and provide input.

Greg Gould agreed with Ms. Kohler's request and suggested that the industry sector put forward the Peabody Energy representative as a "technical expert" now so that he can provide input even before being confirmed to join the MSG.

- **Decision: The MSG decided to send the coal excise tax contextual information to 18F for inclusion in the 2016 USEITI Report, with additional review and comment to be provided by industry sector coal industry representatives, as needed.**

2. 2016 USEITI Report (PDF) Executive Summary

Sarah Platts presented the outline for the executive summary to the 2016 USEITI Report to the MSG. She explained that the intention for the executive summary was to make it significantly shorter than the executive summary of the 2015 Report. Ms. Platts also mentioned that the 2015 Report would be archived online so that it would always be publicly available. The outline for the executive summary to the 2016 USEITI Report is available online at:

https://www.doi.gov/sites/doi.gov/files/uploads/20160617_executive_summary_presentation_v_send_0.pdf.

MSG members made the following comments and asked the following questions following Ms. Platts' comments; *direct responses to questions and comments are indicated in italics*:

- John Harrington suggested that a description of USEITI be added to the executive summary outline.
- Keith Romig suggested that guidance about how to navigate the online report be added to the executive summary outline.
- In response to a question from Dan Dudis about whether infographics similar to those included in the 2015 executive summary would be included, Ms. Platts indicated that they would.
- Mr. Dudis inquired as to whether information comparing the 2015 and 2016 reports, such as the number of companies included and the types of quantities of revenues reported, would be provided anywhere. He noted that this is a standard element of reports that are issued annually.
- Mr. Harrington and David Romig questioned the utility of including such a comparison.
- Greg Gould agreed that it could be helpful to include year-to-year comparisons but explained that this is not included in the IA's 2016 scope of work. He suggested that the Secretariat would explore whether it could take this on internally and that, since the data and reports are provided online, readers can draw their own inferences comparing the 2015 and 2016 reports.
- Ms. Kohler suggested that the MSG discuss how the year-to-year comparison would be framed and reported so that, for example, the appropriate emphasis is placed on the level of company participation in reporting and reconciliation given that all revenue data is also provided through unilateral disclosure. Mr. Gould agreed that this would be important to discuss at a future MSG meeting.
 - *John Mennel expressed agreement about the importance of providing year-to-year comparison information and said that the IA would include*

this type of information. The framing and outline could be discussed by the Implementation Subcommittee.

- In response to a question from David Romig about disclosing the use of 2013 data for reconciliation in the 2015 Report and 2015 data in the 2016 Report (and thereby skipping 2014 data), Mr. Gould agreed that it would be important to clearly state that information in the 2016 Report as well as to provide the 2014 revenue data through unilateral disclosure.
- **Decision: The MSG decided to approve the Executive Summary outline for the 2016 Report with revisions suggested by MSG members: inclusion of background on USEITI, guidance about how to navigate the online report, and year-to-year comparative information.**

3. Update on Company Reporting and Reconciliation Process

Alex Klepacz and Kent Schultz, IA team members from Deloitte, provided an update on the company revenue reporting and reconciliation process. They reported on the materials that the IA has distributed to companies, the IA's communication process with companies, and the current status of company participation in reporting and reconciliation. Additional information is available in Mr. Klepacz's and Mr. Schultz's slides, available online at:

https://www.doi.gov/sites/doi.gov/files/uploads/20160617_rr_msg_v_send.pdf.

In response to Mr. Klepacz's and Mr. Schultz's comments, Danielle Brian inquired as to whether it could be helpful to encourage additional companies to participate in reporting and reconciliation if MSG members were to supplement the IA's outreach efforts. Mr. Klepacz responded by explaining that the five companies that have informed the IA that they will not participate in reporting provided somewhat generic reasons for not doing so, such as having time and resource constraints. As such, it may not make much difference if MSG members were to do additional outreach.

D. Communications Subcommittee Update

Veronika Kohler, Chair of the Communications Subcommittee, provided an update on the Subcommittee's activities. She reported that the Subcommittee is revising the USEITI communications plan to focus on outreach around the 2016 USEITI Report with a particular focus on social media to engage the general public. She also reported that 84 people participated in a recent webinar held for the general public and that the Subcommittee is reaching out to Congressional offices. In addition, the IA held two sets of webinars for reporting companies, in Houston and Denver, with one set focused on non-tax revenue reporting and the other focused on tax reporting. Ms. Kohler also reported that the Department of the Interior sent a letter to reporting companies signed by Kris Sarri, Principle Deputy Assistant Secretary, Policy Management and Budget. Ms. Sarri added that a letter from the Secretary of the Interior, Sally Jewel, would go out to reporting companies on the day of the MSG meeting, June 27.

Finally, Ms. Kohler also reported that two public outreach sessions are planned for Montana (one public in Helena and one near or on the Blackfeet Nation) and one for New Orleans, Louisiana. These locations were chosen jointly by the Communications and State and Tribal Opt-in Subcommittees because Montana has both the state and the Blackfeet Nation opting into USEITI and New Orleans was the only location in the earlier round of public outreach at which members of the public attended.

In response to Ms. Kohler's comments, members of the MSG asked the following questions and made the following comments; *responses are indicated in italics*:

- Was the public webinar recorded and, if so, is it accessible for MSG members to view? *Ms. Kohler: yes, the webinar was recorded and is available for viewing. DOI is also exploring how to turn it into a learning module for companies.*
- How receptive do companies seem this year to participating in income tax reporting? *Mr. Klepacz and Mr. Mennel: Although we are seeing more participation by company tax representatives in our outreach events, there was only one question asked across the four webinars. The IA will also be making a presentation at the American Petroleum Institute Tax Conference.*

E. State and Tribal Opt-in Subcommittee Update

Ms. Danielle Brian, Chair of the State and Tribal Opt-in Subcommittee, provided an update on the Subcommittee's work. She reported that three states and one tribe have opted in, with discussions about opt-in progressing with a second tribe. Once approved by the MSG, the IA and 18F will use the same template for state-level reporting that has been created for Montana for other states opting into USEITI. She added that the Alaska state government wants to explore including revenue streams, such as pipelines, that the USEITI MSG has defined as out-of-scope for Federal reporting. Additional information is available in the presentation slides available online at:

https://www.doi.gov/sites/doi.gov/files/uploads/2016june23_state_and_tribal_msg_slides_v4_1.pdf.

Editor's Note: For purposes of continuity, MSG discussion that was conducted during this portion of the meeting is included in the "State and Tribal Addition" section of the meeting summary (see page 9).

F. Implementation Subcommittee Updates

Greg Gould, Chair of the Implementation Subcommittee, introduced the key topics of discussion for the MSG from the Implementation Subcommittee: a revision of the EITI Standard has raised "beneficial ownership" and "mainstreaming" on the agenda for USEITI consideration. Presentations made on these topics and accompanying MSG discussions are summarized below.

1. Update on 2016 EITI Standard Revisions

Judy Wilson provided an overview of key elements of the revised EITI Standard. Her comments focused on seven requirements of the EITI Standard, updated requirements

around disclosure of beneficial ownership, updated requirements around data quality and assurance and the possibility of “mainstreaming” EITI reporting, and updated procedures for validation of country reports. Additional information is available in Ms. Wilson’s presentation slides, available online at:

https://www.doi.gov/sites/doi.gov/files/uploads/eiti_2016_standard.pdf.

2. Beneficial Ownership Roadmap

Members of the Reporting and Reconciliation Work Group of the Implementation Subcommittee presented information of their work group’s due diligence and discussions around the new EITI beneficial ownership requirement and the context for meeting the requirement in the United States. Work group members Paul Bugala (George Washington University), John Harrington (ExxonMobil), Jim Steward (US Department of the Interior), and Curtis Carlson (US Department of the Treasury) reviewed the following information and made the following points:

- The revised requirements around beneficial ownership disclosure are in the 2016 Standard;
- The considerations that would need to be taken into account would be explored in a required “roadmap” for disclosure, due this year, to address beneficial ownership by 2020;
- The beneficial ownership would very likely not apply to publicly held companies that are registered with the Securities and Exchange Commission (SEC). Instead, the requirement would apply to privately held companies that are registered under state laws.
- State laws do not compel disclosure by privately held companies of beneficial ownership.
- Federal laws governing extractive activity do not require disclosure of beneficial ownership.
- There are thousands of extractives companies operating on Federal lands, of which only about 10 percent are publicly traded. There are many other companies that operate on non-Federal lands.
- Various bills have been introduced in Congress to require the identification of beneficial owners over the past ten years. None of these bills would compel the public disclosure of beneficial ownership and none have been enacted into law.
- Compelling disclosure of beneficial ownership will likely be a very difficult undertaking in the United States given existing laws and regulations. The 2016 EITI Standard does allow countries to prioritize disclosure, for example by the largest companies first, with an intention to include all companies in disclosure by 2020.

Additional information is available in the presentation slides available online at:

https://www.doi.gov/sites/doi.gov/files/uploads/beneficial_ownership_overview_presentation_drft_06_17_2016_v9.pdf.

POGO Calls for Removal of American Petroleum Institute (API) from Transparency Group (USEITI)

FOR IMMEDIATE RELEASE

CONTACT: Ari Goldberg (agoldberg@pogo.org; [240.678.9102](tel:240.678.9102))

February 1, 2017

WASHINGTON—On behalf of civil society groups, [The Project On Government Oversight](#) (POGO) today formally requested the removal of the American Petroleum Institute (API) from the United States Extractive Industries Transparency Initiative (USEITI), which is part of an international effort to promote open and accountable management of natural resources.

During a meeting of the multi-stakeholder group, in which POGO is a participating member, POGO Executive Director [Danielle Brian](#) said API's current effort to kill a key anti-corruption measure in the Dodd-Frank Wall Street Reform and Consumer Protection Act known as the Cardin-Lugar Provision or Section 1504:

".... is particularly galling, in that in their fact sheets, API uses their participation in USEITI as evidence that they believe in transparency. In those same documents API claims the disclosures required by 1504, which are complementary to EITI standards, are anti-competitive, even though their competitors are held to the same standards through the EU and Canadian rules. In other words, they never intended to support disclosure of taxes by company or project level reporting of other revenue streams."

".... It is simply unacceptable for API to continue to benefit from the goodwill generated from their boasting of their participation in USEITI while at the same time actively working to directly undermine our success. As a result, civil society is formally requesting that the DFO (Designated Federal Officer) remove API from the MSG (multi-stakeholder group) [of USEITI members]."

See also: [POGO Fights House Attempt to Gut Anti-Corruption Law](#)

Transcript of Danielle Brian's full remarks:

Today the House and possibly the Senate are preparing to vote on whether to disapprove the Cardin-Lugar 1504 rule. As all of you who have been working on USEITI know, we have been waiting for months, years, for that rule to be finalized so that we could move forward with our work. 1504 is the cornerstone of USEITI and civil society vociferously objects to its gutting.

During these past years we have been told repeatedly that industry will not voluntarily disclose more than what is required of them by law. To be fair, despite that, several companies have

honored the spirit of EITI and have gone beyond what was already legally required and disclosed their tax payments even before 1504 was implemented. And we thanked those companies by name in the last report. And we have been punting on the basic EITI requirements of tax disclosure and project level reporting because we were told we had to wait for the rule before we could do more.

I now ask our government and industry colleagues to please join me in expressing our opposition to the misguided effort to disapprove the rule. If any of the companies who have already supported the disclosure of taxes and project level reporting are willing to make their voices heard now, before the House and Senate vote, we might be able to prevent the loss of this anti-corruption measure.

We in civil society believe that the lobbying effort by the American Petroleum Institute to kill the 1504 rule is particularly galling, in that in their fact sheets, API uses their participation in USEITI as evidence that they believe in transparency. In those same documents API claims the disclosures required by 1504- which are complementary to EITI standards - are anti-competitive- even though their competitors are held to the same standards through the EU and Canadian rules. In other words, they never intended to support disclosure of taxes by company or project level reporting of other revenue streams.

We know that Aaron has been working hard on USEITI and he is not personally responsible for the positions of his employer, but it is simply unacceptable for API to continue to benefit from the goodwill generated from their boasting of their participation in USEITI while at the same time actively working to directly undermine our success. As a result, civil society is formally requesting that the DFO remove API from the MSG.

United States Senate

WASHINGTON, DC 20510

February 2, 2017

Acting SEC Chairman Michael Piwowar
100 F Street, NE
Washington, DC 20549

Dear Acting Chairman Piwowar:

We are voting for the resolution (H.J. Res. 41) to express congressional disapproval under the Congressional Review Act of the Securities and Exchange Commission's Final Rule on Disclosure of Payments by Resource Extraction Issuers. We are of course strong supporters of policies to combat U.S. companies' participation in corrupt financial practices abroad, and we are committed to efforts to encourage corporate transparency on these matters consistent with the international standards already adopted by European and other governments.

However, we will vote to disapprove the SEC's rule because it would place American and other SEC-registered companies at a significant and unacceptable competitive disadvantage. Under the SEC's rule, as we understand it, U.S. companies would be required to make the disclosures about their payments to host governments even where another country's laws might prohibit by law those disclosures. Effectively that could require U.S. companies to stop doing business in those countries, leaving those markets to the unfettered advantage of their foreign competitors.

We would encourage the SEC to consider this and other anti-competitiveness concerns when it revisits its statutory mandate to propose a new rule to implement the bipartisan Cardin-Lugar anti-corruption provisions (Section 1504) of the Wall Street Reform and Consumer Protection Act of 2010. In addition, we are open to supporting legislative or other solutions that might be appropriate to address any issues that might be posed by the Congressional Review Act's restrictions on the similarities between the SEC's new rule and this now disapproved rule.

We look forward to working with the SEC in support of its efforts to encourage corporate transparency and combat corruption abroad.

Sincerely,



Bob Corker
U.S. Senator



Susan Collins
U.S. Senator



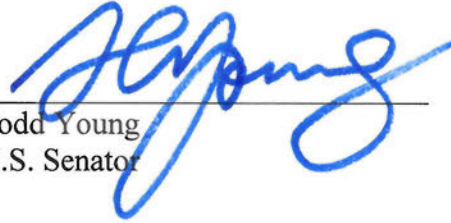
Marco Rubio
U.S. Senator



Johnny Isakson
U.S. Senator



Lindsey Graham
U.S. Senator



Todd Young
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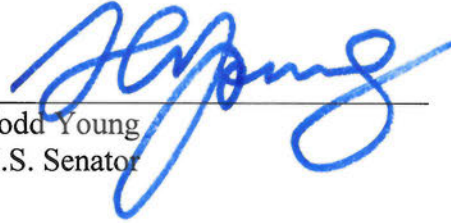
Marco Rubio
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Johnny Isakson
U.S. Senator



Lindsey Graham
U.S. Senator



Todd Young
U.S. Senator

OFFICE: Office of Natural Resources Revenue (ONRR)

MEMBER: General Interest

ISSUE: U.S. Extractive Industries Transparency Initiative

Key Points:

- The U.S. government committed to implementing EITI in the U.S. (USEITI) in 2011 and in the spring of 2012 designated the Department of the Interior the lead Agency for implementing USEITI. Implementing USEITI provides additional oversight of the collection and disbursement of the Nation's mineral resources revenues. USEITI successfully completed the initial requirements to join EITI as a candidate country when accepted by the International EITI Board in March 2014. Key successes include publishing the 2015 and 2016 USEITI Annual Reports on an open source, open code interactive web-based data portal (<https://useiti.doi.gov>). On this portal, the Department of the Interior unilaterally discloses 2013, 2014, and 2015 revenues by company, commodity, and revenue type as well as production data across all commodities. The portal is the new global standard in revenue governance transparency.

Background:

- The Extractive Industries Transparency Initiative is a voluntary, global effort designed to strengthen accountability and public trust for the revenues paid and received for a country's oil, gas, and mineral resources. EITI brings together a coalition of government, companies, and civil society (the Multistakeholder Group or MSG), to oversee the domestic implementation of the voluntary framework in which governments disclose revenues received from oil, gas, and mining assets, with parallel disclosure by companies of what they have paid to the government in royalties, rents, bonuses, taxes, and other payments. In March 2014, the U.S. became the first G7 country to achieve Candidate Country status. Both the United Kingdom and Germany have followed the U.S. lead and have both become Candidate countries. The Annual Reports provide clarity and transparency of the revenues generated by energy development on public lands and waters—a significant source of financial support for local communities, States, Tribes, and the Federal Government. In the spring of 2016, three states (Montana, Wyoming, and Alaska) opted-in to USEITI, allowing for expanded State reporting of extractive revenues.

Current:

- The U.S. is scheduled to produce its third Annual Report in December 2017 and undergo validation April 1, 2018. Validation is an independent, external and impartial process that serves to assess performance and promote dialogue and learning at the country level. It also safeguards the integrity of the EITI by holding all EITI implementing countries to the same global Standard. USEITI has met 8 of the 9 elements of the standard but will not be found in compliance with the EITI standard until companies timely and comprehensively report tax revenues, project-level non-tax revenues, and beneficial owners. The EITI Board is likely to find USEITI to have made inadequate progress or be suspended. ONRR will begin mainstreaming DOI revenue reporting and institutionalizing EITI processes.

Prepared by: Gregory J. Gould, Director, Office of Natural Resources Revenue, (303) 231-3429

Date: May 10, 2017

OFFICE: Office of Natural Resources Revenue (ONRR)

MEMBER: General Interest

ISSUE: U.S. Extractive Industries Transparency Initiative (EITI)

Key Points:

- The U.S. government committed to implementing EITI in the U.S. (USEITI) in 2011 and in the spring of 2012 designated the Department of the Interior the lead Agency for implementing USEITI.
- The USEITI Federal Advisory Committee was established in August 2012. The Committee's purpose was to serve as the EITI Multistakeholder Group (MSG) and its duties included consideration and fulfillment of the tasks required to achieve candidate and compliant status in the EITI.
- USEITI successfully completed the initial requirements to join EITI as a candidate country when accepted by the International EITI Board in March 2014.
- Key successes include publishing the 2015 and 2016 USEITI Annual Reports on an open source, open code interactive web-based data portal (<https://useiti.doi.gov>). On this portal, the Department of the Interior unilaterally discloses 2013, 2014, 2015 and 2016 revenues by company, commodity, and revenue type as well as production data across all commodities. The portal is the new global standard in revenue governance transparency.
- The Annual Reports provide clarity and transparency of the revenues generated by energy development on public lands and waters—a significant source of financial support for local communities, States, Tribes, and the Federal Government.

Background:

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- The U.S. became the first G7 country and the second OECD country to achieve Candidate Country status and become an EITI implementing country. Since the first public meeting in 2013, through to the 20th meeting in 2017, the USEITI MSG worked collaboratively to successfully reach consensus on how to implement USEITI.

Current:

- The U.S. is scheduled to produce its third Annual Report in December 2017 and undergo independent third party validation April 1, 2018. USEITI has met 8 of the 9 elements of the standard but will not be found in compliance with the EITI standard until companies timely and comprehensively report tax revenues, project-level non-tax revenues, and beneficial owners. The EITI Board is likely to find USEITI to have made inadequate progress and suspend the U.S. Consistent with EITI principles ONRR will continue mainstreaming DOI revenue reporting and institutionalize EITI processes.

Prepared by: Gregory J. Gould, Director, Office of Natural Resources Revenue, (303) 231-3429

Date: October 5, 2017

Label: "FOIA EITI"

Created by:greg.gould@onrr.gov

Total Messages in label:370 (41 conversations)

Created: 11-30-2017 at 14:54 PM

Conversation Contents

Draft Improving Reporting Workshop presentation for the Feb MSG

Attachments:

/40. Draft Improving Reporting Workshop presentation for the Feb MSG/1.1 Improving Reporting Workshop 1_11_2017.pptx
/40. Draft Improving Reporting Workshop presentation for the Feb MSG/2.1 Improving Reporting Workshop 1_11_2017 ggcmts.pptx

"Wilson, Judith" <judith.wilson@onrr.gov>

From: "Wilson, Judith" <judith.wilson@onrr.gov>
Sent: Fri Jan 27 2017 08:53:01 GMT-0700 (MST)
Greg Gould <greg.gould@onrr.gov>, Jim Steward <Jim.Steward@onrr.gov>, Robert Kronebusch <robert.kronebusch@onrr.gov>, David Romig <david_romig@fmi.com>, Phil Denning <phillip.denning@shell.com>, Daniel Dudis <ddudis@citizen.org>, Isabel Munilla (b) (6) @gmail.com, Mia Steinle <msteinle@pogo.org>, Jerold Gidner <jerold.gidner@onrr.gov>, Paul Bugala (b) (6) @gmail.com
To:
Subject: Draft Improving Reporting Workshop presentation for the Feb MSG
Attachments: Improving Reporting Workshop 1_11_2017.pptx

All,

If you have a few moments between now and Monday to look over the slides and let me know if you want any clarification or revision please let me know. As always, I hope to have you insights as well during the presentation.

--

Judy Wilson
Program Manager USEITI Secretariat
Office of Natural Resources Revenue
judith.wilson@onrr.gov
202-208-4410

"Gould, Greg" <greg.gould@onrr.gov>

From: "Gould, Greg" <greg.gould@onrr.gov>
Sent: Fri Jan 27 2017 12:12:50 GMT-0700 (MST)
To: "Wilson, Judith" <judith.wilson@onrr.gov>
Jim Steward <Jim.Steward@onrr.gov>, Robert Kronebusch <robert.kronebusch@onrr.gov>, David Romig <david_romig@fmi.com>, Phil Denning

CC: <phillip.denning@shell.com>, Daniel Dudis <ddudis@citizen.org>, Isabel Munilla (b) (6) @gmail.com>, Mia Steinle <msteinle@pogo.org>, Jerold Gidner <jerold.gidner@onrr.gov>, Paul Bugala (b) (6) @gmail.com>, Danielle Brian <dbrian@pogo.org>, Veronika Kohler <VKohler@nma.org>

Subject: Re: Draft Improving Reporting Workshop presentation for the Feb MSG

Attachments: Improving Reporting Workshop 1_11_2017 ggcmts.pptx

Judy,

Great work, I had a few minor edits in red on the attached slides and noted below:

Slide 4 Changed "be consistent" to "reconcile"

Slide 5 Added a bullet at the top "Reconciliation via Government Mainstreaming"

Slide 5 Added "a second time" to what was the first bullet, now the second bullet.

I also added Danielle and Veronika as an FYI.

Thanks,

Greg

Gregory J. Gould

*Acting Deputy Assistant Secretary/Director
Office of Natural Resources Revenue
U.S. Department of the Interior*

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On Fri, Jan 27, 2017 at 8:53 AM, Wilson, Judith <judith.wilson@onrr.gov> wrote:

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judith.wilson@onrr.gov
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"Gidner, Jerold" <jerold.gidner@onrr.gov>

From: "Gidner, Jerold" <jerold.gidner@onrr.gov>
Sent: Fri Jan 27 2017 12:14:30 GMT-0700 (MST)
To: "Gould, Greg" <greg.gould@onrr.gov>
"Wilson, Judith" <judith.wilson@onrr.gov>, Jim Steward
<Jim.Steward@onrr.gov>, Robert Kronebusch
<robert.kronebusch@onrr.gov>, David Romig
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<msteinle@pogo.org>, Paul Bugala (b) (6) @gmail.com>,
Danielle Brian <dbrian@pogo.org>, Veronika Kohler
<VKohler@nma.org>
Subject: Re: Draft Improving Reporting Workshop presentation for the Feb
MSG

Thanks Judy - no comments.

Jerry Gidner
Senior Policy Advisor
Office of Natural Resources Revenue

and

Tribal Liaison Officer
Office of Policy, Management, and Budget
4040 MIB
202-302-9731

Be sure to visit <http://onrrresource/> for employee news, resources, and events.

And visit <https://useiti.doi.gov/> for the US Extractive Industries Transparency Initiative data portal

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EarthRights International v. U.S. Department of the Interior, 22-cv-01503-CKK00002722

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202-208-4410

--

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Office of Natural Resources Revenue
judith.wilson@onrr.gov
202-208-4410

Label: "FOIA EITI"

Created by:greg.gould@onrr.gov

Total Messages in label:370 (41 conversations)

Created: 11-30-2017 at 14:54 PM

Conversation Contents

Data Portal lesson for NMA members

Attachments:

/41. Data Portal lesson for NMA members/1.1 image001.png
/41. Data Portal lesson for NMA members/2.1 image001.png
/41. Data Portal lesson for NMA members/3.1 image001.png
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/41. Data Portal lesson for NMA members/12.1 image001.png
/41. Data Portal lesson for NMA members/13.1 image001.png
/41. Data Portal lesson for NMA members/14.1 image001.png
/41. Data Portal lesson for NMA members/15.1 image001.png
/41. Data Portal lesson for NMA members/16.1 image001.png

"Kohler, Veronika" <VKohler@nma.org>

From: "Kohler, Veronika" <VKohler@nma.org>
Sent: Thu Dec 08 2016 12:18:26 GMT-0700 (MST)
To: "michelle.hertzfeld@gsa.goc" <michelle.hertzfeld@gsa.goc>, "corey.mahoney@gsa.gov" <corey.mahoney@gsa.gov>
CC: "Judith Wilson (judith.wilson@onrr.gov)" <judith.wilson@onrr.gov>, Greg Gould <greg.gould@onrr.gov>
Subject: Data Portal lesson for NMA members
Attachments: image001.png

Dear Ladies,

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cid:image001.png@01E

Veronika Kohler
Director, International Policy
National Mining Association
101 Constitution Ave. NW, Suite 500 East
Washington, D.C. 20001
Phone: (202) 463-2600

"Kohler, Veronika" <VKohler@nma.org>

From: "Kohler, Veronika" <VKohler@nma.org>
Sent: Thu Dec 08 2016 12:19:46 GMT-0700 (MST)
To: "Michelle Hertzfeld (michelle.hertzfeld@gsa.gov)"
<michelle.hertzfeld@gsa.gov>, "corey.mahoney@gsa.gov"
<corey.mahoney@gsa.gov>
CC: "Judith Wilson (judith.wilson@onrr.gov)"
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vkohler@nma.org

"Kohler, Veronika" <VKohler@nma.org>

From: "Kohler, Veronika" <VKohler@nma.org>
Sent: Thu Dec 08 2016 12:40:59 GMT-0700 (MST)
To: "Michelle Hertzfeld (michelle.hertzfeld@gsa.gov)"
<michelle.hertzfeld@gsa.gov>, "corey.mahoney@gsa.gov"
<corey.mahoney@gsa.gov>
CC: "Judith Wilson (judith.wilson@onrr.gov)"
<judith.wilson@onrr.gov>, Greg Gould <greg.gould@onrr.gov>
Subject: RE: Data Portal lesson for NMA members
Attachments: image001.png

Scratch that, I meant Wednesday January 11th same time.

From: Kohler, Veronika
Sent: Thursday, December 08, 2016 2:21 PM
To: Michelle Hertzfeld (michelle.hertzfeld@gsa.gov) <michelle.hertzfeld@gsa.gov>; 'corey.mahoney@gsa.gov' <corey.mahoney@gsa.gov>
Cc: Judith Wilson (judith.wilson@onrr.gov) <judith.wilson@onrr.gov>; Greg Gould <greg.gould@onrr.gov>
Subject: Data Portal lesson for NMA members

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cid:image001.png@01L

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vkohler@nma.org

Michelle Hertzfeld <michelle.hertzfeld@gsa.gov>

From: Michelle Hertzfeld <michelle.hertzfeld@gsa.gov>
Sent: Fri Dec 09 2016 19:41:06 GMT-0700 (MST)
To: "Kohler, Veronika" <VKohler@nma.org>
CC: "corey.mahoney@gsa.gov" <corey.mahoney@gsa.gov>, "Judith Wilson (judith.wilson@onrr.gov)" <judith.wilson@onrr.gov>, Greg Gould <greg.gould@onrr.gov>
Subject: Re: Data Portal lesson for NMA members
Attachments: image001.png

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michelle.hertzfeld@gsa.gov
[202-317-0155](tel:202-317-0155)
@18F

"Kohler, Veronika" <VKohler@nma.org>

From: "Kohler, Veronika" <VKohler@nma.org>
Sent: Tue Jan 03 2017 08:13:16 GMT-0700 (MST)
To: Michelle Hertzfeld <michelle.hertzfeld@gsa.gov>
CC: "corey.mahoney@gsa.gov" <corey.mahoney@gsa.gov>, "Judith Wilson (judith.wilson@onrr.gov)" <judith.wilson@onrr.gov>, Greg Gould <greg.gould@onrr.gov>
Subject: RE: Data Portal lesson for NMA members
Attachments: image001.png

[Dear Michelle,](#)

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[Veronika](#)

[From:](#) Michelle Hertzfeld [<mailto:michelle.hertzfeld@gsa.gov>]
[Sent:](#) Friday, December 09, 2016 9:41 PM
[To:](#) Kohler, Veronika <VKohler@nma.org>
[Cc:](#) corey.mahoney@gsa.gov; Judith Wilson (judith.wilson@onrr.gov) <judith.wilson@onrr.gov>; Greg

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Subject: Re: Data Portal lesson for NMA members

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202-317-0155
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"Kohler, Veronika" <VKohler@nma.org>

From: "Kohler, Veronika" <VKohler@nma.org>
Sent: Fri Jan 06 2017 12:54:47 GMT-0700 (MST)
To: Michelle Hertzfeld <michelle.hertzfeld@gsa.gov>
"corey.mahoney@gsa.gov" <corey.mahoney@gsa.gov>, "Judith
CC: Wilson (judith.wilson@onrr.gov)" <judith.wilson@onrr.gov>, Greg
Gould <greg.gould@onrr.gov>
Subject: RE: Data Portal lesson for NMA members

EarthRights International v. U.S. Department of the Interior, 22-cv-01503-CKK00002730

Attachments: image001.png

Hi, just checking in to see if you saw my email below. I think keeping our date for next week is unrealistic at this point. Any suggestions? How about the last week of January? Or will you be in town soon?

From: Kohler, Veronika
Sent: Tuesday, January 03, 2017 10:15 AM
To: 'Michelle Hertzfeld' <michelle.hertzfeld@gsa.gov>
Cc: corey.mahoney@gsa.gov; Judith Wilson (judith.wilson@onrr.gov) <judith.wilson@onrr.gov>; Greg Gould <greg.gould@onrr.gov>
Subject: RE: Data Portal lesson for NMA members

Dear Michelle,

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Veronika

From: Michelle Hertzfeld [<mailto:michelle.hertzfeld@gsa.gov>]
Sent: Friday, December 09, 2016 9:41 PM
To: Kohler, Veronika <VKohler@nma.org>
Cc: corey.mahoney@gsa.gov; Judith Wilson (judith.wilson@onrr.gov) <judith.wilson@onrr.gov>; Greg Gould <greg.gould@onrr.gov>
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@18F

Michelle Hertzfeld <michelle.hertzfeld@gsa.gov>

From: Michelle Hertzfeld <michelle.hertzfeld@gsa.gov>
Sent: Fri Jan 06 2017 13:58:58 GMT-0700 (MST)
To: "Kohler, Veronika" <VKohler@nma.org>
CC: "corey.mahoney@gsa.gov" <corey.mahoney@gsa.gov>, "Judith Wilson (judith.wilson@onrr.gov)" <judith.wilson@onrr.gov>, Greg Gould <greg.gould@onrr.gov>
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From: Michelle Hertzfeld <michelle.hertzfeld@gsa.gov>
Sent: Tue Jan 10 2017 12:29:49 GMT-0700 (MST)
To: "Kohler, Veronika" <VKohler@nma.org>
CC: "corey.mahoney@gsa.gov" <corey.mahoney@gsa.gov>, "Judith Wilson (judith.wilson@onrr.gov)" <judith.wilson@onrr.gov>, Greg Gould <greg.gould@onrr.gov>

Subject: Re: Data Portal lesson for NMA members
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"Kohler, Veronika" <VKohler@nma.org>

From: "Kohler, Veronika" <VKohler@nma.org>
Sent: Wed Jan 11 2017 07:25:10 GMT-0700 (MST)
To: Michelle Hertzfeld <michelle.hertzfeld@gsa.gov>
CC: "corey.mahoney@gsa.gov" <corey.mahoney@gsa.gov>, "Judith Wilson (judith.wilson@onrr.gov)" <judith.wilson@onrr.gov>, Greg Gould <greg.gould@onrr.gov>
Subject: Re: Data Portal lesson for NMA members
Attachments: image001.png

[Yes the last week of January will work. Any particular day off limits for the same time?](#)

[Veronika Kohler](#)
[Director, International Policy](#)

[Ph. 202.463.2626](tel:202.463.2626)
[Fax. 202.463.2648](tel:202.463.2648)

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From: "Kohler, Veronika" <VKohler@nma.org>
Sent: Wed Jan 11 2017 07:27:04 GMT-0700 (MST)
To: Michelle Hertzfeld <michelle.hertzfeld@gsa.gov>
"corey.mahoney@gsa.gov" <corey.mahoney@gsa.gov>, "Judith
CC: Wilson (judith.wilson@onrr.gov)" <judith.wilson@onrr.gov>, Greg
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Subject: Re: Data Portal lesson for NMA members
Attachments: image001.png image001.png

Wednesday 25 at 1pm eastern??

Veronika Kohler
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Fax. 202.463.2648

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From: Michelle Hertzfeld <michelle.hertzfeld@gsa.gov>
Sent: Tue Jan 24 2017 13:15:06 GMT-0700 (MST)
To: "Kohler, Veronika" <VKohler@nma.org>
"corey.mahoney@gsa.gov" <corey.mahoney@gsa.gov>, "Judith Wilson (judith.wilson@onrr.gov)" <judith.wilson@onrr.gov>, Greg Gould <greg.gould@onrr.gov>
CC:
Subject: Re: Data Portal lesson for NMA members
Attachments: image001.png

We got a calendar invite, but it just has the time, no details.

As for something the companies might find interesting, is there anything you'd suggest? You know your folks better than I do, I'm sure! Otherwise, I imagine doing a walk-through and pausing for questions often will lead us to the areas people are most interested in.

Question: how much background will the people on the call have in EITI? Should one of us do a bit of background on the project overall?

Thanks!
Michelle

On Wed, Jan 11, 2017 at 7:27 AM, Kohler, Veronika <VKohler@nma.org> wrote:
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That sounds perfect, re: topics to be covered.

You asked in another email about titles -- technically, my title is Front End Design Supervisor, which is a mouthful! Perhaps something like "Michelle Hertzfeld, designer and developer" makes the most sense.

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"Gould, Greg" <greg.gould@onrr.gov>

From: "Gould, Greg" <greg.gould@onrr.gov>
Sent: Tue Jan 24 2017 15:14:22 GMT-0700 (MST)
To: "Kohler, Veronika" <VKohler@nma.org>
Subject: Re: Data Portal lesson for NMA members
Attachments: image001.png

Hmm, not very inclusive. :)

Gregory J. Gould

*Acting Deputy Assistant Secretary/Director
Office of Natural Resources Revenue
U.S. Department of the Interior*

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On Tue, Jan 24, 2017 at 3:49 PM, Kohler, Veronika <VKohler@nma.org> wrote:

Additionally, please do not share the webinar info with anyone else since this is an internal NMA meeting. Also, Judy and Greg, I am ok if you guys want to listen in, to hear the conversation but I think members may feel more open they don't think government is on the call.

From: Kohler, Veronika
Sent: Tuesday, January 24, 2017 3:41 PM
To: 'Michelle Hertzfeld' <michelle.hertzfeld@gsa.gov>
Cc: corey.mahoney@gsa.gov; Judith Wilson (judith.wilson@onrr.gov) <judith.wilson@onrr.gov>; Greg Gould <greg.gould@onrr.gov>
Subject: RE: Data Portal lesson for NMA members

Great! I am excited!

They have background on EITI so I think we can skip that. If someone ends up asking a general question on USEITI I can go ahead and answer or talk to them off line. I will probably ask a company to be the guinea pig (do we still say that??) so we can get some participation. So we can look up Freeport revenues for example.

I am not sure how many coal companies will join us but still think we should go over AML anyway, in addition to a country case study (either copper or gold), a state that will opt in and any info we have on that (Wyoming?), state transfers, resource to revenue, etc

Hopefully they will get excited and start asking questions.

From: Michelle Hertzfeld [<mailto:michelle.hertzfeld@gsa.gov>]
Sent: Tuesday, January 24, 2017 3:15 PM
To: Kohler, Veronika <VKohler@nma.org>
Cc: corey.mahoney@gsa.gov; Judith Wilson (judith.wilson@onrr.gov) <judith.wilson@onrr.gov>; Greg Gould <greg.gould@onrr.gov>

Subject: Re: Data Portal lesson for NMA members

We got a calendar invite, but it just has the time, no details.

As for something the companies might find interesting, is there anything you'd suggest? You know your folks better than I do, I'm sure! Otherwise, I imagine doing a walk-through and pausing for questions often will lead us to the areas people are most interested in.

Question: how much background will the people on the call have in EITI? Should one of us do a bit of background on the project overall?

Thanks!
Michelle

On Wed, Jan 11, 2017 at 7:27 AM, Kohler, Veronika <VKohler@nma.org> wrote:

Wednesday 25 at 1pm eastern??

Veronika Kohler
Director, International Policy
Ph. [202.463.2626](tel:202.463.2626)
Fax. [202.463.2648](tel:202.463.2648)

On Jan 10, 2017, at 2:29 PM, Michelle Hertzfeld <michelle.hertzfeld@gsa.gov> wrote:

I'm guessing the hold for tomorrow is a no-go. Will the last week of January work?

Best,
Michelle

On Fri, Jan 6, 2017 at 1:58 PM, Michelle Hertzfeld <michelle.hertzfeld@gsa.gov> wrote:

Hi Veronika!

I missed your email, my apologies. Neither Corey nor myself are based in DC, and don't have plans to be there soon. I still have a hold on my calendar for next week, but if that isn't available anymore, the last week of January would be fine!

Best,
Michelle

On Tue, Jan 3, 2017 at 8:13 AM, Kohler, Veronika <VKohler@nma.org> wrote:

Dear Michelle,

Happy New Year! I just wanted to touch base on this. Are you not based in DC? If not, when do you plan to be here next. I would definitely prefer to have you at the office in person but will accept your participation remotely if that is not possible. Thank you for your expeditious response so that I can know if I should get the word out.

Veronika

From: Michelle Hertzfeld [mailto:michelle.hertzfeld@gsa.gov]
Sent: Friday, December 09, 2016 9:41 PM
To: Kohler, Veronika <VKohler@nma.org>

Cc: corey.mahoney@gsa.gov; Judith Wilson (judith.wilson@onrr.gov)
<judith.wilson@onrr.gov>; Greg Gould <greg.gould@onrr.gov>
Subject: Re: Data Portal lesson for NMA members

Hi Veronika!

Thanks for your kind words, and it was great to see you there, too! If we can do a remote walk-through, then we can be available. Would a WebEx or something similar work for your group?

Best,
Michelle

On Thu, Dec 8, 2016 at 12:19 PM, Kohler, Veronika <VKohler@nma.org> wrote:

Dear Ladies,

It was a pleasure to see you at the recent MSG meeting. Great work!

As discussed, I would love it if you could come to NMA to give a similar interactive presentation on the data portal specific to what we think the companies will find useful and interesting.

I am not sure any of my members are going to the site and so think a chauffeured run may change that. Are you available on Thursday January 12th at 1pm?

cid:image001.png@01D

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U.S. Department of the Interior

Natural Resources Revenue Data

2017 Executive Summary



A Note on This Report:

This report outlines progress made by the Department of the Interior and the Office of Natural Resources Revenue (ONRR) in 2017 on continuing to build upon the efforts of the Extractive Industries Transparency Initiative (EITI). In 2017, the U.S. withdrew from EITI as an Implementing Country, but will remain fully committed to institutionalizing the EITI principles of transparency and accountability. The U.S. intends to continue mainstreaming government reporting of energy production and the associated revenue collection and disbursement, and will maintain the Natural Resources Revenue Data portal (<https://revenuedata.doi.gov>).



2017 by the Numbers

Extractive Industries' Revenues in the U.S.



100% of DOI revenues for 2016 disclosed in unilateral disclosure



Payments from 651 companies disclosed for 2016



In 2016, \$5.6B in DOI revenues from extraction on federal lands and waters



9 revenue streams from 21 commodities disclosed

USEITI 2017 Features



1 new state with significant extractive industries opted-in



1 addition on tribal land and governance



12 extractive industry county case studies and 3 state additions were updated with most recent data



1 addition regarding renewable energy in the U.S.



1 addition discussing forestry in the U.S.



1 addition describing the life of an onshore and an offshore lease



1 addition outlining employee data by commodity

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1

OVERVIEW OF 2017 ACTIVITIES





Overview of 2017 Activities

New contextual narrative information developed for 2017 aimed to strengthen the information presented and increase transparency and public awareness beyond the federal government level and to additional industries.

Specifically, the new content added included:

- Special highlights on new non-energy minerals, renewables, and forestry in the United States
- Additional information throughout the data portal on tribal governance of extraction
- A new state opt-in for 2017, Colorado
- Employment data by commodity throughout the data portal
- Overview of the “life of a lease” outlining the necessary actions of onshore and offshore lessees

ONRR’s 2016 Unilateral Disclosure includes production data from federal lands for 42 different products, including:

Gas:	4.5 trillion cubic feet	
Oil:	762 million barrels	
Coal:	292 million tons	
Copper:	25 thousand tons	

In FY2016, ONRR disbursed \$6.2B dollars, including disbursements to the following:

U.S. Treasury: \$2.5 billion

U.S. States: \$1.3 billion

Reclamation: \$1.0 billion

Land & Water Conservation: \$884 million

American Indian Tribes: \$560 million

The 2017 Executive Summary

This Executive Summary presents an overview of the 2017 DOI Natural Resources Revenue Data (NRRD) Report. Online you can do the following:

1. Review unilateral revenue disclosures from 2013 to 2016
2. Explore maps and charts of extractive industries, as well as revenue and economic data, for the United States and 18 prioritized states, with additional information for the four states that opted in 2016 and 2017
3. Download relevant data sets
4. Read 12 county case studies on the history, geology, production, employment, revenue, and fiscal costs of specific industries, with updated information for 2015 and 2016
5. Conduct a curated search for additional data and information
6. Discuss and participate



How it works

How do natural resources result in federal revenues?

Companies pay for the right to explore on federal lands. If they find and extract resources, they may pay royalties, fees, taxes, and other revenues, depending on the resource.



Case studies

How does natural resource extraction affect local communities?

Learn about 12 communities that led the U.S. in production of iron, copper, gold, coal, oil, and natural gas over the last decade.



Explore data

Where does the money go?

Revenue from natural resources goes to federal, state, and county governments, as well as to a range of funds that work at the local and national levels.



2

STATE PARTICIPATION IN 2017

State Participation in 2017



WHAT'S HERE AND WHERE TO GO FOR MORE INFORMATION

This section introduces Colorado, the new state addition for 2017, and provides a high level overview of the types of information the state provided. Online you can explore the state sections, including last year's opt-ins at <https://revenue.data.doi.gov/explore/>. You can view more information on state and tribal governance at <https://revenue.data.doi.gov/how-it-works/>. Additionally, you can read the 12 county case studies at <https://revenue.data.doi.gov/case-studies/>.



WHAT'S CHANGED FROM 2016 TO 2017

In 2016, three states opted in, providing data on revenues, distribution of those revenues, and legal and fiscal governance of the extractive industries, as well as the economic impact of extraction in their states. In 2017, one state opted-in: Colorado. DOI also furthered local accountability and transparency in this year's report by updating 12 county case studies that depict the impact of specific extractive industries on local communities.

2017 State Opt-In: Colorado

In 2017, we continued to work to increase state and tribal participation. One state chose to voluntarily opt-in this year: Colorado. In addition to the new information included for the state of Colorado, the data portal now includes updated information for last year's three opt-ins: Alaska, Montana, and Wyoming.



COLORADO

Colorado collected \$282M in revenue from extraction. This represented 0.89% of Colorado's state revenue. The School Trust and the School Trust Permanent Fund received the largest amounts of this money (\$56M and \$52M respectively).

State Opt-In Information

Colorado worked with ONRR to provide publicly available data and contextual information covering five areas:



Laws & the Land

Information on land ownership in the state, key state agencies involved in extraction, and how the extractive process works in the state.



Production

Information on which commodities are produced in the state, how much is produced, and how that production compares to other U.S. states.



Revenues

Information on the state's revenue streams, including the types of revenue streams, the amount collected, the counties where revenue comes from, and the tax expenditures the state institutes.



Distribution

Information on how and by what means state revenue gets distributed, where that money goes, and how much the state chooses to save or spend.



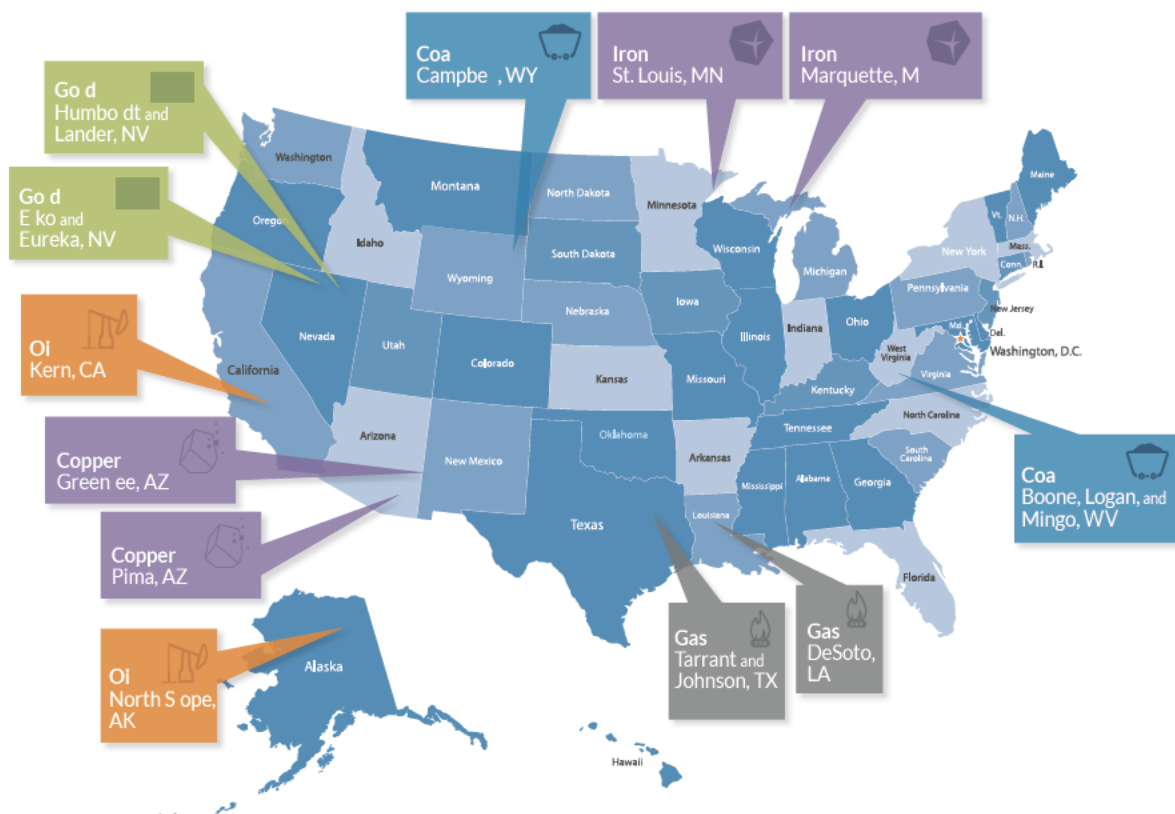
Economic Impact

Information on the extractive industries contributions to state GDP, jobs, wages, the state's revenue sustainability, and the costs associated with extraction.

You can see those state sections, as well as more robust state-specific pages for every state with extractive industries activity, on the online report at <https://revenue.data.doi.gov/explore/>. There you can view the data in-depth and explore interactive maps of land ownership and production for different commodities as well as interactive graphs of production, revenue, disbursements, and economic impact.

County Case Study Updates

In 2017, we updated the information on the 12 county case studies initially developed in 2015. These case studies provide a snapshot into communities that, over the last decade, have led U.S. counties in producing oil, gas, coal, gold, iron, or copper. The county case studies are designed to help readers understand the economic and fiscal effects of oil, gas, coal, and mineral extraction on local communities, including revenue sustainability. You can read the full case studies in the online report, available at <https://revenuedata.doi.gov/case-studies/>.





3

NEW SECTIONS IN THE 2017 REPORT

New Sections in the 2017 Report



WHAT'S HERE AND WHERE TO GO FOR MORE INFORMATION

In an effort to improve public understanding and inform discussions around the extractive industries in the United States, we developed six new contextual sections for the 2017 report. In addition to the state and tribal opt-in sections, they cover new content on extraction on tribal lands, overviews of the forestry and renewable energy sectors, a highlight on the life of a lease, expanded content on non-energy minerals, and new data on employment by commodity. This portion of the Executive Summary contains an overview of these additions. The online report contains the majority of the information, including more graphs and maps.



WHAT'S CHANGED FROM THE 2016 TO 2017 REPORT

Previous reports included general information on extraction on tribal lands, reported on renewable energy production, discussed three non-energy minerals, and outlined the basics of federal leasing. Those topics have been expanded this year. This is the first employment by commodity and forestry content.

Tribal Overview

The 2017 Report includes new information on the extractive industries on tribal land in the United States. The new information includes:

Subject	Information
Ownership of Tribal Land & Resources	Enhanced explanations of tribal and individual Indian land and natural resource ownership in the United States
Governing Laws & Agreements	New content explaining major laws covering federal trust obligations and the basis and explanation of responsibility as well as governing the extraction of natural resources on trust land
Production on Indian Land	New information on the five stages of extraction on tribal lands (Plan, Lease, Explore, Develop, Decommission & Reclaim), including fluid and solid minerals as well as renewable energy projects
Revenues from Indian Land	New overview of how revenues from Indian lands are collected and disbursed, including relevant context, links to agencies, and laws
Audits and Assurances for Revenues from Indian Land	New resources on audit and assurance practices of the federal government relevant to Indian revenues and disbursements
Tribal Economic Impact	New content discussing the economic contributions and costs of extraction on tribal land

Special Highlights on Renewables, Forestry, and Non-Energy Minerals

The 2017 Report includes extensive additional information on two new industries (forestry and renewables) as well as an expansion of current non-energy mineral content to include four additional minerals: lead, silver, zinc, and molybdenum.



Forestry

A special highlight on forestry in the United

States, including ownership information and governance of forests, production, revenue collection and distribution, and economic impact.



Renewables

A special highlight on the renewables

industry in the U.S. including governance, production, revenue, and economic impact.



Non-Energy Minerals

A special highlight on four ad-

ditional metals: lead, silver, zinc, and molybdenum. Information includes production, industry overview, and economic impact.

Life of a Lease

As a part of increasing public awareness and trust of the processes governing extraction on public lands, the 2017 report includes new information outlining the life of a federal lease for extracting resources onshore or offshore in the United States. This complements and expands upon existing information on the [How it Works](#) page of the data portal (<https://revenuedata.doi.gov/how-it-works/>). It outlines:

1

Before a Lease: Lessee and government responsibilities prior to a lease sale commencing

3

Under a Lease: Lessee and government responsibilities during the life of the lease

2

Lease Sale: Lessee and government responsibilities and actions during a lease sale

4

End of a Lease: Lessee and government responsibilities at the expiration of a lease

Employment-by-Commodity Data and Other Data Portal Enhancements

In 2017, we added new employment-by-commodity data for wage and salary jobs to the data portal. This information enables users, from experts to the general public, to understand the employment impact of specific industries at the national and state levels. It includes information on six commodities: oil and gas, non-energy minerals, coal, hydroelectric energy, wind energy, and solar energy. Wage and salary jobs by commodity at the national level can be viewed online here: <https://revenuedata.doi.gov/explore/#economic-impact>. Additionally, in 2017, we improved the search capability on the data portal.



4

MAINSTREAMING

Mainstreaming



WHAT'S HERE AND WHERE TO GO FOR MORE INFORMATION

In 2017, in consultation with stakeholders from government, industry, and civil society, Deloitte prepared a Mainstreaming Feasibility Study. This continued efforts by the Department of the Interior to act on its formal commitment to mainstreaming. This executive summary outlines the information presented in that feasibility study.

Mainstreaming Overview

The objective of mainstreaming is to make transparency integral to our systems at the Department of the Interior. Mainstreaming is the formal process countries pursue to demonstrate integrated transparency. The process consists of seven phases: formal commitment, feasibility study, work plan, application, approval, implementation, and review.

Deloitte prepared this mainstreaming feasibility study at the request of ONRR and consulted closely with members of Industry, government, and civil society. The information in the report in this section of the Executive Summary reflects those consultations as well as an independent assessment of U.S. processes and controls.

Unilateral Disclosure of Revenue (UDR)

Each year, ONRR unilaterally discloses calendar year (CY) energy and mineral revenue paid to DOI. Only the revenue deemed to be in-scope is unilaterally disclosed. These disclosures are disaggregated at the company level and reported by natural resource and revenue type. The UDR showcases the United States' commitment to the unilateral disclosure of federal natural resources revenue by company, natural resource, and revenue stream. The UDR uses data reported by federal lease holders on Forms ONRR-2014 and ONRR-4430¹, as well as ONRR direct billing. The UDR is available on DOI's data portal.

Topic	Disclosure Detail
Calendar Years Disclosed	2013–2016
Unique Identified Companies	1,300+ companies paying over \$100K year ²
Total \$ Amount Disclosed ³	\$38,699,490,038
Natural Resource Categories	17
Government Agencies Included	Three (ONRR, the U.S. Bureau of Land Management (BLM), and the U.S. Office of Surface Mining Reclamation and Enforcement (OSMRE))
Revenue Streams	Nine (ONRR royalties, inspection fees, civil penalties, and other revenue; ONRR/BLM rents and bonuses; BLM permit fees; and OSMRE abandoned mine land (AML) fees, including audit and late charges, as well as civil penalties including late charges)

¹ OSMRE and BLM revenue streams are not collected through Forms ONRR-2014 and ONRR-4430. As a result, not all UDR AML fee revenue for OSMRE is from federal leaseholders.

² Thousands more individuals and companies paid as well, but in amounts smaller than \$100,000 per year.

³ This disclosure represents all revenue paid to DOI in CYs 2013–2016.

The total amount disclosed by year can be seen below:

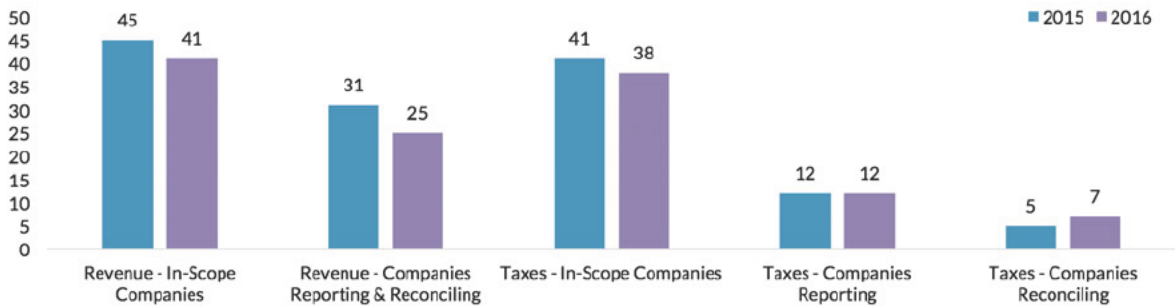
Year	Total \$ Amount Disclosed
2013	\$12,677,473,905
2014	\$12,646,673,553
2015	\$7,803,271,935
2016	\$5,572,070,645

ONRR will continue to unilaterally disclose revenue annually. The data set has been cleaned and organized for ease of use by the general public. It delineates aggregate payments by calendar year, corporate name, revenue stream, natural resource, and revenue.

U.S. Track Record of Reconciliation

The United States conducted its first reconciliation in 2015 as part of the United States Extractive Industries Transparency Initiative (USEITI). The USEITI Multi-Stakeholder Group (MSG) had set the scope of reconciliation to include the top paying companies that, together, accounted for 80% of revenue paid to ONRR. The first period of reconciliation was CY 2013. Across 31 companies (out of 45 invited to reconcile) and 10 revenue streams, the overall variance for all DOI revenue came to \$93,976,582, or 1.1% of all revenue reported by the 31 reconciling companies. For five companies reconciling taxes, there was one variance that totaled \$6,297,360, or 3.3% of reconciled taxes. Seventeen discrepancies exceeded the allowable margin of variance determined by the USEITI MSG. The USEITI Independent Administrator (IA), in collaboration with in-scope companies and government entities, resolved or explained all discrepancies, which included differences regarding when payments were recorded and how they were classified.

Reporting and Reconciliation Results



Result	2015	2016
DOI Revenues Unilaterally Disclosed	100% of 2013 revenues	100% of 2014 and 2015 revenues (only 2015 reconciled)
Companies Participating	31 of 45 companies	25 of 41 companies
DOI Revenues Reported & Reconciled	\$8.5B (81% of in-scope DOI revenues, 67% of all DOI revenues)	\$4.83B (79% of in-scope DOI revenues, 62% of all DOI revenues)
Companies Reporting Taxes	12 of 41 reported \$190M	12 of 38 reported -\$308M
Companies Reconciling Taxes	5 of 41 reconciled \$90M	7 of 38 reconciled -\$130M
Variances	17	21
Variances Resolved or Explained	100%	100%

The Department of the Interior will use the UDR to document the UDR process as it continues to be comprehensive, timely, and accurate. The DOI plans to make the UDR publicly available via existing sources, except where current laws or regulations prohibit data disclosure.

Increasing & Embedding Disclosures

The U.S. government publicly discloses all data embedded in DOI's data portal. This data is updated annually. Key information on the data portal includes:

- **Federal production data** for 55 products extracted from 2006 to 2016. This data can be filtered by product type, region (including state, county, and offshore region), and both calendar and fiscal years.
- **Federal revenue by region** for 2006 to 2016. This data can be filtered by natural resource category and/or region.
- **Company data** for 2013 to 2016, provided by ONRR in its unilateral disclosure. This data can be filtered by natural resource category and/or revenue type.
- **Economic impact data on the extractive industries** for 2006 to 2015, including gross domestic product, exports, and jobs. This data can be filtered by region, with results shown as dollar values or percentage values. The data can be further filtered by natural resource category for exports and by job type for jobs.
- Beyond disclosing DOI data, the portal **aggregates and makes accessible relevant data sets from other government organizations**, including the U.S. Energy Information Administration, the U.S. Bureau of Economic Analysis, and the U.S. Bureau of Labor Statistics, as well as select state and local government data.

In addition to DOI's data portal, ONRR's statistical information site (<http://statistics.onrr.gov/>) provides data sets on disbursements (at the fund or state level and by fiscal year) and reported revenue data (i.e., sales volumes, sales values, and revenue by natural resource category), which is shared at the state, onshore, offshore, and Indian levels in the United States.

The disclosures of companies in the extractive industries in the United States, on the other hand, are generally dictated by their ownership status (and corresponding controls and audits) and internal procedures. In 2016, 34 of the 41 in-scope companies were public (i.e., stock traded on the open market). Public companies must annually disclose their financial statements and the result of their audits. Of the 34 companies, 29 follow accounting principles generally accepted in the United States. The remaining five companies follow International Financial Reporting Standards (IFRS). For each company, independent auditors review and attest to the company's internal controls, in addition to auditing the company's financial statements.

Private companies have fewer requirements to make their information and financial statements public. In 2016, seven in-scope companies were private. These companies, while not subject to the same disclosure requirements as public companies, still operate within the system of controls and audits in which public companies operate. Importantly, private companies can be subject to audits by the IRS.

Evaluating Data Quality

This section outlines the characteristics of U.S. data on whether it is up to date, comprehensive, and reliable.

Up-to-Date Data

For government and industry entities that currently report, U.S. data is disclosed on an annual basis and within the second to last complete accounting period. DOI UDR data is reported for the previous accounting period (e.g., the 2016 report includes 2015 data).

Comprehensive Data

The U.S. government's UDR covers all in-scope, non-tax payments received by the U.S. government. Unilateral disclosure in the United States covers royalties, rents, bonuses, and other revenue, both by revenue stream and by company.

Federal Income Tax disclosure is made by the U.S. Treasury on an aggregate basis by industry. Some companies voluntarily disclose Federal Income Tax data to fulfill regulatory requirements in other countries, or as part of their own transparency reporting.

DOI provides contextual narrative information throughout its data portal, which provides a detailed overview of the extractive industries on federal government lands in the United States. The portal contains dozens of pages, tables, and graphics that allow users to dynamically explore data related to the extractive industries in the United States. It also explains how the extractive industries function in the United States. Specifically, the portal includes:

- More than 15 in-depth contextual pages about the entities that own natural resources, the laws governing natural resource extraction, how natural resources result in federal revenue, details on revenue streams, and data accuracy and accountability measures.
- Fifty-five dynamic regional profile pages with contextual data integrated throughout.
- Twelve county case study pages that examine major producers of in-scope natural resources and the socioeconomic impact extractives industries have on these counties.

Additionally, the data portal includes a glossary related to the extractive industries, downloadable data sets for further analysis, and data documentation and usage notes.

Reliable Data

Companies in the extractive industries are subject to laws and regulations related to payments to the U.S. government, including the process for submitting those payments to the federal government. The processes for how these payments and revenue are recorded and verified are detailed in DOI's *Audit and Assurance*

Practices and Controls in the U.S. Factsheet, which is available at https://revenuedata.doi.gov/downloads/USEITI_budget-audit-factsheet_2016-08-17.pdf. *Appendix 2* includes tables that outline the major laws establishing the fiscal regime, fees, and fines related to extractive industries revenue collection in the United States.

Standards for both the federal government and companies in the extractive industries are promulgated by regulatory and voluntary oversight bodies.⁴ These standards define:

- How companies and the U.S. government report revenue and financial information.
- How internal and external audit procedures provide payment and collection assurance.
- How external auditors provide assurance on companies' financial statements, as well as disclose audit results and audited financial statements for public companies.

These standards as well as select laws establishing the fiscal regime of the extractive industries in the United States can be found in the Appendix of this report.

Reconciliation & Mainstreaming

If data is comprehensive and reliable, then the data is “audited in accordance with international standards, the procedure does not require a comprehensive reconciliation of government revenue and company payments.” This section details the audit, reconciliation, and assurance processes in place at ONRR and other U.S. government agencies.

There are generally four levels of mainstreamed controls:

- Upfront reconciliation of transaction data between DOI, U.S. Treasury, and companies
- Internal audit and other assurance processes within DOI
- External audit of DOI
- Other ad hoc oversight from the Office of the Inspector General (OIG), Congress, and other bodies

As part of the pre-reconciliation process integral to ONRR's receipt and processing of company payments and reporting, ONRR conducts 100% upfront reconciliation. Numerous internal audit and other assurance processes within DOI further aim to achieve accuracy and reliability in payment collection, accounting, and reporting. Those controls, as well as DOI's financial data, are further subject to external audits and ad hoc oversight from the OIG, Congress, and other bodies.

⁴ “Tracking and Verifying Company Payments to Government Agencies in the U.S. Extractive Industries,” n.d., USE T , https://revenuedata.doi.gov/downloads/USE T _budget-audit-factsheet_2016-08-17.pdf

Conclusions

This feasibility study was prepared by Deloitte in consultation with other stakeholders from government, industry, and civil society. The following three primary statements reflect those consultations and a review of documents:

- The United States has **routine disclosures at the requisite level of detail for a significant amount of data**. The U.S. government's UDR covers all in-scope, non-tax payments received by the U.S. government and covers royalties, rents, bonuses, and other revenue by revenue stream and company. The disclosure is available to the public through a data portal (<https://revenuedata.doi.gov/downloads/federal-revenue-by-company/>). The USEITI MSG and EITI International Secretariat have made significant efforts toward the usability and public awareness of the data portal.

That said, there are two areas in which there is not currently routine disclosure:

- Corporate Income Tax, which is an in-scope revenue stream, is not currently disclosed at the company level. Federal law, including Section 6103 of the Internal Revenue Code (26 U.S.C.), which provides for the confidentiality of tax returns and return information, prohibits unilateral disclosure by the U.S. government of taxpayer information at the company level. However, the U.S. Treasury does publicly disclose Corporate Income Tax on an aggregate basis by industry, including for the oil and gas and mining industries. Also, the IRS, which is under the U.S. Treasury umbrella, has the right to audit individual taxpayer returns. In addition, some companies voluntarily disclose Corporate Income Tax data to fulfill regulatory requirements in other countries, or as part of their own transparency reporting. Fuller tax disclosure would require either new legislation and/or expanded voluntary company disclosure. Based on consultations conducted in preparation of this report, stakeholders did not see a path to either at this time.
- With respect to beneficial owners, there is an existing framework of Federal banking, securities, mineral extraction and other regulations which require routine disclosure of significant owners and "responsible persons" for U.S. companies in many situations. There are also existing ethics rules which require Federal employees to disclose financial interests in companies and limit conflicts of interest. (See page 30 for more detail). However, because companies can register in any of the 50 states, there is no single authoritative source for beneficial ownership information, and the level of disclosure at the state level varies widely. Based on consultations conducted in preparation of this report, stakeholders did not see a legislative or regulatory path to create such a source at the present time.

Considered together, the system of internal controls, the disclosure of non-tax revenue through the UDR, and the disclosure of industry aggregates for Corporate Income Tax, the United States has routine disclosure of a significant amount of the data.

- **In-scope financial data for the U.S. government is subject to independent audit, applying international standards.**⁵ The U.S. government and companies (both public and private) generally have controls and systems of internal and external audit consistent with international standards.

With respect to the external audit of DOI, OIG engages an external auditor to conduct an annual audit of ONRR's financial functions. The external audit is conducted according to GAGAS, an internationally recognized standard. While the specific tests used in DOI's external audit have not been disclosed, interviews with OIG and other DOI personnel indicate that source documents and records are used to verify the accuracy of financial reports. In addition to the external audit, DOI and ONRR are subject to oversight related to the collection, distribution, and reporting of revenue, including oversight from DOI's Office of Audits, Inspections, and Evaluations and DOI's Office of Investigations.

In addition, all publicly traded in-scope companies undergo external audits in accordance with international standards, either GAAP or IFRS, and disclose their financial statements and the results of their audits to the SEC. Privately held U.S. companies also generally undergo audits in accordance with international standards and may be audited by the IRS, although they are not required to publicly disclose their results.

- **Internal controls exist to support the reliability and accuracy of payment collection, accounting, and reporting of in-scope data.** Internal processes and controls between the U.S. Treasury, DOI, and company payors are in place, including an upfront reconciliation of a large percentage of transactions, which compares the amounts owed to the amounts collected. These processes and controls are designed to monitor the accuracy and timeliness of revenue collection and reporting between the company payor and the U.S. government. This system of controls is also intended to reduce the opportunities for fraud by the company payors or U.S. government officials. The OMB Circular A 123 program, DOI's Integrated Internal Control Program, and ONRR's data accuracy efforts for Form ONRR-2014 and OGOR submissions are examples of the additional controls in place in the United States to support the reliability and accuracy of data. ONRR's Audit and Compliance Management office within DOI serves to verify the accuracy of data reported to ONRR and examines statements, records, and operations of companies to verify compliance with lease instruments and established regulations, laws, and guidelines. Additionally, states and tribes in the United States maintain audit programs.

⁵ <https://revenue.data.doi.gov>



5

UPDATES TO RELEVANT LAWS AND REGULATIONS

Updates to Relevant Laws & Regulations

A full overview of federal laws and regulations governing extractive industries in the U.S. can be found at <https://revenuedata.doi.gov/how-it-works/federal-laws/>.

Relevant New Laws, Rules, and Reports

In 2017 there were a number of new final and proposed rules, Government Accountability Office (GAO) reports, and OIG reports issued. They include a repeal of a rule updating coal, oil, and gas valuation and OIG reports on BIA's management of the Osage Nation's energy resources and on the OSMRE's oversight of the Abandoned Mine Lands Program. You can read summaries of these updates and find links to the full rules and reports online at <https://revenuedata.doi.gov/how-it-works/federal-reforms/>.

Dodd Frank 1504 & the Congressional Review Act

Congress passed the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (124 Stat. 1376) to improve transparency and accountability across the financial system. Section 1504 of the act requires extractive industries companies registered with the Securities and Exchange Commission (SEC) to separately disclose information about payments to governments around the world in an interactive data format. You can read the act at <https://www.gpo.gov/fdsys/pkg/PLAW-111publ203/pdf/PLAW-111publ203.pdf>.

Section 1504 mandates disclosure of “the type and

total amount of (such) payments made for each project of the resource extraction issuer relating to the commercial development of oil, natural gas, or minerals,” including “taxes, royalties, fees (including license fees), production entitlements, bonuses, and other material benefits, that the Commission, consistent with the guidelines of the EITI (to the extent practicable), determines are part of the commonly recognized revenue stream for the commercial development of oil, natural gas, or minerals.”⁶

The SEC rewrote the rule to implement this law and released the final implementation rules in June 2016. In February 2017, the U.S. Congress passed a joint resolution of disapproval for the rule under the Congressional Review Act of 1996.⁷ This nullified the SEC's rule. While Section 1504 still carries a legal mandate, the resolution of disapproval means that “the rule may not take effect and the agency may issue no substantially similar rule without subsequent statutory authorization.”⁸ Furthermore, under the law, the rule “shall be treated as though [it] had never taken effect.”⁹

The final rule as SEC issued it can be found here: <https://www.sec.gov/rules/final/2016/34-78167.pdf>. The resolution of disapproval can be read here: <https://www.congress.gov/bill/115th-congress/house-joint-resolution/41>.

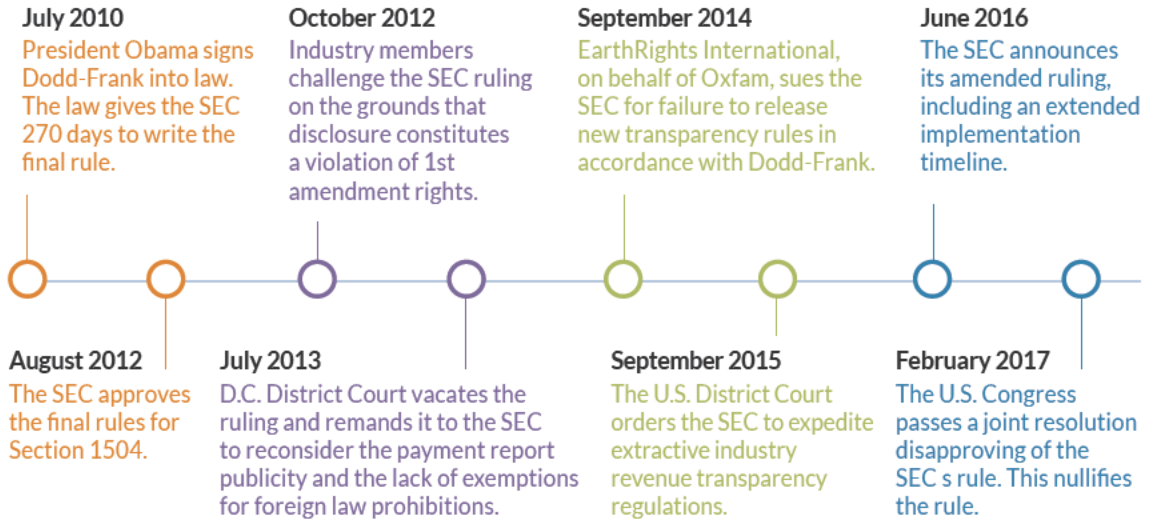
⁶ Dodd-Frank Wall Street Reform and Consumer Protection Act, <https://www.gpo.gov/fdsys/pkg/PLAW-111publ203/content-detail.htm>

⁷ The Congressional Review Act enables Congress to disapprove of a rule within 60 days of receiving it.

⁸ <https://www.senate.gov/CRSpubs/316e2dc1-fc69-43cc-979a-dfc-24d784c08.pdf>

⁹ 5 U.S.C. Section 801(f).

Dodd-Frank 1504 Timeline¹⁰



¹⁰ Securities and Exchange Commission, "SEC Adopts Rules for Resource Extraction Issuers Under Dodd-Frank Act," <https://www.sec.gov/news/pressrelease/2016-132.htm>



6

APPENDIX — RELEVANT U.S. LAWS AND REGULATIONS

Appendix — Relevant U.S. Laws and Regulations

Law Name and Code	Description	Relevant Lands or Waters	Relevant Natural Resources
General Mining Act of 1872, as Amended ¹¹ (30 USC § 29 and 43 CFR 3860)	Provides the right to patent, meaning transfer to private ownership, federal land and natural resources for mining. Since October 1, 1994, Congress has imposed a budget moratorium on any new mineral patent applications.	Federal Onshore Lands (Public Domain)	Locatable hardrock minerals (e.g., gold, silver, and copper)
Leases of Allotted Lands for Mining Purposes ¹² (25 USC § 396 and 25 CFR 212)	States that all lands allotted to Indians, except those made to members of the Five Civilized Tribes and Osage, may be leased for mining purposes for any term of years as may be deemed advisable by the Secretary of the Interior.	Indian Lands (Allotted)	Not specified
Mineral Leasing Act of 1920, as Amended ¹³ (30 USC 181 et. seq.)	Creates a system of leasing mineral resources on federal lands for extraction, and grants BLM the authority to administer mineral leasing.	Federal Onshore Lands (Public Domain)	Coal, oil, gas, oil or gas shale, sodium, potassium, phosphate, sulfur, and gilsonite
Indian Mineral Leasing Act of 1938 ¹⁴ (25 USC § 396a et. seq.)	Opens unallotted lands within any Indian reservation for leasing for mining purposes by authority of the tribal council and approval from the Secretary of the Interior.	Indian Lands (Tribal)	Not specified
Mineral Leasing Act for Acquired Lands of 1947 ¹⁵ (30 USC § 351 et seq. and 43 CFR 3420)	Extends the Mineral Leasing Act of 1920 and the authority of the Secretary of the Interior to govern mineral leasing on federal acquired lands.	Federal Onshore Lands (Acquired)	Coal, oil, gas, oil or gas shale, sodium, potassium, phosphate, sulfur, and gilsonite

Select Laws Establishing the Fiscal Regime for Extractive Industries in the United States:

¹¹ http://apps2.eere.energy.gov/wind/windexchange/wind_installed_capacity.asp

¹² <http://www.gpo.gov/fdsys/pkg/USCODE-2011-tit e25/pdf/USCODE-2011-tit e25-chap12-sec396.pdf>

¹³ https://www.onrr.gov/Laws_R_D/PubLaws/PDFDocs/MineralLeasingAct1920.pdf

¹⁴ <http://www.gpo.gov/fdsys/pkg/USCODE-2009-tit e25/htm /USCODE-2009-tit e25-chap12.htm>

¹⁵ <http://egcounsel.house.gov/Comps/m aacq.pdf>

Law Name and Code	Description	Relevant Lands or Waters	Relevant Natural Resources
Materials Act of 1947 ¹⁶ (30 USC § 601 et. seq.)	Also known as the Common Varieties Act, it regulates the sale and permitting of the most common hardrock minerals. It replaces the General Mining Law of 1872.	Federal Onshore Lands	Common hardrock minerals (e.g., sand, gravel, stone, pumice, cinder)
Submerged Lands Act of 1953 ¹⁷ (43 USC § 1301 et. seq.)	Recognizes states' rights to the submerged navigable lands within their boundaries, as well as the marine waters within their boundaries often defined as three geographical miles from the coastline.	State Offshore Lands	All natural resources
Outer Continental Shelf Lands Act of 1953, as Amended ¹⁸ (43 USC § 1331)	Gives the Secretary of the Interior responsibility for administering mineral exploration and development and other energy resources on the Outer Continental Shelf, subject to environmental safeguards. Mandates receipt of fair market value for mineral leasing.	Outer Continental Shelf	Oil, gas, and other minerals
Geothermal Steam Act of 1970 ¹⁹ (30 USC § 1001 et. seq.)	Allows the leasing of federal land under BLM's administration for geothermal resource development, excluding prohibited lands.	Federal Onshore Lands	Geothermal
Mining and Minerals Policy Act of 1970 ²⁰ (30 USC § 21a)	Amends the Mining Act of 1920 to establish the national interest to develop a domestic private enterprise mining industry, while addressing adverse environmental impacts.	Federal Onshore Lands	All natural resources
Federal Coal Leasing Amendments Act of 1975 (FCLAA) ²¹ (90 STAT 1083)	Amends Section 2 of the Mineral Leasing Act of 1920 by requiring all public lands available for coal leasing to be leased competitively, with the government only accepting lease bids equal to or more than fair market value, as well as the consolidation of leasing into logical mining units, the continual operation by lease holders, and other measures.	Federal Onshore Lands	Coal

¹⁶ [http://egcounse.house.gov/Comps/Act%20of%20July%202031,%201937-\(Materials%20Act%20of%201947\).pdf](http://egcounse.house.gov/Comps/Act%20of%20July%202031,%201937-(Materials%20Act%20of%201947).pdf)

¹⁷ <http://www.boem.gov/uploadedFiles/submergedLA.pdf>

¹⁸ <http://www.gpo.gov/fdsys/pkg/USCODE-2010-title43/html/USCODE-2010-title43-chap29-subchap .htm>

¹⁹ <http://www.gpo.gov/fdsys/pkg/STATUTE-84/pdf/STATUTE-84-Pg1566.pdf>

²⁰ <http://www.gpo.gov/fdsys/pkg/USCODE-2011-title30/pdf/USCODE-2011-title30-chap2-sec21a.pdf>

²¹ <http://www.gpo.gov/fdsys/pkg/STATUTE-90/pdf/STATUTE-90-Pg1083.pdf>

Law Name and Code	Description	Relevant Lands or Waters	Relevant Natural Resources
Surface Mining Control and Reclamation Act of 1977 (SMCRA) ²² (30 USC § 1201 et. seq.)	Creates the Office of Surface Mining Reclamation, and Enforcement (OSMRE) to establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations. OSMRE is charged with balancing the nation's need for continued domestic coal production with protection of the environment. In this effort, OSMRE requires coal mine owners to post bonds as insurance for reclaiming the land after current mining operations are complete, as well as requires them to pay into the Abandoned Mine Reclamation Fund, which is intended to address mines abandoned prior to 1977.	Federal Onshore Lands	Coal
Federal Oil and Gas Royalty Management Act of 1982 (FOGRMA) ²³ (30 USC § 1701 et. seq.)	Grants the Secretary of the Interior authority for managing and collecting oil and gas royalties from leases on federal and Indian lands.	Federal Onshore and Indian Lands, and Outer Continental Shelf	Oil and gas
Indian Mineral Development Act of 1982 ²⁴ (25 USC §§ 2101–2108)	Provides Indian tribes with flexibility in the development and sale of mineral resources, including opportunities to enter into joint venture agreements with mineral developers.	Indian Lands (Tribal)	Oil and gas, coal, geothermal, and other mineral resources
Federal Onshore Oil and Gas Leasing Reform Act of 1987 (FOOGLRA) ²⁵ (30 USC § 181 et. seq.)	Amends the Mineral Leasing Act of 1920 to give the U.S. Forest Service the authority to proactively offer leases for oil and gas on National Forest System lands, provided environmental and other land-use regulations are met. BLM largely administers leasing on these lands.	Federal Onshore Lands	Oil and gas
Federal Oil and Gas Royalty Simplification and Fairness Act of 1996 (RSFA) ²⁶ (30 USC § 1701 et. seq.)	Improves royalty management from federal onshore and Outer Continental Shelf oil and gas leases.	Federal Onshore Lands and Outer Continental Shelf	Oil and gas

²² <http://www.gpo.gov/fdsys/pkg/STATUTE-91/pdf/STATUTE-91-Pg445.pdf>

²³ http://www.boem.gov/uploadedFiles/BOEM/Oil_and_Gas_Energy_Program/Leasing/Outer_Continental_Shelf/Lands_Act_History/federal%20og%20royalty%20mgmt.pdf

²⁴ <http://www.gpo.gov/fdsys/pkg/STATUTE-96/pdf/STATUTE-96-Pg1938.pdf>

²⁵ <http://www.gpo.gov/fdsys/pkg/USCODE-2011-tit-e30/pdf/USCODE-2011-tit-e30.pdf>

²⁶ <http://www.onrr.gov/awards/PubLaws/PDFDocs/rsfa.pdf>

Law Name and Code	Description	Relevant Lands or Waters	Relevant Natural Resources
Energy Policy Act of 2005 (EPA Act) ²⁷ (42 USC § 13201 et. seq.)	Addresses energy production in the United States, including the production, transportation, and transmission of energy, other than oil and gas (e.g., wind energy), in the waters of the Outer Continental Shelf; incentives for oil and gas development; and provisions to access oil and gas resources on federal lands.	Federal Onshore Lands and Outer Continental Shelf	Oil, gas, coal, wind, solar, hydropower, and geothermal
Gulf of Mexico Energy Security Act of 2006 (GOMESA) ²⁸ (120 Stat. 2922)	Opens 8.3 million acres in the Gulf of Mexico for oil and gas leasing; shares leasing revenue with oil-producing gulf states and the Land and Water Conservation Fund; and bans oil and gas leasing within 125 miles off the Florida coastline in the Eastern Planning Area and a portion of the Central Planning Area until 2022.	Outer Continental Shelf	Oil and gas

There are other laws governing natural resources and companies operating in the extractive industries. Some of these laws require companies to pay fees. Violating some of these laws can also result in the incursion of fines.

Select Laws Resulting in Fines or Fees for Extractive Industries Companies in the United States:

Law Name and Code	Description	Relevant Lands or Waters	Relevant Natural Resources
Federal Land Policy and Management Act of 1976 (FLPMA) ²⁹ (43 USC § 1701 et. seq.)	Requires BLM to administer federal lands using a land use planning framework that includes no unnecessary or undue degradation; multiple-use, sustained yield, considerations for present and future generations; and public planning. Requires receipt of fair market value for use of federal lands and resources.	Federal Onshore and Indian Lands	All natural resources
Clean Air Act of 1970 (CAA) ³⁰ (42 USC § 7401 et. seq.)	Outlines steps that federal agencies, state and local governments, and industry must take to decrease air pollution. Oil and gas wells are exempt from legal aggregation, whereby the emissions from small sites that are connected in close proximity or under shared ownership are added together and regulated as “stationary sources” if they emit or could emit 100 tons per year of a pollutant.	All Lands	All natural resources, except when oil and gas are exempted

²⁷ <http://www.gpo.gov/fdsys/pkg/B-LLS-109hr6enr/pdf/B-LLS-109hr6enr.pdf>

²⁸ <http://www.boem.gov/Oil-and-Gas-Energy-Program/Energy-Economics/econ/GOMESA-pdf.aspx>

²⁹ <https://www.blm.gov/or/regulations/fines/FLPMA.pdf>

³⁰ <http://www.gpo.gov/fdsys/pkg/USCODE-2008-title42/pdf/USCODE-2008-title42-chap85.pdf>

Law Name and Code	Description	Relevant Lands or Waters	Relevant Natural Resources
Clean Water Act of 1977 (CWA) ³¹ (33 USC § 1251 et. seq.)	Establishes a regulatory framework to protect water quality and monitor discharges of pollutants into waters in the United States. The U.S. Environmental Protection Agency (EPA) does not require National Pollutant Discharge Elimination System (NPDES) permits for uncontaminated storm water discharges from oil and gas exploration, production, processing, or treatment operations, or transmission or drill site preparation. ³²	All Lands	All natural resources, except when oil and gas are exempted
Safe Drinking Water Act of 1974 (SDWA) ³³ (42 USC 300f–300j)	Protects public health by regulating the nation's public drinking water supply and its sources. As of the 2005 Energy Policy Act, hydraulic fracturing fluids are exempt from underground injection control permits, unless diesel fuel is used in the extraction process. ³⁴	All Lands	All natural resources, except when oil and gas are exempted
Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) ³⁵ (42 USC 9601–9675)	Provides a federal superfund to clean up uncontrolled or abandoned hazardous waste sites, as well as accidents, spills, and other emergency releases of pollutants and contaminants into the environment, and gives EPA the power to seek out those parties responsible for any release and ensure their cooperation in the cleanup.	All Lands	All natural resources, except when oil and gas are exempted
Endangered Species Act of 1973 (ESA) ³⁶ (16 USC § 1531 et. seq.)	Protects and recovers imperiled species and the ecosystems upon which they depend.	All Lands	All natural resources
Marine Mammal Protection Act of 1972, as Amended ³⁷ (16 USC 1361 et. seq.)	Prohibits, with certain exceptions, the taking of marine mammals in U.S. waters and by U.S. citizens on the high seas, and the importation of marine mammals and marine mammal products into the United States.	All Lands	All natural resources, except when oil and gas are exempted

³¹ <https://www.gpo.gov/fdsys/pkg/USCODE-2011-tit-e42/pdf/USCODE-2011-tit-e42-chap6A-subchapX.pdf>

³² U.S. Environmental Protection Agency, "Regulation of Oil and Gas Construction Activities," March 9, 2009, <http://water.epa.gov/pollution/npdes/stormwater/Regulation-of-Oil-and-Gas-Construction-Activities.cfm>

³³ <https://www.gpo.gov/fdsys/pkg/USCODE-2011-tit-e42/pdf/USCODE-2011-tit-e42-chap6A-subchapX.pdf>

³⁴ U.S. Environmental Protection Agency, "Regulation of Hydraulic Fracturing Under the Safe Drinking Water Act," http://water.epa.gov/type/groundwater/uic/cass2/hydraulicfracturing/waters_hydroreg.cfm

³⁵ <https://www.gpo.gov/fdsys/pkg/USCODE-2010-tit-e42/pdf/USCODE-2010-tit-e42-chap103.pdf>

³⁶ <http://www.nmfs.noaa.gov/pr/pdfs/awes/esa.pdf>

³⁷ <http://www.nmfs.noaa.gov/pr/pdfs/awes/mmpa.pdf>

Extractive industries companies must comply with many other laws. The websites for DOI, EPA, the National Oceanic and Atmospheric Administration (NOAA), and other federal agencies contain more comprehensive lists of related laws that they enforce:

- DOI Bureau of Ocean Energy Management (BOEM): <http://www.boem.gov/Regulations/BOEM-Governing-Statutes.aspx>
- DOI Bureau of Safety and Environmental Enforcement (BSEE): <http://www.bsee.gov/Regulations-and-Guidance/BSEE-Governing-Statutes/>
- DOI BLM: <https://www.blm.gov/about/laws-and-regulations>
- EPA: <http://www2.epa.gov/laws-regulations/laws-and-executive-orders#majorlaws>
- NOAA: http://www.nmfs.noaa.gov/ole/about/what_we_do/laws.html

Laws, Regulations, Professional Standards, and Regulatory Organizations:

Law, Regulation, Professional Standard, or Regulatory Organization	Acronym	Description
Generally Accepted Accounting Principles	GAAP	GAAP is the standardized accounting rule set for federal government entities and publicly traded or private companies domiciled in the United States or other international jurisdictions in which GAAP is required. GAAP enables company stakeholders to compare accounting statements for different companies and industries using a standard methodology. Because of various accounting and financial reporting standards, the federal government tailors GAAP to meet its unique characteristics and circumstances.
Internal Revenue Service	IRS	The IRS is the revenue service of the U.S. government. The IRS is a bureau within the U.S. Treasury and is under the immediate direction of the Commissioner of Internal Revenue. The IRS is responsible for collecting taxes and the administration of the Internal Revenue Code.
Securities and Exchange Commission Act	SEC	The Securities Exchange Act of 1934 established the SEC to govern the securities industry. By regulation of the SEC, public companies must have their financial statements prepared in accordance with GAAP or IFRS, as issued by the International Accounting Standards Board (IASB), and audited each year by an independent registered public accounting firm. During an audit, the independent auditor examines, on a test basis, evidence supporting the amounts and disclosures in the financial statements. The auditor provides a written opinion on whether the company's financial statements are, in all material respects, fairly presented in accordance with GAAP or IFRS, whichever is applicable.

Law, Regulation, Professional Standard, or Regulatory Organization	Acronym	Description
Sarbanes-Oxley Act of 2002	SOX	SOX requires all financial reports for large public companies (i.e., those with market capitalizations of \$75 million and referred to as "accelerated" filers and those subject to SEC reporting requirements) to include certification of internal control over financial reporting (ICFR) by company management and an ICFR opinion by an independent auditor as of the specified balance sheet date. Congress passed SOX in 2002, in part, to further protect investors from fraudulent accounting activities by public companies.
Public Company Accounting Oversight Board	PCAOB	PCAOB exists to confirm that registered public accounting firms are auditing the financial statements and ICFR of public companies in accordance with auditing standards established and adopted by the PCAOB. The PCAOB is a nonprofit corporation established by Congress to oversee the audits of public companies in order to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports.
American Institute of Certified Public Accountants	AICPA	AICPA requires independent auditors to comply with the audit standards issued by the AICPA for the audits of all companies that are not subject to SEC jurisdiction. The AICPA has released mandatory audit and attestation standards for conducting, planning, and reporting on audit and attestation engagements of private companies.
Financial Accounting Standards Board	FASB	The FASB is a private, nonprofit organization whose primary purpose is establishing and improving GAAP within the United States. The SEC designated the FASB as the organization responsible for setting accounting standards for public companies in the United States. The FASB created the Private Company Council (PCC), which works jointly with the FASB to mutually agree on a set of criteria to decide whether and when alternatives within GAAP are warranted for private companies.
International Financial Reporting Standards	IFRS	IFRS are accounting standards developed by the IASB that are intended to establish a consistent global standard for the preparation of public company financial statements for entities domiciled outside the United States. The IASB, based in London, is an independent accounting standard-setting body. It is funded by contributions from major accounting firms, private financial institutions, industrial companies, central and development banks, national funding regimes, and other international and professional organizations throughout the world. Approximately 120 nations and reporting jurisdictions permit or require IFRS for domestic-listed companies. The SEC is currently considering whether it will incorporate IFRS into the financial reporting system for U.S. issuers. There is currently no estimated date for when such a decision might be made.
Generally Accepted Auditing Standards	GAAS	GAAS are the minimum standards for auditing private companies and come in three categories: general standards, standards of fieldwork, and standards of reporting. PCAOB has adopted these standards for public (i.e., traded on the open market) companies. Each audit engagement may require audit work beyond what is specified in the GAAS in order to provide a written opinion on whether a set of financial statements is, in all material respects, fairly presented in accordance with GAAP.

Law, Regulation, Professional Standard, or Regulatory Organization	Acronym	Description
Generally Accepted Government Auditing Standards	GAGAS	GAGAS provides a framework for conducting high-quality audits of government resources and programs with competence, integrity, objectivity, and independence. Government auditing allows legislators, oversight bodies, those charged with governance, and the public to hold government agencies accountable. GAGAS is used by auditors of government entities, entities that receive government awards, and other audit organizations performing audits. GAO, an independent, nonpartisan agency that works for Congress, is responsible for maintaining and updating GAGAS. GAO is often called the “congressional watchdog” and investigates the executive branch of the federal government.
Chief Financial Officers Act of 1990 (P.L. 101-576)	CFO Act	The CFO Act establishes a leadership structure, provides for long-range planning, requires audited financial statements, and strengthens accountability reporting in the federal government. The aim of the CFO Act is to improve financial management systems and information. The CFO Act also requires the development and maintenance of agency financial management systems that comply with the following: applicable accounting principles, standards, and requirements; internal control standards; OMB requirements; U.S. Treasury requirements; and requirements of other agencies. Reports of audits conducted under the CFO Act are done on an annual basis and must be completed by November 15 following the close of the fiscal year (September 30) for which the financial statements were prepared.
Government Management Reform Act of 1994 (P.L. 103-356)	GMRA	GMRA requires the independent, external audit of agency financial statements and the preparation and audit of a consolidated financial statement for the federal government on an annual basis.
OMB Circular A-136 (Financial Reporting Requirements)	A-136	A-136, which is updated annually by OMB, provides federal guidance for agency and government-wide financial reporting. This circular establishes a central point of reference for all federal financial reporting guidance for the departments, agencies, and entities in the executive branch that are required to submit an Agency Financial Report (AFR) under the CFO Act and the GMRA. In compliance with the CFO Act, the GMRA, and A-136, DOI publishes an AFR every fiscal year.
Federal Financial Management Improvement Act of 1996 (P.L. 104-208)	FFMIA	FFMIA requires federal agencies to implement and maintain financial management systems that substantially comply with federal financial management system requirements, applicable federal accounting standards, and the USGGL at the transactional level.
Federal Information Security Management Act of 2002 (P.L. 107-347)	FISMA	FISMA requires federal agencies to provide information security controls commensurate with the risk and potential harm of not having those controls in place. FISMA also requires the heads of agencies and OIG to conduct annual IT security reviews, perform annual independent evaluations of the effectiveness of the agency’s security programs and systems, and report their results to OMB and Congress.

Law, Regulation, Professional Standard, or Regulatory Organization	Acronym	Description
Federal Accounting Standards Advisory Board	FASAB	FASAB was established in October 1990 by the Secretary of the Treasury, the Director of OMB, and the U.S. Comptroller General. This board possesses the legal authority, under various laws, to establish accounting and financial reporting standards for the federal government. In October 1999, the AICPA recognized FASAB as the board that promulgates GAAP for federal entities.
OMB Circular No. A-123	A-123	A-123 prescribes management's responsibilities for establishing and maintaining effective internal controls and financial management systems that meet the objectives of the Federal Managers' Financial Integrity Act of 1982.
OMB Bulletin 14-02 (Audit Requirements for Federal Financial Statements)		OMB Bulletin No. 14-02, issued on October 21, 2013, establishes minimum requirements for independent audits of federal financial statements. This bulletin implements the audit provisions of the CFO Act, as amended, the GMRA, and FFMIA.





U.S. Department of the Interior

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United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240

MAY 05 2017

Memorandum

To: Assistant Secretaries

From: Director, Office of the Executive Secretariat and Regulatory Affairs *James L. Hill*

Subject: Boards and Commissions

The Secretary is committed to restoring trust in the Department's decision making, and that begins with institutionalizing state and local input and ongoing collaboration.

The Department currently includes more than 200 boards, committees, subcommittees, commissions, and other internal and external advisory bodies (committees) that are authorized to meet periodically and solicit input.

To maximize feedback from these committees and ensure their compliance with the Federal Advisory Committee Act (FACA), the President's recent executive orders, and the Secretary's recent secretary's orders, the Department is currently reviewing the charter and charge of each committee. This review necessitates the postponement of all meetings, which will be rescheduled for September 2017 or later.

To assist with this review, please direct the bureaus/offices you oversee to provide you with the following information by May 22, 2017:

- (1) the most recent charter, and any prior versions if there have been significant changes over time;
- (2) the costs and resources required annually to support the committee;
- (3) a list of both Federal and non-Federal members/alternates, to include their organization, whether they represent the Department of the Interior, and their term limits;
- (4) whether the committee is mandated by statute/law, authorized by statute/law, or established pursuant to Agency authority (provide a copy of the enabling legislation and any amendments);

- (5) brief description of the benefits, services, and/or recommendations provided by the committee to the Department and bureaus (i.e. provide a narrative justification for the committee);
- (6) other information relevant to understanding the purpose of the committee; and
- (7) the most recent annual schedule of meetings, including when the next meeting would be held, the location of the meeting, and if the meeting has been noticed in the Federal Register.

Additional briefings may be scheduled to discuss the material. If you have any questions, please contact the Office of the Executive Secretariat at (202) 208-3181.

cc: Chiefs of Staff
Chiefs of Staff, Bureaus and Offices
FACA Group Federal Officers, Bureaus and Offices

<Member Name>

<Address>

<Address>

<Address>

Dear <Member Name>:

Thank you for participating in the United States Extractive Industries Transparency Initiative (USEITI) Advisory Committee. Your work helped to make the public more aware of the contributions of the extractive industries to the U.S. economy and jobs.

This journey began in September 2011, when as part of the U.S. Open Government Partnership, the Office of Natural Resources Revenue (ONRR) began collaborating with other Government agencies, departmental bureaus and offices, and industry and civil society stakeholders to implement USEITI. Since the first public meeting in 2013, through to the 20th meeting in 2017, the USEITI Multi-stakeholder Group (MSG) worked collaboratively to successfully reach consensus on how to implement USEITI.

Highlights of our joint commitment to transparency and good governance of U.S. extractive sector revenues include:

- Becoming the first G7 country and second Organization for Economic Cooperation and Development (OECD) country to achieve Candidate Country status and become an EITI implementing country. U.S. leadership has played a crucial role in the endorsement of the EITI by the G-7, the G-20, and the United Nations Security Council.
- Disclosing unilaterally in 2014, for the first time, Department of the Interior (DOI) production data and calendar-year revenue data by company, revenue type, and commodity. The DOI has unilaterally disclosed for calendar years 2013-2015, \$33.1 billion in revenues paid by companies for extraction on Federal lands and waters.
- Publishing in December 2015, the first online Report and Executive Summary on the DOI data portal <https://useiti.doi.gov/>, and in November 2016, the second online Report and Executive Summary. Building on your direction, in December 2017, ONRR will complete a third online report.
- Demonstrating zero unresolved discrepancies between Federal Government disclosed revenues received from oil, gas, and mining companies, with parallel disclosure by companies of what they have paid to the Government in royalties, rents, bonuses, taxes, and other payments.

- Demonstrating DOI has robust ONRR-managed audit and assurances practices in place to assure accountability for the revenues paid and received for our Nation's oil, gas, and mineral resources.
- Building the DOI data portal with modern, open-source technologies so that techniques and tools can be shared and replicated throughout the U.S. and in other EITI countries around the world. The website's open data sets and visualizations can be reused for strategic reporting and reposted and sent through social media, thus further informing the public and open debate on the extractives industry in the U.S. The portal is the new global standard in revenue governance transparency.
- Expanding public awareness of the role of extractive industries at the state and local level. The States of Montana, Wyoming, and Alaska collaborated with USEITI to allow for expanded State reporting of extractive revenues. The MSG also furthered local accountability and transparency by including 12 county case studies that depict the impact of specific extractive industries on local communities.

The EITI Standard fits within ONRR's guiding principles of accountability, professionalism, integrity, partnerships, and innovation. We strive to be recognized as a world-class natural resources revenue management program, setting the standard for accountability and transparency. In the long term, extractive industry transparency should not be confined to EITI reporting, rather be recognized an integral part of how Government manages. Therefore, at DOI we have initiated steps to move towards institutionalizing innovation in digital services and mainstreaming Government extractives revenue data pipelines and end-user needs. Moving forward in this journey, institutionalizing EITI will continue to improve Government revenue transparency in the U.S. and continue to serve as an example internationally.

Again, thank you for your contribution in promoting revenue transparency and accountability in the extractive sector.

Sincerely,

Judy Wilson
Acting Designated Federal Officer,
USEITI Advisory Committee

<Member Name>

<Address>

<Address>

<Address>

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Judy Wilson
Acting Designated Federal Officer~~ial~~,
USEITI Advisory Committee
~~Department of Interior~~



OFFICE OF
INSPECTOR GENERAL
U.S. DEPARTMENT OF THE INTERIOR

UNITED STATES' IMPLEMENTATION OF THE EXTRACTIVE INDUSTRIES TRANSPARENCY INITIATIVE



OFFICE OF
INSPECTOR GENERAL
U.S. DEPARTMENT OF THE INTERIOR

Memorandum

MAY 15 2017

To: Greg Gould
Director, Office of Natural Resources Revenue

From: Mary L. Kendall *Mary L. Kendall*
Deputy Inspector General

Subject: Final Inspection Report – United States' Implementation
of the Extractive Industries Transparency Initiative
Report No. 2016-EAU-041

This memorandum transmits the findings of our inspection of the United States' implementation of the Extractive Industries Transparency Initiative (EITI). Our inspection objective was to determine the status of the U.S. implementation of the EITI standard. We are not making any recommendations in this report but are providing it for information purposes only.

The legislation creating the Office of Inspector General requires that we report to Congress semiannually on all audit, inspection, and evaluation reports issued; actions taken to implement our recommendations; and recommendations that have not been implemented.

If you have any questions concerning this report, please do not hesitate to contact me at 202-208-5745.

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Results in Brief

The United States (U.S.) has made significant progress meeting the individual requirements necessary to achieve compliant status with the Extractive Industries Transparency Initiative (EITI). EITI is a global initiative that promotes revenue transparency and accountability for natural resource extraction. The Department of the Interior (DOI) works in collaboration with industry and civil society partners¹ to implement EITI on behalf of the United States.

Our review found that the U.S. has met seven of the eight EITI requirements and partially met one requirement in its effort to achieve EITI compliant status, the highest level of implementation. It has only partially met the revenue collection requirement (Requirement 4) because it has been unable to obtain full disclosure of extractive resource payments from companies, thus preventing the required reconciliation to Government receipts. In addition, the U.S. has encountered challenges as part of its participation in EITI that could prevent it from reaching the goal of compliant status. Should the U.S. not achieve compliant status, its standing in EITI would be diminished.

In spite of the framework laid out in Requirement 4 and the ensuing challenges, the U.S. could still meet this requirement. Through its regular ongoing operations, the U.S. has a system in place that achieves the standard's disclosure and reconciliation requirement, through a process known as mainstreaming. This reporting method may enable the U.S. to meet the EITI reporting and reconciliation mandates without necessarily following the prescriptive language of the standard.

We are not making any recommendations in this report but are providing this document for informational purposes to the Office of Natural Resources Revenue—DOI's EITI representative—and to the members of the U.S. EITI multi-stakeholder group for use as they move forward.

At the close of our field work, senior Government officials disclosed that the U.S. was considering all options associated with the validation process in spite of uncertainties in achieving Requirement 4. We learned that the U.S. is scheduled to undergo validation in April 2018, even though it expects the EITI international board to find that it has made inadequate progress toward validation. If that occurs, the U.S. likely would transition from an implementing country to a country that only supports EITI. The U.S. intends to continue its efforts to disclose revenue and maintain its public website by institutionalizing EITI processes.

¹ Civil society is defined as community and citizenry involvement. In the U.S., it includes academia, non-governmental organizations, and labor unions.

Introduction

Objective

We conducted this inspection to determine the status of the United States' implementation of the Extractive Industries Transparency Initiative (EITI) standard.

Appendix 1 contains the scope and methodology, as well as sites visited.

Background

EITI is a global initiative that aims to promote revenue transparency and accountability for natural resource extraction (e.g. oil, natural gas, coal, non-energy minerals such as gold, and renewable energy). The initiative grew out of concern about corruption and mismanagement of these resources worldwide. Many EITI participating countries are in developing parts of the world, and the initiative seeks to strengthen these government and company systems. The U.S. Government, however, has long had a management system featuring numerous controls and protections to oversee natural resource extraction, which helps reduce the risk of corruption.

As a leading extractive producer of such natural resources as oil, natural gas, and coal, the U.S. announced its intention to join EITI in September 2011. The Secretary of the Interior serves as the Administration's senior official responsible for EITI implementation. The Office of Natural Resources Revenue (ONRR) within DOI serves as the Government's lead representative on the multi-stakeholder group (MSG). The U.S. has been working toward achieving compliant status, and validation is scheduled to begin in April 2018.

To date, DOI expenditures for EITI have totaled approximately \$6.5 million, of which the Government spent \$2.8 million in fiscal year 2016. The largest expenditures included Government labor and contracts for outside services. Current estimates of expenditures for reconciliation of Government receipts to company payments total \$519,000 per year.

The EITI standard has eight primary requirements and multiple subparts that countries must follow when implementing EITI. A synopsis of the eight EITI standard requirements is detailed in Figure 1 below.

EITI Standard Requirements

I: Multi-stakeholder group oversight. Government, industry, and civil society engagement.

EITI Standard Requirements	
2: Legal and institutional framework.	Disclosure of legal framework and fiscal regime governing extractive industries.
3: Exploration and production.	Disclosure of exploration and production activities, as well as export data.
4: Revenue collection.	Disclosure and reconciliation of company payments and Government revenues.
5: Revenue allocations.	Disclosure of revenue distribution, revenue management, and expenditures.
6: Social and economic spending.	Disclosure of social expenditures and the extractive sector's impact on the economy.
7: Outcomes and impact.	Disclosure of discrepancies identified in EITI reports, as well as lessons learned during implementation.
8: Compliance and deadlines for implementing countries.	Outlines timeframes established by the EITI international board and consequences of noncompliance with the deadlines and requirements for EITI implementation.

Figure 1. A full explanation of EITI requirements is available at <https://eiti.org/eiti-requirements>.

The initiative is implemented by governments, in collaboration with the MSG, which includes industry and civil society, the latter defined as community and citizenry involvement (e.g. academia and non-governmental organizations). In the U.S., MSG formation in 2012 brought together these three sectors for the first time to achieve a common goal. Initially skeptical, MSG members found that genuine cooperation could generate appreciation for differing viewpoints.

EITI has 56 participating countries. Each country that chooses to implement the EITI standard must establish an MSG that oversees implementation. In addition, most countries, including the U.S., create a national secretariat with a full-time staff to administer the program. The EITI international board, headquartered in Oslo, Norway, is the governing body. Countries implementing the standard publish an annual report in which governments publicly disclose payments received from companies obtaining extractive resources, which an independent administrator reconciles with payments disclosed by those companies.

Countries join EITI with the goal of achieving compliance with the EITI standard. To achieve compliant status, a country must go through the EITI validation process. This includes a comprehensive evaluation of the country's progress toward achieving the eight requirements, as determined by the EITI international board. A country must make satisfactory progress on each requirement in the standard in order to achieve compliant status.

Results

Progress in Complying with EITI

The U.S. has been working on EITI implementation since 2011. It has made significant progress meeting the individual requirements necessary to achieve the highest level of EITI implementation, known as compliant status. Based on our analysis, the U.S. has met seven of the eight requirements and partially met Requirement 4, which necessitates that all Government revenue receipts be reported and subjected to reconciliation. Reconciliation involves comparison of Government receipts to company payments, and explains significant discrepancies between the two. This activity is performed by a third party, known as the independent administrator. The Office of Inspector General (OIG) independently assessed the status of DOI's EITI implementation, as shown in Figure 2.²

OIG Assessment of DOI EITI Implementation		
Requirement	Status	Comments
I – MSG oversight.	Met	MSG formed, with equal representation by government, industry, and civil society. All required meetings and work products achieved.

² The EITI international board is the body that officially determines whether a country has fulfilled the standard, and sets four categories of progress for assessing a country's compliance with each requirement: satisfactory, meaningful, inadequate, and no progress. Our determination of the status does not directly align with those categories identified in the standard. Our assessment was not intended to mirror the board or duplicate any effort. For simplicity, we established our own categories: met, partially met, and not met.

OIG Assessment of DOI EITI Implementation

Requirement	Status	Comments
2 – Legal and institutional framework.	Met	<p>Collaborating with the General Services Administration, DOI produced a public website known as the portal, which houses natural resource data along with the electronic version of the annual EITI report. We found that the portal, which went online in December 2015, presents natural resource-related information in a user-friendly format. The international board has recognized the portal as a model for other countries to emulate.</p> <p>Online data portal provides details on allocation of contracts and licenses, with links to Bureau of Land Management and Bureau of Ocean Energy Management websites.</p>
3 – Exploration and production.	Met	Online data portal provides details on fossil fuels, renewable energy, and non-energy minerals, as well as exports of various commodities.
4 – Revenue collection.	Partially Met	Low disclosure of nontax and tax revenues by companies prevent required comprehensive reconciliation of Government revenue receipts to company payments.
5 – Revenue allocations.	Met	Online data portal provides details on all revenue streams, distribution of revenues, and recipients.
6 – Social and economic spending.	Met	Online data portal provides details on extractive sector contributions to the economy.

OIG Assessment of DOI EITI Implementation		
Requirement	Status	Comments
7 – Outcomes and impact.	Met	<p>Online data portal contains recommendations for addressing reconciliation discrepancies and improving the EITI process.</p> <p>To illustrate extractive industry impacts on local communities, the annual report includes 12 county case studies from across the country, as well as data from 18 states, in an effort to increase public awareness.</p> <p>MSG has actively solicited input from the general public concerning U.S. involvement in EITI. Public interest in EITI is not yet strong, but MSG efforts to obtain outside input and to publish meeting minutes promote EITI's principles of openness and transparency.</p>
8 – Compliance and deadlines for implementing countries.	Met	Deadlines for annual progress reports met, and deadlines for EITI reports surpassed.

Figure 2: OIG's assessment of DOI implementation of EITI requirements.

Challenges in Complying with EITI Revenue Collection Requirement

DOI faces numerous difficulties in trying to meet Requirement 4. Some are less challenging than others, providing opportunities for solutions, while others may offer no alternative course of action.

Voluntary initiative

The voluntary nature of EITI makes full company participation in nontax and tax revenue disclosures difficult to obtain. Companies are not compelled to report revenue and tax data, and do not see the benefit of participation. Consequently, a significant number have chosen not to participate.

U.S. privacy laws

Section 6103 of the Internal Revenue Code (26 U.S.C.) provides for the confidentiality of tax returns and return information. It prevents the U.S. Internal

Revenue Service (IRS) from disclosing returns and return information unless the taxpayer authorizes the release or one of several exceptions are met.

Low company participation

EITI Requirement 4 calls for comprehensive disclosure and reconciliation of company payments and Government revenues from extractive industries. Companies make payments to the U.S., and the payments are considered revenues when collected.

In the U.S., revenues associated with extractive industries consist of two categories—nontax and tax. Nontax revenues are comprised of 11 revenue streams (e.g., royalties, bonuses, rents, inspection and permit fees, and civil penalties), whereas tax revenues represent corporate income tax payments reported to the IRS.

Requirement 4 presents a major challenge for the U.S. because of the numerous companies that operate on Federal lands and large sums of revenue involved. Specifically, more than 3,000 companies paid the Federal Government \$12.64 billion and \$7.80 billion in nontax extractive revenue for the 2015 and 2016 reports, respectively. Since full company participation in the initiative would have been too time consuming and costly to accomplish, the MSG decided to select a manageable sample of companies. This required establishing materiality thresholds, as the standard allows, for company reporting and subsequent reconciliation. The MSG found that a significant and achievable sample of companies could be selected by setting the threshold at \$50 million and \$37.5 million of total annual revenue reported to ONRR by a parent company, including its subsidiaries, for 2015 and 2016. The threshold amount varies yearly due to changes in commodity prices, which in turn affects the amount of payments made to ONRR. For nontax revenues, this reduced the 3,000 company universe to 45 companies for the 2015 annual report, and 41 companies for the 2016 report. For tax revenues, the sample became 41 companies for the 2015 report, and 38 companies for the 2016 report. The number of companies can change from year to year due to factors such as mergers, acquisitions, and bankruptcies.³

Unfortunately, a significant number of companies that were asked to participate declined the request, and so the amount of revenues actually reported and reconciled were far less than the 80 percent target (see Figure 3).⁴ We determined the U.S. has only partially met Requirement 4. Since the EITI standard requires comprehensive company disclosure, this low level of company participation is of concern as the U.S. seeks validation.

³ Companies chosen for participation represent the largest producers of oil, gas, coal, and hard rock in the U.S., including, among others, ExxonMobil Corporation, Chevron Corporation, Shell E&P Company, Arch Coal, Inc., and Peabody Energy Corporation.

⁴ Although the target for reconciling tax revenue was all the companies asked to participate in EITI, the U.S. did not report the total amount of tax revenue because companies are not required to disclose this information.

Results From Companies Subject To Reconciliation (Dollars in Billions)				
Report Year	Nontax		Tax	
	Target	Achieved	Target	Achieved
2015				
Number of Companies Disclosed	45	31 (69%)	41	12 (29%)
Number of Companies Reconciled	45	31 (69%)	41	5 (12%)
Revenues Reconciled	\$10.44	\$8.50 (81%)		
2016				
Number of Companies Disclosed	41	25 (61%)	38	12 (32%)
Number of Companies Reconciled	41	25 (61%)	38	7 (18%)
Revenues Reconciled	\$6.11	\$4.83 (79%)		

Figure 3. Information about companies not disclosing their payments. In the tax column, the target for revenues reconciled could not be established and reconciled because most companies did not report tax data. The independent administrator reconciled all of the revenue that companies reported, but the reconciliation did not reflect the target revenues.

Subnational reporting

The EITI standard requires that MSG establish whether or not direct payments from companies to subnational government entities (states and tribes in the U.S.) are significant.⁴ If significant, then disclosure and reconciliation of payments to these entities are included in the EITI report. Given significant practical barriers to collecting data from all 50 states, the MSG focused its efforts on 18 states with the most extractive revenue.

To date, only three of these 18 states have chosen to disclose data about their extractive industries. These three still have not agreed to reconcile company payments to Government receipts. Further, since U.S. law recognizes tribes as

⁴ Subnational is defined as below the national Government level—in the U.S. this refers primarily to state and tribal governments.

sovereign nations, they are not bound to participate in EITI, and no tribes have volunteered for this purpose.

Although the U.S. received approval from the EITI international board to deviate from full subnational reporting for past reports, it has no guarantee that this approval will continue in the future. The U.S. EITI MSG endorsed a renewed request to deviate from subnational reporting, which it submitted to the international board in December 2016.

Beneficial ownership

As of January 2020, the standard requires disclosure of beneficial ownership information in the EITI report. Beneficial ownership refers to individuals who directly or indirectly own or control a corporate entity.

In December 2016, the U.S. published its “roadmap” or plan for meeting the future beneficial ownership disclosure requirement. Collection and disclosure of this information may prove problematic, however, since the U.S. does not have an institutional structure for public disclosure of beneficial ownership, and voluntary participation may produce limited results. For example, DOI does not have any mechanism to collect beneficial ownership information when conducting lease sales related to extractive industry operating rights on U.S. Federal lands or for regulating extractive operations, as well as collecting production related fees and royalties.

Mainstreaming

Mainstreaming is a mechanism through which countries disclose revenue collection, accounting, and disbursement as part of routine Government operations. It is advantageous for two reasons – first, it highlights countries that make transparency an integral and routine feature of their management systems. Second, countries that achieve mainstreaming do not have to undergo the reconciliation process. To achieve mainstreaming, the U.S. must submit to a rigorous application process, which is subject to approval by the international board.

We found the U.S. is actively pursuing mainstreaming to satisfy Requirement 4 by reporting that it routinely discloses 100 percent of all nontax revenue streams. In addition, the U.S. is preparing a thorough description of its robust audit processes and procedures for the 2017 annual report. Among these are the following—

- ONRR and its State and tribal partners help ensure that companies pay correctly through the use of audits, compliance reviews, data mining, and an enforcement program;
- ONRR accounts for nontax revenues using company-submitted royalty reports—more than 150 up-front automated edits of these reports help detect irregularities;
- Bureau of Land Management and Bureau of Safety and Environmental Enforcement conduct physical inspections of lease operations;

- An independent accounting firm annually audits DOI's financial statements, which include extractive revenue;
- DOI and DOI's bureaus are independently audited by the Office of Inspector General, and IRS receives audit oversight from the Treasury Inspector General for Tax Administration; and
- IRS verifies tax payments made by companies.

These processes and procedures ensure accountability for 100 percent of natural resource revenues. Accordingly, the U.S. could be in compliance with Requirement 4, even if full reporting and reconciliation from the EITI international board is considered questionable. Although mainstreaming could be a possible solution to demonstrate that the U.S. has complied with Requirement 4, the request has not yet been approved by the international board. Further, it is questionable whether or not the international board would grant such approval. Also, the U.S. still has work left to accomplish in order to develop the contextual narrative of its audit processes and procedures in a manner that fully demonstrates compliance with Requirement 4.

At the close of our field work, Government senior officials disclosed that the U.S. is considering all options regarding validation. It expects to produce its third annual report in December 2017 and undergo validation in April 2018. Although it has met 7 out of 8 requirements it expects not to be found in compliance with the EITI standard until companies follow through on EITI reporting requirements outlined in Requirement 4. Instead, the U.S. will move from being an implementing country to only a supporting country of EITI. Nevertheless, the U.S. intends to continue its efforts to disclose revenue and maintain the online data portal, thus institutionalizing EITI processes.

Appendix I: Scope and Methodology

Scope

Our inspection examined the activities of the United States' implementation of the Extractive Industry Transparency Initiative (EITI) since 2011.

Methodology

We conducted this review from June 2016 through March 2017. During our inspection, we—

- reviewed relevant laws, regulations, policies and procedures concerning U.S. EITI implementation;
- reviewed and analyzed data and documents, both hardcopy and electronic;
- reviewed the EITI standard and requirements;
- attended two multi-stakeholder group meetings;
- interviewed representatives from the EITI international board's secretariat and U.S. Department of State;
- interviewed key members of Government, industry, and civil society sectors;
- interviewed the Director of the Office of Natural Resources Revenue (ONRR) and key agency staff with EITI responsibilities; and
- interviewed key representatives from the independent administrator, Deloitte Touche, LLP.

We visited—

- ONRR offices in Washington, D.C., and Lakewood, CO; and
- Deloitte Touche, LLP, in Arlington, VA.

We did not test operation and reliability of internal controls related to U.S. EITI. We were provided with computer-generated data related to EITI expenditures, which we used but did not test for completeness and accuracy.

We conducted this inspection in accordance with the Quality Standards for Inspection and Evaluation as put forth by the Council of the Inspectors General on Integrity and Efficiency. We believe that the work performed provides a reasonable basis for our conclusion.

Report Fraud, Waste, and Mismanagement



Fraud, waste, and mismanagement in Government concern everyone: Office of Inspector General staff, departmental employees, and the general public. We actively solicit allegations of any inefficient and wasteful practices, fraud, and mismanagement related to departmental or Insular Area programs and operations. You can report allegations to us in several ways.



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	Washington Metro Area:	202-208-5300
By Fax:	703-487-5402	
By Mail:	U.S. Department of the Interior Office of Inspector General Mail Stop 4428 MIB 1849 C Street, NW. Washington, DC 20240	

Jim Steward
Office of Natural Resources Revenue
PO Box 25165
Denver, CO 80225

Dear Mr. Steward:

Thank you for participating in the United States Extractive Industries Transparency Initiative (USEITI) Advisory Committee. Your work helped to make the public more aware of the contributions of the extractive industries to the U.S. economy and jobs.

This journey began in September 2011, when as part of the U.S. Open Government Partnership, the Office of Natural Resources Revenue (ONRR) began collaborating with other government Agencies, Departmental Bureaus and offices, and industry and civil society stakeholders to implement USEITI. Since the first public meeting in 2013, through to the 20th meeting in 2017, the USEITI Multi-stakeholder Group worked collaboratively to successfully reach consensus on how to implement USEITI.

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Again, thank you for your contribution in promoting revenue transparency and accountability in the extractive sector.

Sincerely,

Judy Wilson
Acting Designated Federal Official, USEITI
Advisory Committee
Department of Interior

Bruce Barnett
Choctaw Nation
130 Jaron Drive
Pottsboro, TX 75076

Dear Mr. Barnett:

Thank you for participating in the United States Extractive Industries Transparency Initiative (USEITI) Advisory Committee. Your work helped to make the public more aware of the contributions of the extractive industries to the U.S. economy and jobs.

This journey began in September 2011, when as part of the U.S. Open Government Partnership, the Office of Natural Resources Revenue (ONRR) began collaborating with other government Agencies, Departmental Bureaus and offices, and industry and civil society stakeholders to implement USEITI. Since the first public meeting in 2013, through to the 20th meeting in 2017, the USEITI Multi-stakeholder Group worked collaboratively to successfully reach consensus on how to implement USEITI.

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Sincerely,

Judy Wilson
Acting Designated Federal Official, USEITI
Advisory Committee
Department of Interior

Marina Voskanian
California State Lands Commission
320 West Bixby Road
Long Beach, CA 90807

Dear Ms. Voskanian:

Thank you for participating in the United States Extractive Industries Transparency Initiative (USEITI) Advisory Committee. Your work helped to make the public more aware of the contributions of the extractive industries to the U.S. economy and jobs.

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Sincerely,

Judy Wilson
Acting Designated Federal Official, USEITI
Advisory Committee
Department of Interior

Julie Lenoir
Blackfeet Nation
620 All Chiefs Road P.O. Box 2929
Browning, Montana 59417

Dear Ms. Lenoir:

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Judy Wilson
Acting Designated Federal Official, USEITI
Advisory Committee
Department of Interior

Curtis Carlson
Office of Tax Analysis
1500 Pennsylvania Avenue NW
Washington, DC 20220

Dear Mr. Carlson:

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Judy Wilson
Acting Designated Federal Official, USEITI
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Department of Interior

Gould Gould
Office of Natural Resources Revenue
1849 C Street NW, MS 5134
Washington, DC 20240

Dear Mr. Gould:

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Sincerely,

Judy Wilson
Acting Designated Federal Official, USEITI
Advisory Committee
Department of Interior

Mike Matthews
State of Wyoming
5019 Atlantic Dr.
Cheyenne, WY 82001

Dear Mr. Matthews:

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Judy Wilson
Acting Designated Federal Official, USEITI
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Mike Smith
Interstate Oil & Gas Compact Commission
P.O. Box 53127
Oklahoma City, OK 73152-3127

Dear Mr. Smith:

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Judy Wilson
Acting Designated Federal Official, USEITI
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Claire Ware
Shoshone & Arapaho Tribes
P.O. Box 506
Fort Washakie, WY 82514

Dear Ms. Ware:

Thank you for participating in the United States Extractive Industries Transparency Initiative (USEITI) Advisory Committee. Your work helped to make the public more aware of the contributions of the extractive industries to the U.S. economy and jobs.

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David Chambers
Center for Science in Public Participation
224 North Church Ave
Bozeman, MT 59715-3706

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Again, thank you for your contribution in promoting revenue transparency and accountability in the extractive sector.

Sincerely,

Judy Wilson
Acting Designated Federal Official, USEITI
Advisory Committee
Department of Interior

Daniel Dudis
Public Citizen
2231 California St NW, APT 401
Washington, DC 20008

Dear Mr. Dudis:

Thank you for participating in the United States Extractive Industries Transparency Initiative (USEITI) Advisory Committee. Your work helped to make the public more aware of the contributions of the extractive industries to the U.S. economy and jobs.

This journey began in September 2011, when as part of the U.S. Open Government Partnership, the Office of Natural Resources Revenue (ONRR) began collaborating with other government Agencies, Departmental Bureaus and offices, and industry and civil society stakeholders to implement USEITI. Since the first public meeting in 2013, through to the 20th meeting in 2017, the USEITI Multi-stakeholder Group worked collaboratively to successfully reach consensus on how to implement USEITI.

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Sincerely,

Judy Wilson
Acting Designated Federal Official, USEITI
Advisory Committee
Department of Interior

Lynda Farrell
Pipeline Safety Coalition
331 Norwood Rd.
Downington, PA 19335

Dear Ms. Farrell:

Thank you for participating in the United States Extractive Industries Transparency Initiative (USEITI) Advisory Committee. Your work helped to make the public more aware of the contributions of the extractive industries to the U.S. economy and jobs.

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Sincerely,

Judy Wilson
Acting Designated Federal Official, USEITI
Advisory Committee
Department of Interior

Zorka Milin
Global Witness
38 Crown Street, Apt 317
New Haven, Connecticut 06510

Dear Ms. Milin:

Thank you for participating in the United States Extractive Industries Transparency Initiative (USEITI) Advisory Committee. Your work helped to make the public more aware of the contributions of the extractive industries to the U.S. economy and jobs.

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Sincerely,

Judy Wilson
Acting Designated Federal Official, USEITI
Advisory Committee
Department of Interior

Jana Morgan
Publish What You Pay
1101 17th Street, NW
Washington, District of Columbia 20001

Dear Ms. Morgan:

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Sincerely,

Judy Wilson
Acting Designated Federal Official, USEITI
Advisory Committee
Department of Interior

Isabel Munilla
Oxfam America
1101 17th Street, NW, Suite 1300
Washington, District of Columbia 20036

Dear Ms. Munilla:

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Sincerely,

Judy Wilson
Acting Designated Federal Official, USEITI
Advisory Committee
Department of Interior

Rebecca Adamson
First Peoples Worldwide
877 Leeland Road
Fredericksburg, Virginia 22405

Dear Ms. Adamson:

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Judy Wilson
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Advisory Committee
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Danielle Brian
Project on Government Oversight
1100 G St. NW, Suite 500
Washington, DC 20005

Dear Ms. Brian:

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Sincerely,

Judy Wilson
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Neil Brown
Lugar Center
1717 Rhode Island Avenue, NW, 9th Floor
Washington, District of Columbia 20036

Dear Mr. Brown:

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Paul Bugala

(b) (6)

Seattle, WA 98117

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Again, thank you for your contribution in promoting revenue transparency and accountability in the extractive sector.

Sincerely,

Judy Wilson
Acting Designated Federal Official, USEITI
Advisory Committee
Department of Interior

Jennifer Krill
Earthworks
2216C Sacramento Street
Berkeley, CA 94702

Dear Ms. Krill:

Thank you for participating in the United States Extractive Industries Transparency Initiative (USEITI) Advisory Committee. Your work helped to make the public more aware of the contributions of the extractive industries to the U.S. economy and jobs.

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Sincerely,

Judy Wilson
Acting Designated Federal Official, USEITI
Advisory Committee
Department of Interior

Michael LeVine
Oceana
175 S. Franklin St. Suite 418
Juneau, AK 99801

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Sincerely,

Judy Wilson
Acting Designated Federal Official, USEITI
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Keith Romig
United Steelworkers
110 Kendall Ave.
Pittsburgh, PA 15202

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Judy Wilson
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Department of Interior

Michael Ross
Natural Resource Governance Institute
4289 Bunche Hall, Box 951472
Los Angeles, CA 90095-1472

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Judy Wilson
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Brian Sanson
United Mine Workers of America
18354 Quantico Gateway Drive
Triangle, Virginia 22172

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Judy Wilson
Acting Designated Federal Official, USEITI
Advisory Committee
Department of Interior

Vernoica Slajer
North Star Group
203 Maryland Avenue, NE
Washington, District of Columbia 20002

Dear Ms. Slajer:

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Betsy Taylor
Lane Hall 112, Virginia Tech (227)
280 Alumni Mall
Blacksburg, Virginia 24061

Dear Ms. Taylor:

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Stella Alvarado
Anadarko Petroleum
1201 Lake Robbins
The Woodlands, Texas 77380

Dear Ms. Alvarado:

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Michael Gardner
Rio Tinto
5769 W Maddie Lane
Highland, UT 84003

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Again, thank you for your contribution in promoting revenue transparency and accountability in the extractive sector.

Sincerely,

Judy Wilson
Acting Designated Federal Official, USEITI
Advisory Committee
Department of Interior

Edwin Mongan
BHP Billiton Petroleum
13690 Post Oak Road Building 1330, Room 1716
Houston, Texas 77056

Dear Mr. Mongan:

Thank you for participating in the United States Extractive Industries Transparency Initiative (USEITI) Advisory Committee. Your work helped to make the public more aware of the contributions of the extractive industries to the U.S. economy and jobs.

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Judy Wilson
Acting Designated Federal Official, USEITI
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Nicholas Welch
Noble Energy Inc.
1776 I Street, NW, Suite 890
Washington, D.C. 20006

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Sincerely,

Judy Wilson
Acting Designated Federal Official, USEITI
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Department of Interior

Chris Chambers
Freeport-McMoRan Copper & Gold Inc.
333 North Central Ave.
Phoenix, AZ 85004

Dear Mr. Chambers:

Thank you for participating in the United States Extractive Industries Transparency Initiative (USEITI) Advisory Committee. Your work helped to make the public more aware of the contributions of the extractive industries to the U.S. economy and jobs.

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Judy Wilson
Acting Designated Federal Official, USEITI
Advisory Committee
Department of Interior

Nicholas Cotts
Newmont Mining
6363 S. Fiddlers Green Circle
Greenwood Village, Colorado 80111

Dear Mr. Cotts:

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Judy Wilson
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Department of Interior

Phil Denning
Shell Oil & Gas
2227 Braer Ridge Drive
Katy, TX 77494

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Judy Wilson
Acting Designated Federal Official, USEITI
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Department of Interior

Susan Ginsberg
Independent Petroleum Association of America
1201 15th Street NW, Suite 300
Washington, District of Columbia 20005

Dear Ms. Ginsberg:

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Judy Wilson
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Veronika Kohler
National Mining Association
101 Constitution avenue NW
Washington, District of Columbia 20005

Dear Ms. Kohler:

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Aaron Padilla
API
19 E. Oak St.
Alexandria, VA 22301

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David Romig
Freeport-McMoRan Oil & Gas
700 Milam, Suite 3100
Houston, TX 77002

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Again, thank you for your contribution in promoting revenue transparency and accountability in the extractive sector.

Sincerely,

Judy Wilson
Acting Designated Federal Official, USEITI
Advisory Committee
Department of Interior

Johanna Nesseth
Chevron
1401 I Street, NW
Washington, DC 20005

Dear Ms. Nesseth:

Thank you for participating in the United States Extractive Industries Transparency Initiative (USEITI) Advisory Committee. Your work helped to make the public more aware of the contributions of the extractive industries to the U.S. economy and jobs.

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Advisory Committee
Department of Interior

Michael Blank
Peabody Energy
8502 Cottage St.
Vienna, VA 22180

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Beneficial Ownership Roadmap



The United States Extractive Industries
Transparency Initiative

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4.1 Consider how beneficial ownership disclosure can support national reform priorities

The U.S. has focused on beneficial ownership disclosure efforts both domestically and internationally. The U.S. has led efforts within the major economic powers of the G-8, and the Financial Action Task Force (FATF), to strengthen international standards on combatting money laundering and terrorist financing and to facilitate their implementation. As part of the U.S. G-8 Action Plan for Transparency of Company Ownership and Control, the G-8 has called for law enforcement's access to accurate and current beneficial ownership information at the time of company formation.

The FATF is the international standard-setting body for safeguarding against money laundering and combatting the financing of terrorism. The FATF initially set international standards on beneficial ownership in 1990. In 2012, FATF strengthened its standards, which now focus on the collection of beneficial ownership information and making the information available to competent authorities. The U.S. is committed to—and strongly supports other countries—working toward developing and effectively implementing the legal frameworks that facilitate access to beneficial ownership information in accordance with the FATF standards.

Domestically, since President Obama signed the Foreign Account Tax Compliance Act (FATCA), the precursor of the Common Reporting Standard, into law in 2010, the U.S. has negotiated agreements with more than 100 countries that help these countries implement FATCA. FATCA's pioneering approach to automatic information sharing on tax matters is the template for the development of international standards that the G-20 nations have endorsed and are being deployed around the world.

Further, the Administration recently made efforts to compel the collection of and access to beneficial ownership information. On May 6, 2016, the Department of the Treasury (Treasury), on behalf of the Administration, sent beneficial ownership legislation to Congress. This proposed legislation would require companies that are formed within the U.S. to file beneficial ownership information with Treasury, or else they will face penalties for failing to comply. This proposal would increase the transparency into "beneficial ownership" of companies formed in the U.S. by requiring companies to know and report their true owners and to provide additional law enforcement tools to combat corruption and money laundering. Treasury remains committed to working with Congress to pass beneficial ownership legislation.

See <https://www.treasury.gov/press-center/press-releases/Documents/20160506%20BO%20Legislation.pdf> for the draft legislation. `

While obtaining beneficial ownership information at the time of company formation is important, obtaining beneficial ownership information at the time of the account opening is also key. To that end, on May 11, 2016, Treasury issued a final customer due diligence rule (CDD Rule), which was a four-year effort that included a significant comment period. The CDD Rule streamlines and clarifies several components of customer due diligence under the Bank Secrecy Act to promote consistency. The CDD Rule also adds a key new requirement for U.S. financial institutions to know the real people who own, control, and profit from companies (the "beneficial owners") and verify their identities. When companies open a new account at covered financial institutions, the customer will be required to disclose the identity of (1) each individual who owns 25 percent or more of the company and (2) an individual who controls the company. These requirements are consistent with FATF standards.

The CDD Rule will apply to over 29,000 institutions in the U.S., and it is the first of two steps to ensure financial transparency. The CDD Rule clarifies and strengthens customer due diligence requirements for banks; brokers or dealers in securities; mutual funds; futures commission merchants; and introducing brokers in commodities. As demonstrated through the Panama Papers, companies formed in one jurisdiction may bank in a different jurisdiction. For example, a person can form a company abroad and

use that company to open a bank account in the U.S., or a person can form a company in the U.S. and use the company to open an account abroad. As such, it is important to have both the CDD Rule as well as beneficial ownership legislation to capture information at both company formation and at the account opening.

The Administration is also focused on beneficial ownership for tax compliance. Toward those efforts, also in May 2016, Treasury and the Internal Revenue Service (IRS) issued foreign-owned single-member Limited Liability Companies (LLC) proposed regulations that would close a loophole in U.S. laws that has allowed foreign persons to hide assets or financial activity behind anonymous entities established in the U.S. The rule will require foreign-owned entities that are “disregarded entities” for tax purposes, including foreign-owned single-member LLCs, to obtain an Employer Identification Number (EIN) with the IRS and annually report transactional information with their owners to the IRS. These entities represent a narrow class of foreign-owned U.S. entities that have previously had no obligation to report information to the IRS or to get a tax identification number and, thus, could be used to shield the foreign-based owners of non-U.S. assets or non-U.S. bank accounts. The proposed rule will strengthen the IRS’s ability to prevent the use of these entities for tax avoidance purposes, and it will build on the success of other efforts to curb the use of foreign entities and accounts to evade U.S. tax.

Along with the Treasury proposals, the Department of Justice sent several pieces of draft legislation to Congress to combat transnational corruption. This legislation would enhance law enforcement’s ability to prevent bad actors from concealing and laundering illegal proceeds of transnational corruption. It would also allow U.S. prosecutors to more effectively pursue kleptocracy cases and prosecute money laundering as part of foreign corruption. The proposals would assist investigators and prosecutors in gathering evidence, which can be used in prosecuting those who seek to hide and move illegal funds. For a list of the various legislations, see <https://www.justice.gov/opa/pr/justice-department-proposes-legislation-advance-anti-corruption-efforts>.

Also in May 2016, through a letter from Treasury Secretary Lew, the Administration called upon the U.S. Senate to approve tax treaties that have been pending for several years, and that would help crack down on offshore tax evasion. There are eight such tax treaties with other countries, including amendments to our existing treaties with Switzerland and Luxembourg that would better equip the U.S. to obtain information about U.S. taxpayer activity in those countries. The inability to obtain this information has impeded investigations and enforcement relating to offshore tax evasion. The Administration also renewed its call for Congress to act to strengthen authorities and to close the gaps in U.S. laws that can be abused by bad actors and would keep the U.S. at the forefront of international efforts to combat financial crimes. For Secretary Lew’s letter to Congress, see <https://www.treasury.gov/press-center/press-releases/Documents/Lew%20to%20Ryan%20on%20CDD.PDF%20%20>.

The President has proposed providing full “reciprocity” under FATCA in the last three budgets he submitted to Congress. Secretary Lew’s letter reiterates that Congress should act on the Administration’s legislative proposal as soon as possible in order to ensure that the U.S. meets international standards. Any increase in availability of beneficial ownership in extractive industry companies would be supportive of this active and ongoing larger U.S. government effort both domestically and internationally.

4.2 Consider the institutional framework for beneficial ownership disclosure

There is no institutional framework for public disclosure of beneficial ownership disclosure information in the U.S. There is, however, a substantial and growing framework for the collection on beneficial

ownership information from both public and private companies operating in the U.S. Below is a discussion of the various U.S. mechanisms to collect beneficial ownership information.

State Government Requirements Related to Legal Entity Formation

States manage the corporate formation process, and information gathering requirements vary widely from State to State. No State requires persons forming corporations to name beneficial owners at the time of corporate formation.

While no State registries consistent with the EITI Standard exist, there is an existing framework at the State level (the incorporation system), which collects much of this data and, in some cases, makes it public upon request. Examples of States that make certain data on incorporated companies accessible to the public through online systems include Alabama¹, Connecticut², Massachusetts³, Nebraska⁴, North Carolina⁵, Texas⁶, and Virginia⁷.

Requirements to Obtain an Employer Identification Number from the Internal Revenue Service

U.S. law requires all legal entities that have a Federal tax filing requirement obtain an EIN for tax administration purposes. Further, an entity is required to obtain an EIN if it has employees, or is required to file documents other than tax returns, with the IRS. An EIN is also required by all legal entities, under the Banking Secrecy Act, to open a bank account. In order to obtain an EIN, an entity must file a Form SS-4, which was amended in 2010 to require that a “responsible party” be named. The responsible party is generally defined as “the person who has a level of control over, or entitlement to, the funds or assets in the entity that, as a practical matter, enables the individual, directly or indirectly, to control, manage, or direct the entity and the disposition of its funds or assets.” Additionally, any changes in the “responsible party” identified on Form SS-4 must be reported to the IRS within 60 days using a Form 8822-B.

Public Company Disclosure Requirements Implemented by SEC under the Exchange Act

Section 13(d) of the Securities Exchange Act of 1934 requires any person or group that acquires more than five percent “beneficial ownership” of public company equity securities to disclose its position within 10 days of crossing the threshold. SEC rules currently define “beneficial owner” to include any person who directly or indirectly shares voting or investment power in (the power to sell) the security, even if the shares are held by somebody else.

Possible Department of the Interior Mechanisms

The Department of the Interior (DOI) does not currently receive or have any mechanism to collect beneficial ownership information to fulfill its regulatory mandate to conduct lease sales for extractive industry operating rights on U.S. Federal lands or for regulating extractive operations and collecting production related fees and royalties. However, DOI is in contact with many of the entities for which beneficial ownership data is sought through its bidding and payment collection processes.

The EITI Standard requires that the Multi-Stakeholder Group (MSG) publish a roadmap for disclosing beneficial ownership information, determine all milestones and deadlines in the roadmap, evaluate

¹ <http://www.sos.alabama.gov/government-records/business-entity-records>

² <http://www.ct.gov/sots/site/default.asp>

³ <https://www.sec.state.ma.us/cor/>

⁴ <https://www.nebraska.gov/sos/corp/corptestsearch.cgi>

⁵ <https://www.sosnc.gov/corporations/>

⁶ <http://www.sos.state.tx.us/Corp/sosda/index.shtml>

⁷ <https://www.scc.virginia.gov/clk/bussrch.aspx>

implementation of the roadmap, discuss and agree on a definition of beneficial ownership and the relevant identifying information to be disclosed, and agree to an approach for assuring the accuracy of the beneficial ownership information participating companies provide. The USEITI MSG, which DOI convened, will undertake these discussions, which will inform further steps to implement the EITI Standard in the U.S., including potential DOI mechanisms.

There is a statutory prohibition against agencies taking action that is outside their statutory authority. "To the extent necessary to decision and when presented, the reviewing court shall decide all relevant questions of law, interpret constitutional and statutory provisions, and determine the meaning or applicability of the terms of an agency action. The reviewing court shall -- (2) hold unlawful and set aside agency action, findings, and conclusions found to be -- (C) in excess of statutory jurisdiction, authority, or limitations, or short of statutory right [or] (D) without observance of procedure required by law[.]" 5 U.S.C. 706.

4.3 Consider how to develop a definition of beneficial ownership

First, it is helpful to reiterate EITI guidance (Section 2.5 (f)) for definition of beneficial ownership:

- i. A beneficial owner in respect of a company means the natural person(s) who directly or indirectly ultimately owns or controls the corporate entity.
- ii. The multi-stakeholder group should agree on an appropriate definition of the term beneficial owner. The definition should be aligned with (f)(i) above and take international norms and relevant national laws into account, and should include ownership threshold(s). The definition should also specify reporting obligations for politically exposed persons.

Second, as noted above, the U.S. does not have a single definition of beneficial ownership, so looking at the various definitions is instructive.

As described above, the CDD Rule includes a definition of beneficial ownership. More specifically the rule states:

(d) Beneficial owner. For purposes of this section, beneficial owner means each of the following:

(1) Each individual, if any, who, directly or indirectly, through any contract, arrangement, understanding, relationship or otherwise, owns 25 percent or more of the equity interests of a legal entity customer; and (2) A single individual with significant responsibility to control, manage, or direct a legal entity customer, including: (i) An executive officer or senior manager (e.g., a Chief Executive Officer, Chief Financial Officer, Chief Operating Officer, Managing Member, General Partner, President, Vice President, or Treasurer); or (ii) Any other individual who regularly performs similar functions.

Additionally, as mentioned above, the EIN form includes the responsible party, which is similar, although not equivalent to, a beneficial owner. The term "responsible party" is defined for non-publicly traded companies as:

The person who has a level of control over, or entitlement to, the funds or assets in the entity that, as a practical matter, enables the individual, directly or indirectly, to control, manage, or direct the entity and the disposition of its funds or assets.

As discussed above, the SEC has a definition of beneficial ownership for purposes of investor protection: (Exchange Act Section 13d). Specifically, Section 13(d) of the Securities Exchange Act of 1934 requires:

...any person or group that acquires more than five percent “beneficial ownership” of public company equity securities to disclose its position within 10 days of crossing the threshold. SEC rules currently define “beneficial owner” to include any person who directly or indirectly shares voting or investment power in (the power to sell) the security, even if the shares are held by somebody else.

Internationally, the U.S. issued an action plan released after the G-8 agreed to beneficial ownership principles in June 2013. The action plan included the following definition:

...a natural person who, directly or indirectly, exercises substantial control over a covered legal entity or has a substantial economic interest in, or receives substantial economic benefit from, such legal entity, subject to several exceptions.

4.4 Consider reporting obligations for politically exposed persons

The February 2012 FATF definition of Politically Exposed Persons (PEP), revised from 2003, is as follows:

- Foreign PEPs: individuals who are or have been entrusted with prominent public functions by a foreign country; for example, Heads of State or of government, senior politicians, senior government, judicial or military officials, senior executives of state owned corporations, important political party officials
- Domestic PEPs: individuals who are or have been entrusted domestically with prominent public functions; for example, Heads of State or of government, senior politicians, senior government, judicial or military officials, senior executives of state owned corporations, important political party officials

U.S. law, specifically Section 312 of the USA Patriot Act and its implementing regulations, provides for enhanced due diligence for Senior Foreign Political Figures (SFPF), defined as: "a current or former senior official in the executive, legislative, administrative, military, or judicial branches of a 'foreign' government...a senior official of a major 'foreign' political party; and a senior executive of a 'foreign' government-owned commercial enterprise." The term “PEP” is not included in the U.S. regulations.

Below is a summary of relevant U.S. statutes and regulations that restrict employee ownership of certain financial interests, require employee reporting of certain financial interests, and restrict employee participation in certain official Government matters that would affect an employee’s personal or imputed financial interests or that might affect an employee’s personal or business relationships.

5 CFR § 3501.103(c) prohibits, with limited exceptions, all DOI employees, their spouses, and their minor children from acquiring or retaining any claim, permit, lease, small tract entries, or other rights that are granted by DOI in Federal lands. This prohibition does not restrict the recreational or other personal or non-commercial use of Federal lands by an employee, or the employee's spouse or minor children, on the same terms available to the general public.

5 CFR § 3501.103(b), with limited exceptions, prohibits the Secretary of the Interior and employees of the Office of the Secretary and other Departmental offices that report directly to a Secretarial officer who are in positions classified at GS-15 and above from acquiring or holding any direct or indirect financial interest in Federal lands or resources that the Department administers. This generally includes stock or

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November 16-17, 2016**

bond interests in most oil, gas, and mining companies that hold leases on Federal lands to conduct their operations.

43 USC § 11, implemented by 43 CFR § 20.401, prohibits Bureau of Land Management (BLM) employees from voluntarily acquiring direct or indirect financial interests in Federal lands. Prohibited interests include stocks and bonds in oil, gas, geothermal, and mining companies that hold leases or other property rights on Federal lands, as well as companies that hold substantial rights-of-way on Federal lands. BLM employees may not be members or employees of a business that has interests in Federal lands. Additionally, BLM employees may not occupy or use Federal lands (other than for recreational or other personal and non-commercial use on the same terms as use of Federal lands is available to the general public), or take any benefits from Federal lands, based upon a contract, grant, lease, permit, easement, rental agreement, or application.

43 USC § 31(a), implemented by 43 CFR § 20.401(b), prohibits U.S. Geological Survey (USGS) employees from holding financial interests in Federal lands which DOI administers or controls. Prohibited interests include stocks and bonds in oil, gas, and other mining companies that hold significant leases on such lands. Additionally, 5 CFR § 3501.104 sets limits on investments in entities engaged in mining activities on private land in the U.S. The ability of USGS employees to own oil, gas, or other mineral leases or to receive royalties from those leases is extremely limited.

30 USC § 1211(f), implemented by 30 CFR Part 706 and 43 CFR § 20.402, prohibits all Office of Surface Mining Reclamation and Enforcement (OSMRE) employees and any other Federal employee who performs functions and duties under the Surface Mining Control and Reclamation Act of 1977 from having any direct or indirect financial interests in underground or surface coal mining operations. Prohibited financial interests under this law include interests in companies that are involved in developing, producing, preparing, or loading coal or reclaiming the areas upon which such activities occur. Additionally, 30 USC § 1267(g), as implemented by 30 CFR Part 705, provides that no employee of a State regulatory authority performing any function or duty under the Surface Mining Control and Reclamation Act of 1977 shall have a direct or indirect financial interest in any underground or surface coal mining operations.

The Ethics in Government Act of 1978, as amended (5 USC app. § 101), implemented by 5 CFR Part 2634, requires senior officials in the executive, legislative, and judicial branches to file public reports of their finances, as well as other interests outside the Government. Executive branch personnel file such reports using the OGE Forms 278e (previously the OGE Form 278) and 278-T. Unlike confidential financial statements that some mid-level employees file, the OGE Forms 278e and 278-T are available to the public. Ethics officials within each executive branch agency review, certify, and maintain these reports. Executive branch agencies also forward OGE Forms 278e and 278-T that Presidential appointees, which the Senate confirms, submit to the Office of Government Ethics (OGE) for additional review and certification. The primary purpose of the public disclosure program is to prevent conflicts of interest and to identify potential conflicts of interest of current and prospective employees. If a reviewing official identifies a potential conflict of interest, several remedies are available to avoid an actual or apparent violation of Federal ethics laws and regulations, which include recusal, reassignment, and divestiture of the financial interest(s). 28 USC § 535 requires executive branch agencies to report to the Attorney General any information, allegations, or complaints relating to violations of title 18 of the U.S. Code involving Government officers and employees.

5 USC app. § 107, implemented by Subpart I of 5 CFR Part 2634, also provides that certain executive branch employees who are not required to file a public financial disclosure report but whose duties involve the exercise of discretion in sensitive areas, such as contracting, procurement, administration of grants and licenses, and regulating or auditing non-Federal entities, are required to file confidential

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financial disclosure reports (OGE Form 450). This reporting system generally tracks the approach of the public financial disclosure system with some differences. For example, asset values and income amounts are not required to be reported, nor are interests in or income from bank accounts, money market mutual funds, U.S. obligations, and Government securities. The most notable difference between public and confidential reports, however, is that confidential financial disclosure reports are not available to the public.

30 USC § 1211(f), implemented by 30 CFR Part 706, requires that each OSMRE employee and any other Federal employee who performs any function or duty under the Surface Mining Control and Reclamation Act of 1977 must file a statement of employment and financial interests upon entrance to duty and annually thereafter. 30 USC § 1267(g), as implemented by 30 CFR Part 705, also requires State regulatory authority employees performing any duties or functions under the Act to file a statement of employment and financial interest upon entrance to duty and annually thereafter.

A Federal criminal conflict of interest statute, 18 USC § 208, prohibits executive branch employees from participating personally and substantially, in an official capacity, in any “particular matter” that would have a direct and predictable effect on the employee’s own financial interests or on the financial interests of,

- The employee’s spouse or minor child
- A general partner of a partnership in which the employee is a limited or general partner
- An organization in which the employee serves as an officer, director, trustee, general partner, or employee
- A person with whom the employee is negotiating for or has an arrangement concerning prospective employment

A “particular matter” is virtually any Government matter to which an employee might be assigned, including policy matters and matters involving specific parties, such as contracts or grants. (A few matters in Government, however, may be so broad in scope that the conflict of interest law does not require an employee’s disqualification even though the employee’s own or “imputed” financial interests are among those affected by the matter.) Disqualification (“recusal”) is mandatory in the circumstances specified in the statute. Moreover, disqualification is often the appropriate way to prevent a conflict of interest in the long term, unless an “exemption” applies or the circumstances warrant the use of other means of resolving the conflict of interest.

An executive branch-wide regulation, 5 CFR § 2635.502, recognizes that a reasonable person may believe that an employee’s impartiality can be influenced by interests other than the employee’s own or those that are imputed to the employee by the conflict of interest laws. Under 5 CFR § 2635.502, employees are required to consider whether their impartiality would be questioned whenever their involvement in a “particular matter involving specific parties” might affect certain personal or business relationships. The term “particular matter involving specific parties” refers to a subset of all “particular matters” and includes Government matters, such as a contract, grant, permit, license, or loan. If a particular matter involving specific parties is likely to have a direct and predictable effect on the financial interests of a member of the employee’s household, or if a person with whom the employee has a “covered relationship” is or represents a party to such matter, the employee must consider whether a reasonable person would question the employee’s impartiality in the matter. An employee has a covered relationship with,

- A person with whom the employee has or seeks a business, contractual, or other financial relationship

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- A person who is a member of the employee's household or is a relative with whom the employee has a close personal relationship
- A person for whom the employee's spouse, parent, or dependent child serves or seeks to serve as an officer, director, trustee, general partner, agent, attorney, consultant, contractor, or employee
- Any person for whom the employee has, within the last year, served as an officer, director, trustee, general partner, agent, attorney, consultant, contractor, or employee
- Any organization (other than a political party) in which the employee is an active participant

If the employee concludes that participation in such a matter would cause a reasonable person to question the employee's impartiality, the employee should not work on the matter pending possible authorization from the appropriate agency official. Moreover, an employee should not work on any matter if the employee is concerned that circumstances other than those expressly described in the regulation would raise a question regarding the employee's impartiality. The employee should follow agency procedures so that the agency can determine whether participation is appropriate.

4.5 Consider the level of detail to be disclosed

The U.S. does not have one specific framework for disclosing beneficial ownership information.

Treasury's CDD rule requires the following information from legal entities when they open new accounts:

- Name and title of natural person opening account
- Name and address of legal entity for which the account is being opened
- For each individual, if any, who, directly or indirectly, through any contract, arrangement, understanding, relationship or otherwise, owns 25 percent or more of the equity interests of the legal entity listed above: name, date of birth, address (residential or business street address), for U.S. persons – Social security Number, for foreign persons – a passport number and country of issuance; this information is not publicly available
- For one individual with significant responsibility for managing the legal entity listed above, such as an executive officer or senior manager (for example, a Chief Executive Officer, Chief Financial Officer, Chief Operating Officer, Managing Member, General Partner, President, Vice President, or Treasurer) or any other individual who regularly performs similar functions: name/title, date of birth, address (residential or business street address), for U.S. persons – social security number, for foreign persons – a passport number and country of issuance

Legal entities with a federal tax obligation or opening an account at a financial institution subject to CDD rules are required to have an EIN. The vast number of legal entities in the U.S. already have a tax identification number, which would include both EINs, as well as social security numbers (SSNs). For tax year 2014, 27.6 million Schedule C's were filed, and 1.9 million Schedule F's were filed with individual tax returns reporting profit or loss from a sole proprietorship and farming. C corporations filed 2.2 million returns, S corporations filed 4.6 million returns, and partnerships filed 3.8 million returns. Individual filers, who must list their social security number on their tax return, may not be required to obtain an EIN. However, a sole proprietorship or self-employed farmer who establishes a qualified retirement plan, or is required to file excise, employment, alcohol, tobacco, or firearms returns, must have an employment identification number. A partnership, corporation, REMIC (real estate mortgage investment conduit), nonprofit organization (church, club, etc.), or farmers' cooperative must use an EIN for any tax-related purpose even if the entity does not have employees. For more information, see the [2015 Internal Revenue Service Data Book and IRS Statistics of Income \(SOI\), Individual Income Tax Returns Line Item Estimates, 2014](#). Safeguarding personally identifiable information in possession of the government and preventing its breach are essential to ensure that the government retains the American public's trust. This is a

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responsibility shared by officials accountable for administering operational and privacy and security programs, legal counsel, Agencies' Inspectors General and other law enforcement, and public and legislative affairs. It is also a function of applicable laws, such as the Federal Information Security Management Act of 2002 and the Privacy Act of 1974.

The Mineral Leasing Act of 1920 (MLA) requires that companies holding onshore Federal mineral leases meet citizenship and acreage requirements (30 USC 181 and 184). The regulations for different types of minerals implement citizenship and acreage disclosures in different ways. From most to least disclosing, the regulations are as follows: coal (43 CFR 3472.2-2 and 3422.3-4), solid minerals (43 C.F.R. 3502.27, .28, .29, and .34), oil and gas (43 CFR 3102.5-2 and .5-3), and geothermal (43 CFR 3202.11).

When disclosures are required, they must be made before the companies obtain a lease (around the time of the bidding process). For coal, 10% ownership in a partnership or association must be disclosed to ensure compliance with the MLA acreage and citizenship requirements (see 43 CFR 3472.2-2(b)). For leaseable solid minerals other than coal, 10% ownership in a partnership or association must also be disclosed (see 43 CFR 3502.27 - individuals must disclose when they own 10% or more of a partnership - and 43 CFR 3502.28 - partnerships themselves must disclose). For oil and gas, publicly traded partnerships and associations must certify that their constituent members who own more than 10% are in compliance with the MLA (see 43 CFR 3102.5-2).

Per BLM, execution and submission of an offer, competitive bid form, or request for approval of a transfer of record title or of operating rights (sublease) constitutes certification of compliance. All lease offers, competitive bid forms, or requests for approval of a transfer of record title or of operating rights (sublease), are made part of and tracked in the official case file maintained at the appropriate BLM State Office. For geothermal, there is no 10% threshold for either partnerships or corporations.

Regulations applicable to locatable minerals on Federal lands (such as gold or copper) provide that mining claims may be located only by U.S. citizens, legal immigrants who have filed for citizenship, business entities (which may include, but are not limited to, corporations and partnerships) organized under the laws of a State, and agents of persons or entities falling into any of these three categories (43 CFR 3830.3). Mining claims and the names of the locators must be recorded with BLM; however, there is no requirement to record the names of the underlying owners of a business entity (43 CFR 3833.11). Claimants must "record" their claims with BLM within 90 days after they locate their claim. The required information is extracted from a location notice that the claimant fills out and files with BLM. This information is filed in the BLM State Office of the State where the claim is located and is added to their automated data base, LR2000 (<http://www.blm.gov/lr2000/index.htm>). As of 9/30/2015, there were about 341,000 active mining claims.

43 USC 1337 requires that leases be issued to the highest responsible qualified bidder. The regulations governing each of the three resource types are (1) oil, gas, and sulfur; (2) other minerals; and (3) renewables – leased under the Outer Continental Shelf Leasing Act (OCSLA), and these regulations specify how bidders demonstrate that they are qualified. All three sets of regulations require that (1), if an individual, the person must be a citizen or national of the U.S. or an alien lawfully admitted for permanent residence; (2), if a corporation, the corporation must be organized under the laws of a State or territory; and, (3) if an association, the association's members must be qualified individuals or corporations (30 CFR 556.401; 30 CFR 581.4; and 30 CFR 585.106 respectively). For oil, gas, sulfur, and renewables, the regulations 30 CFR 556.402; 30 CFR 585.107 require the bidder to submit evidence showing that the bidder is qualified and meets other criteria (such as not having been debarred from doing business with the Department). For corporations and associations, there is no requirement to disclose the underlying owners (30 CFR 585.107).

4.6 Consider data collection procedures

As discussed above, under the CDD Rule, the Certification of Beneficial Owner(s) must be completed by the person opening a new account on behalf of a legal entity (or such person must otherwise certify the beneficial ownership information) with any of the following U.S. financial institutions: (1) a bank or credit union; (2) a broker or dealer in securities; (3) a mutual fund; (4) a futures commission merchant; or (5) an introducing broker in commodities.

Also, as discussed above, entities with filing obligations under the U.S. Federal tax law or opening an account at a financial institution subject to CDD requirements are required to have an EIN, which is issued by the IRS and requires companies to identify the responsible party. The IRS collects and keeps this information.

All of the information on the EIN application is subject to strict confidentiality provisions accorded to all U.S. Federal tax information under U.S. law (26 U.S.C. 6103) that prevents such information from being disclosed or used for any purpose other than U.S. Federal tax administration, except as permitted under specifically delineated statutory provisions under U.S. Federal internal revenue laws.

4.7 Consider how to develop a methodology for assuring the accuracy of the data

Verification under the CDD Rule⁸ is as follows:

- Under the CDD Rule, covered financial institutions are required to establish and maintain written procedures that are reasonably designed to identify and verify beneficial owners of legal entity customers. Customer due diligence procedures will enable the institution to:
 - Identify the beneficial owner(s) of each legal entity customer at the time when a new account is opened, unless the customer is otherwise excluded pursuant to paragraph (e) of this section, or the account is exempted pursuant to paragraph (h) of this section. A covered financial institution may accomplish this either by obtaining a certification in the form of a Certification of Beneficial Owner from the individual opening the account on behalf of the legal entity customer, or by obtaining from the individual the information required by the form by another means, provided that the individual certifies, to the best of the individual's knowledge, the accuracy of the information.
 - Verify to the covered financial institution the identity of each beneficial owner identified, according to risk-based procedures to the extent reasonable and practicable. At a minimum, these procedures must contain the elements required for verifying the identity of customers that are individuals and in the case of document verification, the financial institution may use photocopies or other reproductions. A covered financial institution may rely on the information supplied by the legal entity customer regarding the identity of its beneficial owner or owners, provided that it has no knowledge of facts that would reasonably call into question the reliability of such information. Additionally, in line with Customer Identification Program (CIP) rule requirements, financial institutions are expected to implement procedures for collecting and verifying beneficial ownership information “appropriate for [their] size and type of business.” Regulators regularly examine financial institutions for the quality of their CIP.

Penalties for Failure to Comply with Section 13d of the Securities and Exchange Act are as follows: as previously discussed, Section 13(d) requires any person or group that acquires more than five percent

⁸ See 31 C.F.R. § 1010.230(b) <https://www.federalregister.gov/documents/2016/05/11/2016-10567/customer-due-diligence-requirements-for-financial-institutions>

“beneficial ownership” of public company equity securities to disclose its position within 10 days of crossing the threshold. Failure to disclose the information requested by this schedule may result in civil or criminal action against the persons involved for violation of the federal securities laws and rules promulgated thereunder.

4.8 Consider data timeliness

Covered financial institutions have two years (May 11, 2018) to make changes to their account opening and anti-money laundering compliance systems to implement the CDD Rule. The CDD Rule does not impose a categorical requirement that financial institutions must update customer information, including beneficial ownership information, on a continuous or periodic basis. Rather, the updating requirement is event-driven and occurs as a result of normal monitoring as required by the Bank Secrecy Act. When a financial institution detects information (including a change in beneficial ownership information) about the customer in the course of its normal monitoring that is relevant to assessing or reevaluating the risk posed by the customer, it must update the customer information, including beneficial ownership information.

Exchange Action Section 13d

The SEC requires beneficial ownership reporting to be updated whenever there is a change in status.

4.9 Consider data accessibility

In the U.S., there is no authoritative source for beneficial ownership information of legal entities, as there is no requirement for U.S. States to collect this information at the time when a company is formed. However, as discussed above, any legal entity that has income or employees, or is otherwise required to file any documents with the IRS or opens an account at a financial institution, is required to have an EIN and requires companies to disclose the responsible party. The IRS collects and keeps this form, and they make it available to law enforcement upon receipt of a subpoena court order.

CDD Rule: Covered financial institutions are required to establish and maintain written procedures that are reasonably designed to identify and verify beneficial owners of legal entity customers.

SEC Rule: Under Section 13d, the beneficial ownership information is publicly available, as the primary purpose of this information is investor protection.

With respect to publicly traded and privately owned companies on Federal land, there were approximately 7,500 companies or private individuals that paid DOI \$7.8 billion in calendar year 2015. The Office of Natural Resources Revenue (ONRR) received \$7.5 billion from royalties, bonuses, rents, etc.; BLM received \$100 million from permit fees; and OSMRE received \$200 million from Abandoned Mine Land fees. Of the approximately 2,400 entities making payments to ONRR, initial research estimates are that about 10 percent are publicly traded companies (U.S. or Foreign stock exchanges) and account for about 80 percent of total payments.

4.10 Consider capacity building needs

A gap analysis of U.S. beneficial ownership practices and standards should be conducted, which compares these to international standards and the EITI Standard (as indicated in Section 2.5 (f)(ii) of the EITI Standard). This gap analysis will improve the MSG’s ability to assess further needs and to implement the roadmap.

4.11 Consider needs for technical and financial assistance

At this time, there are no technical and financial needs necessary in order to implement the roadmap.

4.12 Consider deadlines and responsibilities for roadmap activities

The USEITI MSG agreed to the formation of a Beneficial Ownership Roadmap Workgroup to oversee the development of the Roadmap. The Workgroup, which has members from each of the three sectors, began meeting in July 2016. The Workgroup will present a draft Roadmap for MSG consideration at the November 2016 MSG meeting.

Preliminary Proposed Timeline and Objectives:

- January 2017: USEITI Beneficial Ownership Roadmap Submitted to EITI International Board
- 2017: The MSG agrees to the working definition of Beneficial Owner
- 2017: Conduct a legal review of the legal barriers and enablers to public disclosure of beneficial ownership information under U.S. law
- 2017 USEITI Reporting Season: The MSG explores the possibility of requesting beneficial ownership information through the USEITI reporting template and collection of data for disclosure in the 2018 report (public companies may have the opportunity to indicate that beneficial ownership is done through periodic filings with the SEC, where appropriate, and, if it is determined, this disclosure is sufficient)
- 2017 and 2018: DOI and other relevant parties explore possibilities to request beneficial ownership information from companies engaged in bidding processes or otherwise operating in lands under its jurisdiction consistent with MLA, OCSLA, and/or other regulatory action within the power of the agency
- January 2018: Assuming that the preceding was successful, USEITI report with 2017 data including results of beneficial ownership query is released
- 2018 USEITI Reporting Season: Assuming that the preceding was successful, a request for beneficial ownership information is included in the USEITI reporting template, and results will be included in the 2019 USEITI report
- 2018: The USEITI MSG explores the possibility of regulatory/legislation action related to the “invest in” provision of the beneficial ownership requirement
- 2019 USEITI Reporting Season: Assuming that preceding efforts were successful, a request for beneficial ownership information is included in the USEITI reporting template, and results will be included in 2020 USEITI report
- 2019: Assuming that preceding efforts were successful, DOI and other relevant parties seek to request beneficial ownership information from companies engaged in bidding processes or otherwise operating in lands under its jurisdiction consistent with the MLA, the OCSLA, and/or other regulatory action within the power of the agency

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- 2019: The USEITI MSG explores the possibility of regulatory/legislation action related to the “invest in” provision of the beneficial ownership requirement
- 2020: Assuming that the preceding was successful, reporting by entities bidding for activities and operating on lands in the jurisdiction of the MLA, the OCSLA, and/or other regulatory action within the power of DOI commences
- 2020: Assuming that preceding efforts were successful, reporting related to the “invest in” provision commences

Data Portal Publication Plan

Dataset	Agency	Dates Range	Portal visualized or download only	Dataset provided by	FY18 Due Date (proposed)	FY17 Due Date	Delivery Shortened	Update Frequency
Disbursement Data	ONRR	FY 2017	download only	FM/AP	11/30/2017	11/30/2016	Same	TBD
Reported Federal Revenue ¹	ONRR	FY 2017	download only	IDM - DR	11/30/2017	3/31/2017	4 Months	TBD
Reported Indian Revenue ⁵	ONRR	FY 2017	download only	IDM - DR	11/30/2017	1/31/2017	2 Months	TBD
Reported Federal Production ²	ONRR	FY 2008-2017	both	IDM - DR	12/31/2017	7/31/2017	7 Months	TBD
Reported Indian Production ⁴	ONRR	FY 2017	download only	IDM - DR	12/31/2017	1/31/2017	7 Months	TBD
Reported Federal Revenue ¹	ONRR	CY 2017	both	IDM - DR	1/31/2018	3/31/2017	2 Months	TBD
Unilateral Disclosure Report - State Level ⁶	ONRR, BLM, OSM	CY 2017	TBD	IDM - DR, BLM, OSM	2/28/2018	3/10/2017	Same	TBD
Reported Federal Production ²	ONRR	CY 2008-2017	both	IDM - DR	3/31/2018	7/31/2017	4 Months	TBD

¹ **Reported Revenue:** Revenue reported to ONRR (by Accounting Year, Federal only) - Add most recent year

² **Reported Production:** Reported to ONRR (OGOR-A and P&R volumes allocated - Federal leases only; non-royalty-bearing volumes) - Update most recent 10 years

³ **Unilateral Disclosure Report (UDR):** ONRR, BLM, and OSM revenue streams by Parent Company - Feb 1st only ONRR. File will incorporate BLM & OSM data when received

⁴ **Reported Indian Production:** Reported to ONRR (OGOR-A and P&R volumes allocated - Indian leases only; non-royalty-bearing volumes) - Update most recent 10 years

⁵ **Reported Revenue:** Revenue reported to ONRR (by Accounting Year, Indian only) - Add most recent year

⁶ **UDR by State:** New dataset requirement added for FY2017

Revenue reported to ONRR (Accounting Year data - Federal only)

Production reported to ONRR (OGOR-A and P&R volumes allocated to Federal leases only; total production, not royalty-bearing volumes)

Unilateral Disclosure Report (UDR): ONRR, BLM, and OSM revenue streams by Parent Company

ONRR Disbursements

Only need to run newest year (2014/2015) for the 10-yr rolling window and add to previous dataset.

Need to rerun every year for 10-yr. rolling window.

Feb 1st only ONRR. File will incorporate BLM & OSM data when received

LWCF & NHPA datasets from Park Service

OFFICE OF NATURAL RESOURCES REVENUE
(ONRR)

PRE-DECISIONAL and DELIBERATIVE
Please do not distribute.

**U.S. EITI Withdrawal
Communication Plan**

(This announcement is internal and not intended as a press release)

As of October 16, 2017

BACKGROUND

The U.S. EITI (Extractive Industries Transparency Initiative) Federal Advisory Committee was established in August 2012. The Committee's purpose was to serve as the initial EITI Multi-stakeholder Group (MSG), and its duties included consideration and fulfillment of the tasks required to achieve candidate and compliant status in the EITI. The Committee's Charter was renewed in 2014, and again in 2016. The MSG each year developed and recommended to the Secretary a fully-costed work plan, containing measurable targets and a timetable for implementation, and an assessment of capacity constraints. Each year the MSG developed and recommended to the Secretary an Annual Activity Report documenting the decisions, accomplishments and progress in meeting the EITI International Standard. The MSG advised the Secretary on long-term oversight and other activities necessary to achieve EITI candidate and compliant status.

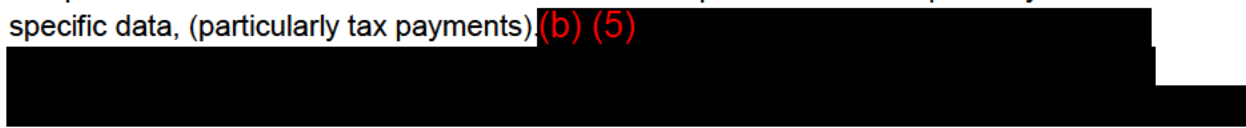
(b) (5)



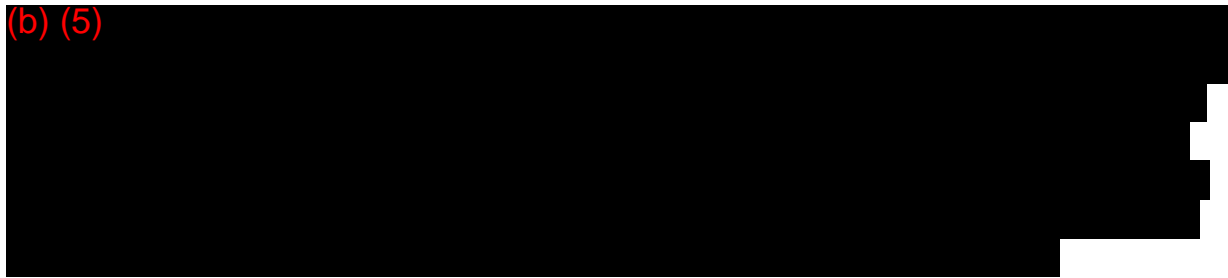
(b) (5)



In May 2017, the DOI Office of the Inspector General released a final inspection report on the U.S. implementation of the EITI. The report included observations and no recommendations. Their review found the U.S. has met 8 of the 9 elements of the standard but will not be found in compliance with the EITI standard because U.S. companies are not required by law to disclose specific data, (particularly tax payments) (b) (5)



(b) (5)



COMMUNICATIONS OBJECTIVES

- The purpose of this Communication Plan is to inform the Department and U.S. EITI stakeholders that the U.S. EITI Multi-stakeholder group has fulfilled its responsibilities to the Secretary as documented in the Charter. The U.S. met 8 of the 9 elements of the EITI Standard, but will not be deemed in full compliance with the Standard, due to laws prohibiting certain data disclosures by companies in regard to taxes. As a result, the U.S. EITI plans to withdraw from the EITI Standard by November 6, 2017. The U.S. will continue to maintain the ~~U.S. EITI~~ Data Portal and implement [the principles of the EITI standard](#) within our domestic statutory and regulatory context.
- ***This Communication Plan is not intended as a public Press Release.***

KEY STAKEHOLDERS AND AUDIENCES

Internal Stakeholders:

- Executive Office of the President –
 - National Security Council
 - Office of Science and Technology Policy
- DOI Bureaus and Offices
 - OS, BLM, BOEM, BSEE, OSMRE, BIA, OST
- Other Federal Agencies
 - State, Treasury
- ONRR Employees
- ONRR's State and Tribal Royalty Audit Committee (STRAC)

External Stakeholders:

- Members of the U.S. EITI Multi-Stakeholder Group
- Congressional Officials (OCL)
- Securities and Exchange Commission (SEC)
- Civil Society Stakeholders
- ~~State Officials~~
- [EITI Implementing and Supporting Countries](#)

KEY MESSAGES/TALKING POINTS

U.S. Commitment and USEITI:

- The United States remains committed to the EITI and transparency and good governance of the extractive sectors.
- The United States has led the global initiative in providing revenue related data and information in an interactive, open-source data portal and by regularly engaging with other implementing countries to share our best practices.
- USEITI's second report demonstrated for the second year in a row the government's robust audit and assurance practices within the United States finding zero unresolved discrepancies, but also spotlighted the challenge posed by voluntary company reporting.
- The United States will mainstream transparency of non-tax revenue data through the work already underway within the Office of Natural Resource Revenue including on the data portal.
- The Department of the Interior Inspector General report issued on May 18 demonstrates the United States' "significant progress" towards implementation including meeting eight of the nine implementation indicators and partially meeting the requirement on company reporting.
- The United States has over the past decade been one of the strongest supporters of this initiative, providing over \$32 million to World Bank and mission-level assistance to EITI implementation, serving on the International Board, and this year considering for the first time a direct financial contribution to the Secretariat.
- However, the challenges facing United States implementation, as detailed in the International EITI Implementation Progress Report, are ~~very~~ significant. We have not taken those difficulties lightly. We have worked deliberately through a process to identify a path to feasibly implement the Standard. We have not found a solution that is feasible or practical. ~~We expect to announce a final decision on EITI implementation within the next two weeks.~~
- It is important to note that we willingly took on a very ambitious task and have not asked to change the rules or move the goalposts in order to accommodate the American system, which is highly transparent and efficient but which does not permit the kinds of disclosure required by the Standard.
- IF PRESSED ON DODD-FRANK 1504: Section 1504 of the Dodd-Frank Wall Street Reform Act remains U.S. law and the Securities and Exchange Commission is responsible for promulgating an implementing rule. The Administration supported the passage of House Joint Resolution 41, which vacated the previous rule, as a necessary rulemaking action to increase American competitiveness. We cannot comment on any pending or future legislative action regarding transparency in the extractive industries.
- The OIG reviewed the EITI and found that the U.S. met seven of the eight EITI requirements. The OIG FINAL Report can be found at:
https://www.doioig.gov/sites/doioig.gov/files/AIE_EITI_FinalInspectionReport_Public.pdf
- The OIG recognizes that the U.S. will move from being an implementing country to only a supporting country of EITI; and the U.S. intends to continue its efforts to disclose revenue and maintain the online data portal, thus institutionalizing EITI processes.

U.S. EITI QUESTIONS & ANSWERS

What is the EITI?

EITI is a voluntary, international standard for transparency in reporting revenues paid and received for natural resource extraction. The design of each EITI framework is country-specific, and is developed through a multi-year, consensus-based process by a multi-stakeholder group (MSG) composed of representatives from government, industry and civil society. The main product of the USEITI will be annual reports.

What is an EITI Report?

To comply with the EITI Standard, an EITI country must publish annual reports, produced by an Independent Administrator and approved by the MSG. The EITI Report documents the parallel reporting and reconciliation of revenues paid by the extractives industry to government and the revenues received and disbursed by the government. The EITI Report is also a compilation of publicly available contextual, legal, and current fiscal information about the extractives industries.

Where are the USEITI Reports and what did they actually disclose?

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Will the Department of the Interior continue to issue USEITI reports?

The Department of the Interior will continue to disclose revenues by company, commodity, and revenue type as well as production data across all commodities on the data portal. The content on the Data Portal will reflect the Office of Natural Resources Revenue's activities for 2017 undertaken as a part of the United States' involvement in the Extractive Industries Transparency Initiative. Unlike previous years, the content has not been approved by the full USEITI Multi-Stakeholder Group., given the MSG did not meet following the February session. However, the content provided here and included in the online report has been informed by MSG feedback and the MSG had an opportunity to review all additional content.

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Why are you terminating the USEITI Multistakeholder Group?

The Federal Advisory Committee serves at the Secretary of the Interior's discretion. The MSG each year developed and recommended to the Secretary a fully-costed work plan, containing measurable targets and a timetable for implementation, and an assessment of capacity constraints. Each year the MSG developed and recommended to the Secretary an Annual Activity Report documenting the decisions and accomplishment, and progress in meeting the EITI Standard. The MSG advised the Secretary on long-term oversight and other activities necessary to achieve EITI candidate and compliant status. The MSG oversaw publishing the 2015 and 2016 USEITI Annual Reports on an open source, open code interactive web-based data portal (<https://useiti.doi.gov>). Given the current challenges to fully implementing the EITI Standard and a thoughtful review of the many accomplishments of the MSG, the Secretary determined the MSG had accomplished its work.

Why are you withdrawing from the EITI Standard?

The U.S. has met 8 of the 9 elements of the standard. USEITI has been implementing within U.S. statutory mandates and in a voluntary reporting system. Given the ongoing uncertainty about corporate income tax reporting as part of USEITI, as well as the recent decision by the USEITI MSG to rely on the government's existing audit and assurance processes, USEITI would be deviating in two significant respects from the EITI Standard. Therefore the decision was made that the U.S. would no longer formally implement the Standard. However, the Department, as managed by ONRR, has robust audit and assurances practices in place to demonstrate accountability for the revenues paid and received for our country's oil, gas, and mineral resources. The Department, through ONRR will continue to mainstream (publicly disclose) DOI revenue reporting in lieu of redundant company reporting and Independent Administrator reconciliation.

Explain what the challenges were for the U.S. to implement the EITI Standard

Domestic implementation of EITI is subject to existing laws and regulations. For example, the Trade Secrets Act and the Federal Oil and Gas Royalty Management Act (FOGRMA) of 1982, prohibit the Federal government from releasing company pricing information and Federal employees are subject to criminal penalties if they violate these laws. Another example is Section 6103 of the Internal Revenue Code (IRC) provides that tax returns and tax return information are confidential and prohibited from disclosure, unless an exception identified in the IRC is applicable. The IRC imposes civil and criminal penalties for violations of the disclosure prohibitions.

What does it mean to mainstream revenue data?

The EITI governing Board in its 2016 revised Standard included allowing for two possible procedures for EITI disclosures: (1) the "conventional" agreed upon procedure for EITI Reports, which is already in use (company and government parallel disclosure to an Independent Administrator for reconciliation); and (2) the agreed upon procedure for mainstreamed disclosures. The mainstreaming transparency option enables countries to refer directly to existing public information about the extractive sector where available, comprehensive, reliable,

and consistent with the requirements of the EITI Standard. We welcome the idea of mainstreamed EITI disclosures in lieu of company reporting and Independent Administrator reconciliation.

What domestic benefits of adopting the EITI Standard are you giving up?

The Department of the Interior will continue to highlight industry's financial contributions to the U.S. Government and the national and state level distribution of those resources, including the revenues generated by royalties, rents, bonuses and taxes. The Department will continue to provide enhanced and user friendly access to reliable information that can be used to hold the government and [industry] to account. Increasing the public's awareness and understanding of how extractive revenues are collected and disbursed enhances our accountability and facilitates the full and fair return to the American people for these resources.

What were the international benefits to the U.S. of adopting EITI?

The United States will continue to be one of seventeen supporting countries of the EITI. The United States remains a strong supporter of good governance and transparency, including the principles of transparency in the extractive sector represented by EITI. EITI is an important tool to promote transparency, increase competitiveness and combat corruption globally. We have taken a leading role in EITI since its founding in 2003, and we will continue to support the international EITI initiative and country level implementation. Attempting to implement the EITI Standard in the United States was a proactive step in the mainstreaming of EITI principles. It demonstrated that a strong commitment to transparency and accountability principles applies equally to developed and developing countries, providing an example for other OECD economies. Despite the infeasibility of implementing the Standard domestically, the United States remains committed to these same transparency and accountability principles.

How much does the government gain in revenue from the extractive industries?

The U.S. is a major developer of natural resources. The Department of Interior collects on average approximately \$10 to \$12 billion in annual revenues from the development of oil, gas and minerals on Federal lands and offshore in the Outer Continental Shelf. The bulk of these revenues are disbursed to the U.S. Treasury, with smaller portions distributed to five Federal agencies, more than 30 states, 41 American Indian tribes, and approximately 34,000 individual Indian mineral owners. In addition, the U.S. receives federal taxes related to resource extraction.

CONTACTS and TIMING MATRIX

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DRAFT Comms Plan to Judy Wilson, ONRR	Heidi Badaracco, Program Manager for Public Affairs, ONRR	Internal to ONRR – Judy Wilson for review	Email by 10/13/17
DRAFT to DOI for review	Heidi Badaracco, Program Manager for Public Affairs, ONRR	Frank Quimby, DOI, Reviews Press Releases	Email by 10/13/17
DRAFT to Director, ONRR	Heidi Badaracco, Program Manager for Public Affairs, ONRR	Director to review; (Greg Gould requested that Frank Quimby review	Email by 10/17/17

		first)	
FINAL DRAFT, excluding MATRIX, to State for review	Heidi Badaracco, Program Manager for Public Affairs, ONRR	Micah Watson, State Once State is OK with the DRAFT, work with NSC.	Email by 10/19/17
FINAL DRAFT, excluding MATRIX, to NSC	Heidi/Judy Wilson	James Mazarella, National Security Council (NSC)	Email by 10/20/17
FINAL Courtesy Copy, excluding MATRIX, to USAID	Heidi/Judy Wilson	Jen Lewis, USAID	Email by 10/20/17
FINAL Date to Withdraw from USEITI: November 2, 2017			
FINAL, excluding MATRIX, to DOI Communications and Public Affairs	Heidi Badaracco, Program Manager for Public Affairs, ONRR	Russell Newell, Dep Director, Comms; CC: Frank Quimby	Email by 10/20/17
FINAL excluding MATRIX, to DOI Intergovernmental Team	Judith Wilson, Program Manager for U.S. EITI, ONRR	Jason Funes, DOI Intergovernmental Team	Email by 10/20/17
FINAL, excluding MATRIX, to other agencies	Judith Wilson, Program Manager for U.S. EITI, ONRR	Treasury, Energy & Commerce	Email by 10/20/17
FINAL excluding MATRIX to OCL	Anita Gonzales, Legislative Liaison for ONRR	Joseph Nevills, OCL Leg. Summary and Audrey Haskens, OCL Report	Email by 10/20/17
FINAL excluding MATRIX to STRAC	Bruce Rumburg, Agreements Officer's Representative	STRAC	Email by 10/20/2017

OFFICE OF NATURAL RESOURCES REVENUE
(ONRR)

PRE-DECISIONAL and DELIBERATIVE
Please do not distribute.

**U.S. EITI Withdrawal
Communication Plan**

(This announcement is internal and not intended as a press release)


As of October 16, 2017

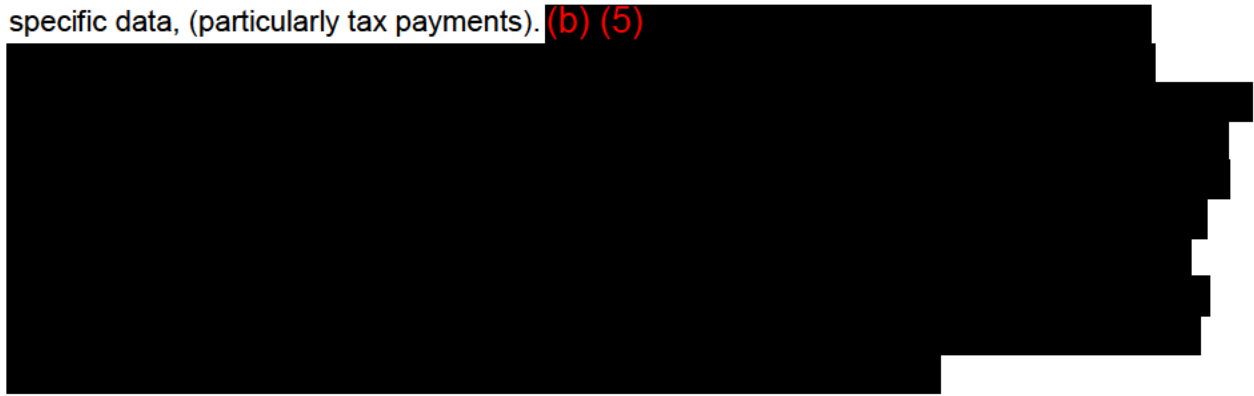
BACKGROUND

The U.S. EITI (Extractive Industries Transparency Initiative) Federal Advisory Committee was established in August 2012. The Committee's purpose was to serve as the initial EITI Multi-stakeholder Group (MSG), and its duties included consideration and fulfillment of the tasks required to achieve candidate and compliant status in the EITI. The Committee's Charter was renewed in 2014, and again in 2016. The MSG each year developed and recommended to the Secretary a fully-costed work plan, containing measurable targets and a timetable for implementation, and an assessment of capacity constraints. Each year the MSG developed and recommended to the Secretary an Annual Activity Report documenting the decisions, accomplishments and progress in meeting the EITI International Standard. The MSG advised the Secretary on long-term oversight and other activities necessary to achieve EITI candidate and compliant status.

(b) (5)



 In May 2017, the DOI Office of the Inspector General released a final inspection report on the U.S. implementation of the EITI. The report included observations and no recommendations. Their review found the U.S. has met 8 of the 9 elements of the standard but will not be found in compliance with the EITI standard because U.S. companies are not required by law to disclose specific data, (particularly tax payments). (b) (5)



COMMUNICATIONS OBJECTIVES

- The purpose of this Communication Plan is to inform the Department and U.S. EITI stakeholders that the U.S. EITI Multi-stakeholder group has fulfilled its responsibilities to the Secretary as documented in the Charter. If the Department should decide they want to do a press release, they have all the information they need. The Department should be aware that certain stakeholders may share information with the press.
- The U.S. met 8 of the 9 elements of the EITI Standard, but will not be deemed in full compliance with the Standard, due to laws prohibiting certain data disclosures by companies in regard to taxes. As a result, the U.S. EITI plans to withdraw from the EITI Standard by November 6, 2017. The U.S. will continue to maintain the Data Portal and implement the principles of the EITI standard within our domestic statutory and regulatory context.
- The ~~final 2017~~^{next} US EITI multi-stakeholder group meeting, ~~was~~ scheduled for November 15, 16, ~~will~~^{and is now be} cancelled.
- ***This Communication Plan is not intended as a public Press Release, rather to assist the Secretary's Office of Communications in their decision regarding a media release and response to media inquiries.***

KEY STAKEHOLDERS AND AUDIENCES

Internal Stakeholders:

- Executive Office of the President –
 - National Security Council
 - ~~Office of Science and Technology Policy~~
 - Office of Management and Budget
- DOI Bureaus and Offices
 - OS, BLM, BOEM, BSEE, OSMRE, BIA, OST
- Other Federal Agencies
 - State, Treasury
- ONRR Employees
- ONRR's State and Tribal Royalty Audit Committee (STRAC)

External Stakeholders:

- Members of the U.S. EITI Multi-Stakeholder Group
- Congressional Officials (OCL)
- Securities and Exchange Commission (SEC)
- Civil Society Stakeholders
- State Officials
- EITI Implementing and Supporting Countries

KEY MESSAGES/TALKING POINTS

U.S. Commitment and USEITI:

- The United States remains committed to the EITI and transparency and good governance of the extractive sectors.
- The United States has led the global initiative in providing revenue related data and information in an interactive, open-source data portal and by regularly engaging with other implementing countries to share our best practices.
- USEITI's second report demonstrated for the second year in a row the government's robust audit and assurance practices within the United States finding zero unresolved discrepancies, but also spotlighted the challenge posed by voluntary company reporting.
- The United States will mainstream transparency of non-tax revenue data through the work already underway within the Office of Natural Resource Revenue including on the data portal.
- The Department of the Interior Inspector General report issued on May 18 demonstrates the United States' "significant progress" towards implementation including meeting eight of the nine implementation indicators and partially meeting the requirement on company reporting.
- The United States has over the past decade been one of the strongest supporters of this initiative, providing over \$32 million to World Bank and mission-level assistance to EITI implementation, serving on the International Board, and this year considering for the first time a direct financial contribution to the Secretariat.
- However, the challenges facing United States implementation, as detailed in the International EITI Implementation Progress Report, are significant. We have not taken those difficulties lightly. We have worked deliberately through a process to identify a path to feasibly implement the Standard. We have not found a solution that is feasible or practical.
- It is important to note that we willingly took on a very ambitious task and have not asked to change the rules or move the goalposts in order to accommodate the American system, which is highly transparent and efficient but which does not permit the kinds of disclosure required by the Standard.
- IF PRESSED ON DODD-FRANK 1504: Section 1504 of the Dodd-Frank Wall Street Reform Act remains U.S. law and the Securities and Exchange Commission is responsible for promulgating an implementing rule. The Administration supported the passage of House Joint Resolution 41, which vacated the previous rule, as a necessary rulemaking action to increase American competitiveness. We cannot comment on any pending or future legislative action regarding transparency in the extractive industries.
- The OIG reviewed the EITI and found that the U.S. met seven of the eight EITI requirements. The OIG FINAL Report can be found at:
https://www.doioig.gov/sites/doioig.gov/files/AIE_EITI_FinalInspectionReport_Public.pdf
- The OIG recognizes that the U.S. will move from being an implementing country to only a supporting country of EITI; and the U.S. intends to continue its efforts to disclose revenue and maintain the online data portal, thus institutionalizing EITI processes.

U.S. EITI QUESTIONS & ANSWERS

What is the EITI?

EITI is a voluntary, international standard for transparency in reporting revenues paid and received for natural resource extraction. The design of each EITI framework is country-specific, and is developed through a multi-year, consensus-based process by a multi-stakeholder group (MSG) composed of representatives from government, industry and civil society. The main product of the USEITI will be annual reports.

What is an EITI Report?

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FINAL excluding MATRIX, to DOI Intergovernmental Team	Judith Wilson, Program Manager for U.S. EITI, ONRR	Jason Funes, DOI Intergovernmental Team	Email by 10/20/17
FINAL, excluding MATRIX, to other agencies	Heidi Badaracco, Program Manager for Public Affairs, Judith Wilson, Program Manager for U.S. EITI, ONRR	Treasury, Energy & Commerce	Email by 10/20/17
FINAL excluding MATRIX to OCL	Anita Gonzales, Legislative Liaison for ONRR	Joseph Nevills, OCL Leg. Summary and Audrey Haskens, OCL Report	Email by 10/20/17
Federal Register Notice <u>to cancel November USEITI meeting</u>	<u>Kim Oliver, Program Analyst, ONRR with</u> Exec Sec. Secretary's Office, (because it is a FACA)	Exec Secretary's Office	Published 11/07/2017
FINAL excluding MATRIX to STRAC	Bruce Rumburg, Agreements Officer's Representative	STRAC	AOR shares letter to International Chair by Email to STRAC after (11/03/17).

**UNITED STATES EXTRACTIVE INDUSTRIES TRANSPARENCY INITIATIVE
MULTI-STAKEHOLDER GROUP ADVISORY COMMITTEE MEETING
FEBRUARY 1, 2017**

SUMMARY OF PROCEEDINGS

**U.S. DEPARTMENT OF THE INTERIOR
PREPARED: MARCH 2017**

I. Introduction

The U.S. Department of the Interior (DOI), with Judy Wilson presiding as acting Designated Federal Official (DFO), convened the nineteenth meeting of the U.S. Extractive Industries Transparency Initiative (USEITI) Multi-Stakeholder Group Advisory Committee (MSG) on February 1, 2017, in Washington, DC.

The purpose of the meeting was to receive updates from the Independent Administrator on various aspects of developing the online report and executive summary for the 2017 USEITI Report and how to move forward with these; receive updates on the work of the Implementation, Communications, and State and Tribal Opt-in Subcommittees; and discuss the prospects for proceeding with mainstreaming of USEITI reporting into US government processes and the inclusion of project-level reporting in USEITI Reports. The MSG opted not to cover all of these items after the Co-Chairs agreed to accelerate the MSG's work and adjourn the meeting after one day rather than hold a two-day meeting, as originally planned. Please see the "Adjustment of Meeting Schedule and Agenda" section on page 6 for additional information.

Please note that, throughout this meeting summary, comments made by presenters, Independent Administrator team members, other non-MSG members, and those directly pertaining to an MSG decision are attributed to specific speakers. Other comments are provided without attribution in order to foster open discussion among MSG members excepting final deliberations prior to specific MSG decisions.

Interested parties are asked to contact USEITI at useiti@ios.doi.gov or 202-208-0272 with any questions, comments, or concerns regarding the content of this meeting summary.

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II. Summary of Endorsements, Decisions, Approvals, and Action Items

A. Endorsements

- No endorsements were made by the MSG at the February 2017 MSG meeting.

B. Decisions

- The MSG decided to move forward with the Implementing Subcommittee's recommendation to forego independent reconciliation of revenues by the Independent Administrator for the 2017 USEITI Report. *(see page 9)*
- The MSG decided to use and move forward with the proposed reporting template for 2017. *(see page 10)*
- The MSG decided to have the USEITI Secretariat work to add material for the 2017 USEITI Report about US audit and assurance procedures and for the USEITI Secretariat to make a "good faith effort" to include information about "the life of a lease" in the 2017 USEITI Report. *(see page 13)*

C. Approvals

- The MSG approved the November 2016 MSG meeting summary. *(see page 5)*
- The MSG approved the motion to have the Implementation Committee decide on which dataset source (Bureau of Labor Statistics or Census Bureau) to use to provide information for employment by commodity. *(see page 12)*
- The MSG approved the motion to have the Implementation Committee decide on which two additional visualizations (between additional metals, forestry, and renewable energy) to include in the 2017 USEITI Report, along with a visualization about employment by commodity *(see page 13)*.

D. Confirmations

- No confirmations were made by the MSG at the February 2017 MSG meeting.

E. Action Items

- **Co-Chairs:**
 - Review and distribute meeting summary from the February 2017 MSG meeting to MSG members.
 - Develop agenda for the June 2017 MSG meeting.
- **Implementation Subcommittee**

- Decide on which dataset source (Bureau of Labor Statistics or Census Bureau) to use to provide information for employment by commodity. *(see page 12)*
- Decide on which two additional visualizations (between additional metals, forestry, and renewable energy) to include in the 2017 USEITI Report, along with a visualization about employment by commodity *(see page 13)*
- **USEITI Secretariat:**
 - Work to create supplemental material for the 2017 USEITI Report about US audit and assurance procedures. *(see page 13)*
 - Make a “good faith effort” to include information about “the life of a lease” in the 2017 USEITI Report. *(see page 13)*
 - MSG decisions will be recorded in an updated MSG Decision Matrix by the Secretariat. *(see page 15)*
- **Independent Administrator (Deloitte)**
 - Integrate the beneficial ownership reporting template into the main reporting form. *(see page 10)*
 - Flesh out the contours of the following topics: additional metals, forestry, and renewable energy, and present these to the Implementation Subcommittee for decision-making regarding which visualizations to include in the 2017 USEITI Report. *(see page 13)*
- **Acting Designated Federal Office**
 - Review the MSG terms of reference and consider how to ensure adherence to those in future MSG meetings. *(see page 15)*
- **USEITI Process Facilitator (Consensus Building Institute)**
 - Create a meeting summary for the February 2017 MSG meeting.

III. Presentations and Key Discussions

Judy Wilson, U.S. Department of the Interior (DOI), presiding as acting Designated Federal Official for the USEITI MSG, opened the meeting and welcomed participants. All individuals in attendance introduced themselves. A full attendance list can be found in Section VI – Meeting Participants, page 16.

A. Opening Remarks

Ms. Wilson provided opening remarks by noting that the transition to the new presidential administration had begun. Congressional consideration of the nomination for the new Secretary of the Interior, Ryan Zinke, is underway. She also noted that, although there has been discussion and media coverage about possible Congressional action on regulations under Section 1504 of the Dodd-Frank Act, at the time of the MSG meeting, the regulations are still in effect.

Danielle Brian, Project on Government Oversight and civil society organization (CSO) sector co-chair, also read out an opening statement on behalf of the CSO sector. In that

statement, Ms. Brian called on the industry and government sector representatives on the MSG to speak out publicly in favor of the Section 1504 rule in order to help persuade Congress to retain the rule. The CSO statement also formally requested that the DFO remove the American Petroleum Institute from holding a seat on the USEITI MSG. The full text of Ms. Brian's comments is provided in Appendix A, available on page 19 of this meeting summary.

B. USEITI MSG Business

The MSG conducted the following items of business during the course of the MSG meeting.

1. Terminology and USEITI December 2015 Meeting Summary

Judy Wilson, USEITI Secretariat, reminded meeting participants that the MSG has agreed to employ three terms to differentiate between different types of actions that the MSG takes:

- "Decisions" will indicate significant actions and agreements by the MSG key to meeting EITI international standards.
- "Approvals" will indicate lower-level decisions by the MSG, such as approving work plans, meeting summaries, process changes or additions, etc.
- "Confirmations" will confirm decisions that the MSG has previously made.

The MSG approved the meeting summary of the November 2016 MSG meeting, with some corrections provided by MSG members. A copy of the final, approved meeting summary is available online at: https://www.doi.gov/sites/doi.gov/files/uploads/useiti_msg_-_nov_2016_mtg_summary_0.pdf

- **Approval: The MSG approved the meeting summary from the November 2016 USEITI MSG meeting.**

2. Preview of March 2017 International EITI Board Meeting

Greg Gould, government sector co-chair, explained that the March 8-9 meeting of the EITI Board would cover a number of topics important for USEITI, including mainstreaming, the beneficial ownership roadmap that USEITI submitted in December 2016, and an open data policy for EITI. Mr. Gould invited Micah Watson of Department of State to provide additional comments about the upcoming EITI board meeting.

A MSG member from the civil society sector inquired of Mr. Gould about how mainstreaming would work without regulations in place under Section 1504 of the Dodd-Frank Act, by which companies would be required to disclose their corporate income tax payments.

Micah Watson, US Department of State, introduced himself and noted that he works under Ambassador Mary Warlick, a member of the EITI International Board. He explained that the EITI Board has spent much of the past year focusing on internal

governance and finances and that it would shift its focus to validation of EITI countries in 2017. Almost half of the implementing countries will be undergoing validation during the next 18 months. He added that a number of new countries would also be submitting their applications to join EITI during coming months.

A MSG member from the civil society sector inquired of Mr. Watson about the implications of the resource curse for US foreign policy as well as the reaction in other countries when the United States opts not to follow international norms. In response, Mr. Watson offered that the State Department does believe in the efficacy of EITI and other transparency initiatives in combating the resource curse in many countries. He also noted that there was broad support internationally for the regulations promulgated under Section 1504 and that there appears to be much concern globally about the direction that the US may be taking in the possible rescission of those regulations.

3. Adjustment of Meeting Schedule and Agenda

During the lunch break on February 1, the Co-Chairs and acting DFO conferred and agreed that the deliberations in Congress around the Section 1504 regulations and the prospect that these would be disapproved had introduced significant uncertainty and upheaval into the MSG meeting. Following lunch, Ms. Wilson, the acting DFO, announced that the remainder of the meeting on February 1 would focus on critical-path decisions that are required by the MSG for production of the 2017 USEITI Report. Additional agenda items, such as updates from the Communications and State and Tribal Opt-in Subcommittees, would be postponed and the second day of the MSG meeting would not be needed given the truncated agenda per unanimous decision of the Co-Chairs.

In response to a request from MSG members representing the CSO sector that MSG members from their sector who had called into the meeting be allowed to participate in MSG discussions, Ms. Wilson, acting DFO, clarified that the Federal Advisory Committee Act (FACA) requires that MSG members be physically present at the MSG meeting in order to be considered MSG members. Members of the MSG who call into the meeting over the phone are considered members of the public.

Ms. Wilson also announced that public comments would be accepted in writing in lieu of holding an open, verbal public comment period, as is permissible under the Federal Advisory Committee Act. She requested that commenters send their comments to the following email address: useiti@ios.doi.gov. The reason behind this decision was the agenda for the two day meeting was compressed to one day and because MSG discussion and decision making in the second half of the day would occur after the previously scheduled mid-day public comment period.

C. MSG Discussions Regarding Congressional Recission of Regulations under Section 1504 of the Dodd-Frank Act

MSG members discussed a variety of issues related to the Section 1504 regulations, their role in USEITI, and the implications for USEITI if Congress disapproves the regulations.

1. Relevance of Section 1504 Regulations for USEITI

CSO representatives stated that the rules promulgated by the Securities and Exchange Commission (SEC) under Section 1504 are fundamental to the future of the USEITI. Without this rule, there will be no possibility of corporate tax reporting and therefore no possibility for validation under the international EITI Standard. The MSG needs to address this issue head on.

An industry sector representative stated that the industry sector has worked very hard to help implement USEITI, resulting in the creation of a very useful website [the USEITI report]. The MSG's role is to provide information to the American public, not to litigate policy questions over which its members have no control. If the CSO sector feels that there is no value to USEITI beyond corporate tax reporting, then the MSG should discuss that.

Members of the CSO sector agreed that the USEITI website is an advancement and success, and that USEITI has important work together, but that USEITI will be far short of meeting the purpose of EITI, which is revenue transparency, without inclusion of information about corporate income tax payments and project-level reporting.

2. The Role of USEITI MSG Members in Decision-Making Around Section 1504 Regulations

CSO representatives suggested that there are serious questions and concerns about whether members of the industry sector are participating in USEITI in good faith around this particular issue of tax reporting. CSO members asked that members of the industry sector on the MSG need to speak up about whether they support Congressional efforts to repeal rulemaking under Section 1504. CSO members noted that they are frustrated that there are members of the industry sector who have been taking credit for corporate social responsibility and transparency efforts by virtue of their participation in USEITI while, in the CSO's view, behind the scenes they have been lobbying and litigating to undermine the Section 1504 rules.

Both industry and government sector representative voiced that USEITI MSG members could not influence Congressional decision-making around the Section 1504 regulations and that the USEITI MSG should focus on implementing USEITI. CSO representatives pushed back against this assertion. The CSO representatives noted that many of the largest oil and gas companies in the US and the world have representatives on the MSG and that these companies hold significant influence in Congress.

A member of the industry sector noted that his company has supported the implementation of the Dodd-Frank Act, including Section 1504, but that the current regulations under that section are overly burdensome. This member's company supports fixing those regulations to make them easier for companies to comply with. Additional representatives of the industry sector also articulated support for transparency as long as it does not place undue burden on companies.

Civil society members urged their colleagues in the industry and government sectors to join them in speaking in a united voice, as the USEITI MSG, in support of retaining the current Section 1504 rules. The united voice of the MSG could persuade Congress to retain the rules. The Government sector reminded members that the executive branch and its functions, like FACAs, are prohibited from lobbying Congress.

Industry sector representatives articulated their understanding that the Congressional Review Act (CRA, through which Congress is considering rescinding the Section 1504 regulations) would not eliminate the Dodd-Frank Act, including Section 1504. Rather, the SEC would have to come up with new regulations under Section 1504. An industry sector representative suggested that it would have been beneficial if the SEC had taken industry comments and suggestions more fully into account during the rule-making process.

In response to the industry sector representatives, a civil society representative explained that the CRA prohibits the introduction of another rule that is "substantially similar" to the disapproved regulation. She also noted that President Trump has released an executive order mandating that each agency eliminate two regulations for each new regulation they put in place. She suggested that, as a result, there will not be meaningful regulations enacted under Section 1504 if the CRA action is signed by the President.

3. Implications for USEITI of Congressional Disapproval of Section 1504 Regulations

CSO representatives requested that the government sector speak about whether the government sees a future for USEITI without the Section 1504 rules.

A government sector representative explained that the US Department of the Interior (DOI) works with other federal departments and agencies to implement laws and regulations that are in place. At the present moment, the rules under Section 1504 are still in place. The speaker also noted that USEITI began its efforts well before the Section 1504 regulations were put in place and that there would continue to be policy and regulatory uncertainty as part of the larger context in which USEITI exists. As such, USEITI's role is to continue to try to enhance transparency, regardless of the larger policy context.

Government sector representatives noted that there have been significant changes in the EITI Standard in the years since the United States decided to join EITI and that the EITI Board continues to examine whether the requirements are reasonable and feasible for countries to comply with. The EITI International Board increasingly seems to be moving towards a model of “meaningful improvement,” rather than a strict pass-fail metric, for countries seeking validation of their EITI reports. Considering this, USEITI has an excellent case for “mainstreaming” of its reporting under the EITI framework and also has good prospects for validation.

A CSO representative responded that USEITI will not have a path to “meaningful improvement” on corporate income tax reporting without the Section 1504 regulations.

D. Implementation Subcommittee Updates and Discussion

The MSG considered a proposed approach for company revenue reporting and reconciliation for the 2017 report brought forward by the Implementation Subcommittee.

1. Reporting and Reconciliation of Company Revenues

Judy Wilson and Bob Kronebusch of ONRR presented information about the work of the Reporting Improvement Workgroup. Ms. Wilson focused her comments on a day-long workshop that the workgroup held on January 11 in Denver, Colorado. Ms. Wilson reviewed the workshop participants, objectives, and agenda, and presented the workgroup’s recommendations to the MSG about how to proceed with company revenue reporting and reconciliation in 2017 and beyond. Additional detail about the workshop is available at:

https://www.doi.gov/sites/doi.gov/files/uploads/improving_reporting_workshop_1_11_2017_final.pdf.

Additionally, Bob Kronebusch, ONRR, provided an update on the workgroup’s analysis of the gaps between existing controls and verification of extractives industries revenue payments to the US federal government and EITI requirements for reconciliation. Mr. Kronebusch reviewed the approach taken by the workgroup, the gaps identified, and the ways in which federal and company audit and assurance standards surpass EITI standards. Additional detail about the workgroup’s work is available at:

https://www.doi.gov/sites/doi.gov/files/uploads/rptg_imp_wg_presentation_final_1-30-17.pdf.

Following the presentations, Dan Dudis, Public Citizen, thanked Ms. Wilson and expressed support for the workgroup’s proposed approach of conducting reconciliation via “mainstreaming of EITI reporting” rather than performing an independent reconciliation of revenues for USEITI by the Independent Administrator as this would avoid duplication of work. Mike Matthews, State of Wyoming, noted that states and

tribes also conduct compliance reviews in addition to the federal and company audits and reviews surveyed by the workgroup.

In response to a question from Aaron Padilla, American Petroleum Institute, Mr. Kronebusch suggested that the gaps identified by the workgroup are likely a combination of procedural gaps and more substantive gaps in the controls.

David Romig, Freeport-McMoRan Oil & Gas, and Paul Bugala, George Washington University, noted that Section 4.9 of the EITI Standard specifies that auditing and reconciliation must either be performed by the independent administrator or the independent administrator must be convinced that the process is sufficiently robust. They suggested that the trustworthiness of the auditing processes undertaken by governments and companies will need to be demonstrated to the EITI Board for these to meet the EITI Standard.

Mr. Padilla suggested that USEITI also compare US auditing processes to emerging standards from the International Monetary Fund (IMF) and other similar standards.

The MSG decided to move forward with the Reporting Improvement Workgroup's and Implementation Subcommittee's recommendation to forego independent reconciliation of revenues by the Independent Administrator for the 2017 USEITI Report.

- **Decisions: The MSG decided to forego independent reconciliation of revenues by the Independent Administrator for the 2017 USEITI Report to avoid duplication and increase efficiency.**

E. Independent Administrator's Updates

Members of the Independent Administrator (IA) team from Deloitte provided updates on the reporting template for the 2017 USEITI Report and on the topics that could be included as visualizations in the 2017 report.

These updates and accompanying MSG discussions are summarized below.

1. Reporting Template for 2017 USEITI Report

Alex Klepacz, Independent Administrator team member from Deloitte, presented a proposed reporting template for company revenue reporting for the 2017 USEITI Report. The proposed reporting template is available at:

https://www.doi.gov/sites/doi.gov/files/uploads/useiti_reporting_template_-_20170117_-_draft.xlsx and draft reporting guidelines are available at: https://www.doi.gov/sites/doi.gov/files/uploads/useiti_reporting_template_guidelines_-_20170117_-_draft_1.pdf. A draft template for declaring beneficial ownership information is available at: https://www.doi.gov/sites/doi.gov/files/uploads/draft-model-beneficial-ownership-declaration-form_1.xlsx.

Veronika Kohler, National Mining Association and Industry Sector Co-Chair, noted that the MSG has already approved a roadmap for disclosing information about beneficial ownership of publicly traded companies and inquired as to how this would be reported by companies. Mr. Gould suggested that the reporting template around beneficial ownership be included in the main reporting form even though it would only apply to publicly traded companies.

In response to a question from Mr. Matthews, Mr. Klepacz clarified that the reporting template would also ask companies to report payor codes, as they have in previous years of USEITI.

Mr. Padilla commented that the industry sector anticipates that there may be a high degree of variability in companies' approach to reporting for the 2017 report in terms of the degree to which companies aggregate or break out information and classify revenue streams. Some companies may provide very detailed information due to having compiled it for other reporting requirements, such as the EU directive.

The MSG approved the proposed reporting template for 2017.

- **Decisions: The MSG approved the proposed reporting template for 2017.**

2. 2017 Topics and Visualizations

Luke Hawbaker, Independent Administrator team member from Deloitte, presented about possible additions that the MSG could choose to make to the contextual narrative portion of the 2017 USEITI Report. Mr. Hawbaker's slides are available at: https://www.doi.gov/sites/doi.gov/files/uploads/2017_useiti_contextual_narrative_topics_msg_presentation_updated_1.pdf.

Responding to questions from MSG members, Ms. Wilson explained that USEITI has included three additional visualizations in its scope of work with the Independent Administrator for 2017. Based on the MSG's prior discussions, the Independent Administrator is anticipating that one visualization will focus on employment by commodity, a second on US audit and assurance procedures, and a third topic is to be determined by the MSG. These additional visualizations would be included in the report in 2017 and in future years. Ms. Kohler added that the Co-Chairs had proposed adding a "special highlight," either on forestry or on renewable energy, based on past MSG discussions.

MSG members discussed the criteria by which to make a decision about which topics and visualizations to add to the 2017 report. John Cassidy, IA team member from Deloitte, noted that the two criteria that the IA has been considering are: 1) increasing public engagement and interest in USEITI and 2) strengthening the case for USEITI validation with the International EITI Board. Ms. Kohler cautioned that the MSG does

not have a strong sense of what would interest the public since there has been limited public engagement with USEITI.

Following Mr. Hawbaker's presentation, the MSG discussed a variety of different options for additional content to include in the 2017 Report. The MSG's discussion is summarized below and organized by the different options considered with a final section focusing on the decisions made by the MSG to move forward.

a) *Employment by Commodity*

In response to requests by Mr. Hawbaker and Sarah Platts, Independent Administrator team member from Deloitte, to decide on whether to use data sets from the Bureau of Labor Statistics or from the US Census Bureau to present information about employment by commodity, Ms. Brian thanked Deloitte for their work and requested that CSO sector member Betsy Taylor be given more time to examine both data sets. Mr. Padilla requested that a note be included in the report indicating that the employment data only includes salaried and hourly employees not pass-through entities, sole proprietorships, and others.

The MSG opted to move forward with Mr. Gould's suggestion that the Implementation Committee consider and decide on which dataset to use to provide information for employment by commodity.

- **Approval: The MSG approved the motion to have the Implementation Committee decide on which dataset to use to provide information for employment by commodity.**

b) *Audit & Assurances*

Mr. Hawbaker provided an overview of existing content about the US audit and assurance process and of potential new content that could be added with the intention of strengthening USEITI's case for mainstreaming and foregoing independent reconciliation by the Independent Administrator. Mr. Bugala suggested that USEITI use an alternate term for "foregoing reconciliation," such as "not reconciling twice."

Ms. Brian raised the possibility of including the information that Mr. Kronebusch has developed about US audit and assurance processes in lieu of having the Independent Administrator create new content about this topic. Mr. Cassidy asked whether Mr. Kronebusch's material may be too complex for many members of the public to understand. In response, Ms. Brian suggested that information about audit and assurance procedures would likely be difficult for many members of the public to understand in any format.

Ms. Kohler suggested that including clear information about the US audit and assurance process in the USEITI report would also help to give the public more confidence in the audit process. Ms. Brian and Mr. Gould raised a concern that a visualization about the

audit and assurance process would not prove to be useful to the general public while also not providing the detailed information that well-informed parties would need to develop that additional confidence in the audit process.

Mr. Gould suggested that the USEITI Secretariat could put together information explaining US audit and assurance procedures for making the case to the EITI Board that USEITI does not need to reconcile revenues separately and redundantly through a Independent Administrator. Pursuing this path, the IA would not need to create additional content about this topic for the USEITI report nor a separate visualization from the one that was created last year.

c) Additional Metals

Keith Romig, United Steelworkers, suggested adding a “special highlight on additional metals” (such as silver, aluminum, lead, and zinc) because some MSG members are already knowledgeable about these commodities, in contrast to two other proposed “special highlights” – on forestry and on renewable energy. He also suggested that USEITI would likely need to expand its scope over time to include these additional metals, and possibly non-metal minerals.

Mr. Matthews suggested adding other commodities, such as trona, that are subject to federal royalty payments.

d) The Life of a Lease

Mr. Bugala suggested that additional information about the “life of a lease” be added to the contextual narrative, either in the form of a new visualization created by the Independent Administrator or by including material created by Mr. Kronebusch about federal leasing.

Ms. Wilson stated that the USEITI Secretariat and GSA 18F can try to include information about leasing in the 2017 Report but that this may be a challenge given limited time and resources. Mr. Bugala responded that if the Secretariat could make a good faith effort to include information about leasing in the 2017 Report then he does not need this topic to be considered for inclusion as an IA-produced visualization.

e) Forestry

Mr. Gould observed that USEITI has been discussing forestry for some time and has had challenges adding forestry representatives to the MSG. He suggested that adding a special highlight on forestry could provide information about forestry for relatively little effort while also stoking interest in including forestry in the scope of USEITI in a fuller way in the future.

f) Renewable Energy

Ms. Brian suggested that there exists much interest in the general public about renewable energy and the jobs being created in that industry, and so it may be beneficial to add a special highlight on renewable energy to the 2017 USEITI Report.

g) The MSG's Decision-Making About Topics and Visualizations to Include

Given the wide range of discussion and many topics under consideration for inclusion in the 2017 report, Ms. Kohler emphasized that rational criteria should be used to determine which topics would be included and that, if topics such as “additional metals” or the “life of a lease” are included, then the MSG would need to understand better what these topics would entail, as they have not been discussed much by the MSG in the past.

Mr. Bugala noted that having the Implementation Subcommittee consider issues of this nature before they come to the full MSG could streamline discussions during MSG meetings.

The MSG agreed to have the USEITI Secretariat work with GSA 18F to add material for the 2017 USEITI Report about the US audit and assurance procedures and for the USEITI Secretariat to make a “good faith effort” to include information about “the life of a lease” in the 2017 USEITI Report.

Mr. Cassidy suggested that the IA could further flesh out the contours of the following topics: additional metals, forestry, and renewable energy, and present these to the Implementation Subcommittee for decision-making.

- **Decision:** The MSG decided to have the USEITI Secretariat work with GSA 18F to add material for the 2017 USEITI Report about US audit and assurance procedures and for the USEITI Secretariat to make a “good faith effort” to include information about “the life of a lease” in the 2017 USEITI Report.
- **Approval:** The MSG approved the motion to have the Implementation Committee decide on which two additional visualizations (between additional metals, forestry, and renewable energy) to include in the 2017 USEITI Report, along with a visualization about employment by commodity.

F. Project Level Reporting

Mr. Kronebusch and Nathan Brannberg, DOI, presented information about project-level data disclosure and the process of requesting project-level data from the US Office of Natural Resources Revenue (ONRR). They also presented about the types of data requested received by ONRR during FY2016. Additional information is available in Mr. Kronebusch's and Mr. Brannberg's presentation, available at: https://www.doi.gov/sites/doi.gov/files/uploads/obtaining_project_level_info_from_onrr_final_1-30-17.pdf.

In response to their presentation, an MSG member from the CSO sector pushed back on the assertion from Mr. Kronebusch and Mr. Brannberg that not many members of the public are interested in detailed data. She suggested, instead, that the public has lost

faith in the Freedom of Information Act (FOIA) process and the difficulty in obtaining information.

IV. Public Comments

Public comments were accepted in written form for this MSG meeting, as described in the “Adjustment of Meeting Schedule and Agenda” section, on page 6 of this summary. Written public comments received are provided below.

Nancy Harkins
West Chester, PA

(b) (6) [@gmail.com](#)

The resource extraction transparency rule is critical to ensuring an informed and empowered electorate that is what President Trump has pledged to deliver. This cannot happen if we do not have this rule and we do not have a transparent government that does not marginalize individual voters in favor of the oil and gas industry.

If Trump is serious about giving power back to the people, then he must stop doing the bidding of the Chamber I oppose Republican efforts to undo critical rules protecting the environment and public welfare. In his inaugural address, Trump famously declared that alleged “American carnage stops right here and right now.” The resource extraction transparency rule would be of significant aid in stopping the all too real carnage taking place in countries afflicted by the resource curse, countries like Nigeria, the Democratic Republic of the Congo and Afghanistan. It’s time that Trump gets serious about putting people – all people – first, and corporate special interests like the Chamber, API and Big Oil companies second.

Thank you for making my comment part of the record.

Jennifer Krill, Earthworks

Extractive Industries Transparency should mean what it says. Unfortunately, by supporting the elimination of section 1504 of the Dodd Frank Act, even as it is being discussed over in the House of Representatives today, it is clear the MSG does not universally share the value of using financial transparency to eliminate corruption and promote best practices.

API's lobbying in support of 1504's repeal is a clear violation of our Terms of Reference. I want to express support for the statement made by CSO co-chair this morning calling for the removal of API from USEITI, a view we would hold with regard to any MSG members who oppose Section 1504. Any member company of API that has not publicly broken with API's position on 1504 should also not be part of USEITI.

Finally, it is inappropriate and disappointing to cancel public comments and unhealthy to limit public debate at today's MSG meeting.

V. Wrap Up / Closing

Mr. Patrick Field, facilitator from the Consensus Building Institute, reviewed the action items and the decisions coming out of the MSG meeting. Decisions will be recorded in an updated MSG Decision Matrix by the USEITI Secretariat.

Keith Romig asked to read out a statement on behalf of the CSO sector. The facilitator noted that the co-chairs had determined to move forward beyond the 1504 discussion the late morning. Mr. Romig read the note expressing disappointment about the MSG eliminating the verbal public comment period during the MSG meeting and also about the inappropriateness of the American Petroleum Institute's participation on the USEITI MSG. The text of Romig's comments are provided in Appendix B, available on page 20 of this meeting summary.

Following Mr. Romig's comments, Ms. Kohler stated that the public comment period was not eliminated and requested that the DFO adhere strictly to FACA protocols in the future. She suggested that the MSG had been too easy going in allowing people to speak on behalf of MSG members, allowing for interruptions, and the like, but that this approach was being abused by certain sectors. In response, the Acting DFO offered to review the MSG terms of reference and adhere to those.

Several members of the CSO sector raised their placards and requested to respond to Ms. Kohler's comments. The Acting DFO adjourned the meeting at this time.

VI. Meeting Participants

The following is a list of attendees from the February 1, 2017 USEITI MSG meeting.

Chaired by Judy Wilson, Acting Designated Federal Officer, for the USEITI Advisory Committee, US Department of the Interior.

A. Participating Primary Committee Members

Civil Society

Danielle Brian, Project on Government Oversight, USEITI MSG Advisory Committee Co-Chair

Paul Bugala, American University

Lynda Farrell, Pipeline Safety Coalition

Keith Romig Jr., United Steelworkers

Veronica Slajer, North Star Group

Government

Curtis Carlson, Department of the Treasury

Greg Gould, Department of the Interior, USEITI MSG Advisory Committee Co-Chair

Mike Matthews, State of Wyoming - Department of Audit/Mineral Audit Division

Mike Smith, Interstate Oil and Gas Compact Commission

Industry

Stella Alvarado, Anadarko Petroleum

Michael Blank, Peabody Energy

Susan Ginsberg, Independent Petroleum Association of America

Veronika Kohler, National Mining Association, USEITI MSG Advisory Committee Co-Chair

Johanna Nesseth, Chevron

B. Committee Alternates in Attendance

Civil Society

Daniel Dudis, Public Citizen

Zorka Milin, Global Witness

Government

Jim Steward, Department of the Interior

Industry

Aaron Padilla, American Petroleum Institute

David Romig, Freeport-McMoRan Oil & Gas

Nick Welch, Noble Energy Inc.

C. Members of the Independent Administrator Team in Attendance

John Cassidy, Deloitte

Luke Hawbaker, Deloitte

Alex Klepacz, Deloitte

Sarah Platts, Deloitte

D. Government, MSG Members or Alternates via Phone, and Members of the Public in Attendance

Rebecca Adamson, First Peoples Worldwide

Avery, Concerned Citizen

Joyce Aober, USGS

Sam Bartlett, EITI

Neil Brown, Lugar Center

David Chambers, Center for Science in Public Participation

Spencer King

Jennifer Krill, Earthworks

Mike LeVine, Oceana

Nicole Levine, Oceana

Laura Logan

Julie Maldonado, Livelihoods Knowledge Exchange Networks

Waseem Mardini, Publish What You Pay US

Aaron Mintzes, Earthworks

Sara Porter, Private Citizen

P. Rucker

Rosalie Satta, University of CA Santa Barbara

Mia Steinle, Project on Government Oversight

Betsy Taylor, Virginia Polytechnic Institute and State University

Catherine Traywick, Bloomberg News

Micah Watson, Department of State

Claire Ware, Eastern Shoshone & Northern Arapaho Tribes

Joseph Williams, Metro Resource Governance Institute

E. Facilitation Team

Patrick Field, Consensus Building Institute

Tushar Kansal, Consensus Building Institute

F. DOI MSG Support Team

Nathan Brannberg, Office of Natural Resources Revenue

A. Evans, Office of Natural Resources Revenue

Jerry Gidner, Office of Natural Resources Revenue

Jennifer Goldblatt, Office of Natural Resources Revenue

Robert Kronebusch, Office of Natural Resources Revenue

Darrel Redford, Office of Natural Resources Revenue

Judy Wilson, Office of Natural Resources Revenue

VII. Documents Distributed

Agenda ([PDF](#))

November MSG Meeting Summary ([PDF](#))

Meeting Notes from January 11th Improving Reporting Workshop ([PDF](#))

Draft Reporting Template ([XLS](#))

Draft Reporting Guidelines ([PDF](#))

Template EITI Beneficial Ownership Declaration Form ([XLS](#))

Communications Plan ([PDF](#))

VIII. Appendix A

Opening comments provided by Daniel Brian on behalf of the CSO sector:

Today the House and possibly the Senate are preparing to vote on whether to disapprove the Cardin-Lugar 1504 rule. As all of you who have been working on USEITI know, we have been waiting for months, years, for that rule to be finalized so that we could move forward with our work. 1504 is the cornerstone of USEITI and civil society vociferously objects to its gutting.

During these past years we have been told repeatedly that industry will not voluntarily disclose more than what is required of them by law. To be fair, despite that, several companies have honored the spirit of EITI and have gone beyond what was already legally required and disclosed their tax payments even before 1504 was implemented. And we thanked those companies by name in the last report. And we have been punting on the basic EITI requirements of tax disclosure and project level reporting because we were told we had to wait for the rule before we could do more.

I now ask our government and industry colleagues to please join me in expressing our opposition to the misguided effort to disapprove the rule. If any of the companies who have already supported the disclosure of taxes and project level reporting are willing to make their voices heard now, before the House and Senate vote, we might be able to prevent the loss of this anti-corruption measure.

We in civil society believe that the lobbying effort by the American Petroleum Institute to kill the 1504 rule is particularly galling, in that in their fact sheets, API uses their participation in USEITI as evidence that they believe in transparency. In those same documents API claims the disclosures required by 1504- which are complementary to EITI standards - are anti-competitive- even though their competitors are held to the same standards through the EU and Canadian rules. In other words, they never intended to support disclosure of taxes by company or project level reporting of other revenue streams.

We know that Aaron has been working hard on USEITI and he is not personally responsible for the positions of his employer, but it is simply unacceptable for API to continue to benefit from the goodwill generated from their boasting of their participation in USEITI while at the same time actively working to directly undermine our success. As a result, civil society is formally requesting that the DFO remove API from the MSG.

IX. Appendix B

Comment made by Keith Romig:

Just before I do [make a comment on behalf of the CSO sector] I'm going to make a statement on my own behalf as it's a shame that we ended up eliminating the verbal public comment period and the irony of that is that quite often when we open up the microphones for public comment there's a dead silence for ten minutes. This is one of the very few when we might've had fairly extensive public comment and it's a shame we didn't get to hear it. But that's just my statement, my personal statement. The formal statement follows.

Written statements are being submitted by CSOs and by this I mean, among others, members of this committee not able to be present including Neil Brown, Michael Levine, Betsy Taylor, Jennifer Krill and several others expressing concern, frustration and protest about the elimination of public comment at today's meeting. Many of CSOs are sending separate written messages expressing the inappropriateness of the American Petroleum Institute's participation in EITI while lobbying against 1504.

Potential EITI Questions and Answers

What is the EITI?

EITI is a voluntary, international standard for transparency in reporting revenues paid and received for natural resource extraction. The design of each EITI framework is country-specific, and is developed through a multi-year, consensus-based process by a multi-stakeholder group (MSG) composed of representatives from government, industry and civil society. The main product of the USEITI will be annual reports.

What is an EITI Report?

To comply with the EITI Standard, an EITI country must publish annual reports, produced by an Independent Administrator and approved by the MSG. The EITI Report documents the parallel reporting and reconciliation of revenues paid by the extractives industry to government and the revenues received and disbursed by the government. The EITI Report is also a compilation of publicly available contextual, legal, and current fiscal information about the extractives industries.

Where are the USEITI Reports and what did they actually disclose?

DOI published the 2015 and 2016 USEITI Annual Reports on an open source, open code interactive web-based data portal (<https://useiti.doi.gov>). On this portal, the Department of the Interior unilaterally discloses 2013, 2014, 2015, 2016 revenues by company, commodity, and revenue type as well as production data across all commodities. The Annual Reports provide clarity and transparency of the revenues generated by energy development on public lands and waters—a significant source of financial support for local communities, States, Tribes, and the Federal Government.

Will the Department of the Interior continue to issue USEITI reports?

The Department of the Interior will continue to disclose revenues by company, commodity, and revenue type as well as production data across all commodities on the data portal. The content on the Data Portal will reflect the Office of Natural Resources Revenue's activities for 2017 undertaken as a part of the United States' involvement in the Extractive Industries Transparency Initiative. Unlike previous years, the content has not been approved by the full USEITI Multi-Stakeholder Group, given the MSG did not meet following the February session. However, the content provided here and included in the online report has been informed by MSG feedback and the MSG had an opportunity to review all additional content.

What is a Data Portal?

The Data Portal is a web-based resource for data and information about U.S. extractive industries on Federal land and waters. It provides interactive visualizations that can be readily understood and accessed by the public for reuse through other media and applications. The Data Portal has been facilitating national and international conversation around U.S. extractive industries revenue and is designed to present this data in a format that is most accessible to the average citizen. The portal has set a global standard in revenue governance transparency.

Who is the USEITI Multistakeholder Group?

The Secretary of the Interior established the USEITI Federal Advisory Committee in August 2012. The Committee's purpose was to serve as the initial EITI Multistakeholder Group (MSG) and its duties included consideration and fulfillment of the tasks required to achieve candidate and compliant status in the EITI. The Multistakeholder Group or MSG is comprised of representatives from government,

industry and civil society. The Committee's Charter was renewed in 2014, and again in 2016. The MSG met 20 times in a public meeting between 2012 and February 2017.

Why are you terminating the USEITI Multistakeholder Group?

The Federal Advisory Committee serves at the Secretary of the Interior's discretion. The MSG each year developed and recommended to the Secretary a fully-costed work plan, containing measurable targets and a timetable for implementation, and an assessment of capacity constraints. Each year the MSG developed and recommended to the Secretary an Annual Activity Report documenting the decisions and accomplishment, and progress in meeting the EITI Standard. The MSG advised the Secretary on long-term oversight and other activities necessary to achieve EITI candidate and compliant status. The MSG oversaw publishing the 2015 and 2016 USEITI Annual Reports on an open source, open code interactive web-based data portal (<https://useiti.doi.gov>). Given the current challenges to fully implementing the EITI Standard and a thoughtful review of the many accomplishments of the MSG, the Secretary determined the MSG had accomplished its work.

Why are you withdrawing from the EITI Standard?

The U.S. has met 8 of the 9 elements of the standard. USEITI has been implementing within U.S. statutory mandates and in a voluntary reporting system. Given the ongoing uncertainty about corporate income tax reporting as part of USEITI, as well as the recent decision by the USEITI MSG to rely on the government's existing audit and assurance processes, USEITI would be deviating in two significant respects from the EITI Standard. Therefore the decision was made that the U.S. would no longer formally implement the Standard. However, the Department, as managed by ONRR, has robust audit and assurance practices in place to demonstrate accountability for the revenues paid and received for our country's oil, gas, and mineral resources. The Department, through ONRR will continue to mainstream (publicly disclose) DOI revenue reporting in lieu of redundant company reporting and Independent Administrator reconciliation.

Explain what the challenges were for the U.S. to implement the EITI Standard

Domestic implementation of EITI is subject to existing laws and regulations. For example, the Trade Secrets Act and the Federal Oil and Gas Royalty Management Act (FOGRMA) of 1982, prohibit the Federal government from releasing company pricing information and Federal employees are subject to criminal penalties if they violate these laws. Another example is Section 6103 of the Internal Revenue Code (IRC) provides that tax returns and tax return information are confidential and prohibited from disclosure, unless an exception identified in the IRC is applicable. The IRC imposes civil and criminal penalties for violations of the disclosure prohibitions.

What does it mean to mainstream revenue data?

The EITI governing Board in its 2016 revised Standard included allowing for two possible procedures for EITI disclosures: (1) the "conventional" agreed upon procedure for EITI Reports, which is already in use (company and government parallel disclosure to an Independent Administrator for reconciliation); and (2) the agreed upon procedure for mainstreamed disclosures. The mainstreaming transparency option enables countries to refer directly to existing public information about the extractive sector where available, comprehensive, reliable, and consistent with the requirements of the EITI Standard. We welcome the idea of mainstreamed EITI disclosures in lieu of company reporting and Independent Administrator reconciliation.

What domestic benefits of adopting the EITI Standard are you giving up?

The Department of the Interior will continue to highlight industry's financial contributions to the U.S. Government and the national and state level distribution of those resources, including the revenues generated by royalties, rents, bonuses and taxes. The Department will continue to provide enhanced and user friendly access to reliable information that can be used to hold the government and [industry] to account. Increasing the public's awareness and understanding of how extractive revenues are collected and disbursed enhances our accountability and facilitates the full and fair return to the American people for these resources.

What were the international benefits to the U.S. of adopting EITI?

The United States will continue to be one of seventeen supporting countries of the EITI. The United States remains a strong supporter of good governance and transparency, including the principles of transparency in the extractive sector represented by EITI. EITI is an important tool to promote transparency, increase competitiveness and combat corruption globally. We have taken a leading role in EITI since its founding in 2003, and we will continue to support the international EITI initiative and country level implementation. Attempting to implement the EITI Standard in the United States was a proactive step in the mainstreaming of EITI principles. It demonstrated that a strong commitment to transparency and accountability principles applies equally to developed and developing countries, providing an example for other OECD economies. Despite the infeasibility of implementing the Standard domestically, the United States remains committed to these same transparency and accountability principles.

How much does the government gain in revenue from the extractive industries?

The U.S. is a major developer of natural resources. The Department of Interior collects on average approximately \$10 to \$12 billion in annual revenues from the development of oil, gas and minerals on Federal lands and offshore in the Outer Continental Shelf. The bulk of these revenues are disbursed to the U.S. Treasury, with smaller portions distributed to five Federal agencies, more than 30 states, 41 American Indian tribes, and approximately 34,000 individual Indian mineral owners. In addition, the U.S. receives federal taxes related to resource extraction.

INFORMATION MEMORANDUM FOR THE ASSISTANT SECRETARY

FROM: Greg Gould, Director, Office of Natural Resources Revenue
Management

SUBJECT: USEITI – Challenges to Implementing the 2016 EITI Standard

DATE: January 24, 2017

I. INTRODUCTION

The U.S. government successfully completed the initial requirements to join Extractive Industries Transparency Initiative (EITI) as a candidate country when the International EITI Board accepted our candidacy application in March 2014. Key successes to date include publishing the 2015 and 2016 USEITI Annual Reports on an open source, open code interactive web-based data portal (<https://useiti.doi.gov>). On this portal, the Department of the Interior unilaterally disclosed 2013, 2014, and 2015 revenues by company, commodity, and revenue type as well as production data across all commodities. The portal is the new global standard in revenue governance transparency.

In 2016, the Department of the Interior (the lead federal agency) entered a new phase in implementing EITI. The EITI International Board revised the EITI Standard in February 2016, to include requirements for disclosure of beneficial owners of extractive companies and to provide opportunity to “mainstream” revenue data by governments and companies in lieu of an independent reconciliation of reported revenues. The work of the USEITI Multi-Stakeholder Group Advisory Committee (MSG) is to ensure that the USEITI framework is tailored to U.S. laws, regulations, and culture, and that it is implementable by government and industry. This memorandum addresses the policy considerations of this phase of USEITI implementation and provides recommendations to resolve implementing challenges in successfully achieving compliance with the EITI standard and validation in April 2018.

Prior to DOI taking the lead in 2011 to implement EITI in the U.S., the U.S. State Department strongly supported EITI. Since EITI’s inception in 2002, the State Department has played a key role in shaping the EITI into the global standard it is today. The U.S. State Department participated and continues to participate as a supporting country. Through its representation on the EITI Board and then Finance and Governance and Oversight Committees, the State Department works to clarify, interpret, and promote the rules of the EITI Standard, including by helping to draft guidance documents on how to assess country compliance. U.S. leadership has played a crucial role in the endorsement of the EITI by the G-7, the G-20, and the United Nations Security Council.

II. AREAS FOR CONSIDERATION

Implementing EITI will continue to improve government revenue transparency in the U.S. and continue to serve as an example internationally. The primary areas of consideration for 2016 are: corporate income tax reporting (Dodd-Frank §1504 regulations require a resource extraction

issuer to disclose taxes); project-level reporting (Dodd-Frank §1504 regulations define project as operational activities that are governed by a single contract, license, lease, concession, or similar legal agreement, which form the basis for payment liabilities with a government); mainstreaming reporting requirements; beneficial owner disclosure (of the corporate entity(ies) that bid for, operate or invest in extractive assets); and validation (April 2018). In order to recommend a government position, this paper takes into account legal constraints, resource availability, feasibility, and the international EITI requirements.

A. CORPORATE INCOME TAX REPORTING

The EITI Standard requires reporting on “profits taxes,” or taxes on income, where material. The issue of including corporate income tax revenue in the reconciliation required significant consideration by the MSG, primarily due to the challenges related to the legal constraints and the corporate tax structure in the U.S. as follows.

Section 6103 of the Internal Revenue Code (IRC) provides that tax returns and tax return information are confidential and prohibited from disclosure, unless an exception identified in the IRC is applicable. The IRC imposes civil and criminal penalties for violations of the disclosure prohibitions. Nonetheless, taxpayers may consent to have their tax information disclosed to specific parties, and the MSG agreed to encourage in-scope companies to consent to disclosure. The Privacy Act of 1974 only allows the Internal Revenue Service (IRS) to gather information used for tax administration purposes.

In the U.S. there are two key sources of publicly available information about federal income taxes for the extractive industries: the government and the filings of companies that are publicly listed. As mandated by the Revenue Act of 1916, the IRS publishes statistics related to “the operations of the internal revenue laws” as they affect individuals, corporations, and various other entities. The IRS Statistics of Income (SOI) program is responsible for executing this function by collecting, processing, and presenting this data, and then sharing information about how the tax system works with other government agencies and the general public.

In 2010, the U.S. enacted the Dodd-Frank Act, which requires U.S.-listed extractive companies to separately disclose information about payments to governments around the world, including their U.S. federal corporate income tax payments. At that time, USEITI was in its infancy.

Ultimately, the MSG decided to include federal corporate income tax payments, meaning those income taxes paid to the IRS by C-corporations, as a part of the USEITI. The MSG requested companies to voluntarily report the sum of all federal corporate income tax payments and encouraged reconciliation. For the 2015 USEITI Report, 12 out of 41 applicable companies reported \$190 million in corporate income taxes and in the 2016 USEITI Report, 12 out of 38 applicable companies reported -\$308 million in corporate income taxes.

Recommendation:

Our recommendation is that the (b) (5)

(b) (5)



B. PROJECT-LEVEL REPORTING

The EITI Standard states that the MSG is required to agree on the level of disaggregation for publishing data, that EITI data must be presented by individual company, government entity, and revenue stream, and that reporting at project level is required. The standard does not provide a specific definition of “project,” but states it should be consistent with the SEC rules and European Union laws.


In 2010, the U.S. enacted the Dodd-Frank Wall Street Reform and Consumer Protection Act to improve transparency and accountability across the financial system. Section 1504 of the Act requires extractive industries companies registered with the SEC to separately disclose information about payments to governments around the world in an interactive data format. Dodd-Frank §1504 regulations, defines project level as operational activities governed by a single contract, license, lease, concession, or similar legal agreement, which form the basis for payment liabilities with a government. Additionally, agreements that are both operationally and geographically interconnected may be treated by the issuer as a single project.

Section 1504 mandates disclosure of the type and total amount of (such) payments made for each project of the resource extraction issuer relating to the commercial development of oil, natural gas, or minerals,” including “taxes, royalties, fees (including license fees), production entitlements, bonuses, and other material benefits, that the SEC, consistent with the EITI (to the extent practicable), determines are part of the commonly recognized revenue stream for the commercial development of oil, natural gas, or minerals.

Since the SEC rules implementing Dodd-Frank §1504 had not been published, in December 2014, the MSG determined that the 2015 USEITI Report should follow the first part of USEITI Standard, that states: “It is required that EITI data is presented by individual company, government entity and revenue stream.” The MSG also agreed to assign no further definition for project-level disclosure. The data in the 2015 and 2016 USEITI Reports were presented on this basis.

Recommendation:

As the MSG has agreed to rely on the definition that the SEC promulgated in its revised Dodd-Frank rule, we (b) (5)



(b) (5)




C. MAINSTREAMING REPORTING REQUIREMENTS

The EITI governing Board in its 2016 revised Standard included allowing for two possible procedures for EITI disclosures: (1) the “conventional” agreed upon procedure for EITI Reports, which is already in use (company and government parallel disclosure to an Independent Administrator for reconciliation); and (2) the agreed upon procedure for mainstreamed disclosures. The mainstreaming transparency option enables countries to refer directly to existing public information about the extractive sector where available, comprehensive, reliable, and consistent with the requirements of the EITI Standard. Where information is not disclosed in the EITI Report itself, it would be necessary for MSGs to make sure that the EITI Report provides details on how the information can be accessed.

The rationale for the refinement to the standard is that extractive industry transparency should not be confined to EITI reports and expensive reconciliation exercises, but become an integral part of how governments manage their sector. Rather than simply relying on the EITI reporting mechanism to bring about transparency, governments implementing the EITI could to a greater extent make the information required by the EITI Standard available through government and corporate reporting systems such as databases, websites, annual reports, portals etc. Where the Independent Administrator’s assessment concludes that there is (i) routine disclosure of the data required by the EITI Standard in requisite detail, and (ii) that the financial data is subject to credible, independent audit, applying international standards, the multi-stakeholder group may seek Board approval to mainstream EITI implementation in accordance with the agreed upon procedure for mainstreamed disclosures.

Recommendation:

We welcome the idea of (b) (5)



D. VALIDATION

The U.S. achieved “Candidate Country” status in March 2014. The USEITI has produced on schedule MSG approved annual workplans, annual activity reports; published the first EITI Annual Report in December 2015 followed by the second Annual Report in November 2016; and

is on track to complete the requirements to achieve “Compliant” status with the exception of comprehensive company reporting of revenues and tax revenues specifically. Validation is an essential feature of the EITI process. It serves to assess performance and promote dialogue and learning at the country level. It also safeguards the integrity of the EITI by holding all EITI implementing countries to the same global Standard.

Validation is an external, independent and impartial evaluation mechanism, undertaken by a Validator procured by the International Secretariat. It is intended to provide all stakeholders with an impartial assessment of whether EITI implementation in a country is consistent with the provisions of the EITI Standard. The Validation will, in addition, address the impact of the EITI in the country being validated (i.e. increased public awareness and reforms), implementation of activities encouraged by the EITI Standard, lessons learned in EITI implementation, as well as any concerns stakeholders have expressed and recommendations for future implementation of the EITI. The U.S. is scheduled to undergo validation April 1, 2018.

The EITI 2016 Validation Process is as follows:

The International Secretariat undertakes initial data collection and stakeholder consultation;

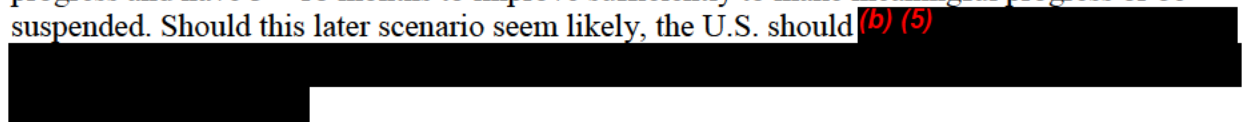
The EITI Board appointed Independent Validator assesses the Secretariat’s initial validation and reports to the Board via the Validation Committee;

The Validation Committee reviews the Validator’s assessment and makes a recommendation to the Board;

The EITI Board makes the final determination of whether the requirements are met or unmet, and on the country’s overall compliance.

Recommendation:

USEITI will not be found in compliance with the EITI standard until companies report under Dodd-Frank §1504 regulations, which can be documented in the USEITI 2019 Annual Report. It is likely the U.S. will be found to have made “meaningfully progress.” Should Dodd-Frank §1504 regulations be repealed, then USEITI would likely be found to have made inadequate progress and have 3 – 18 months to improve sufficiently to make meaningful progress or be suspended. Should this later scenario seem likely, the U.S. should (b) (5)



EITI REQUIREMENTS ASSESSMENT CARD _ PRE-ASSESSMENT USEITI 11/2016

EITI REQUIREMENTS		Level of Progress					Direction of Progress
		NO	INADEQUATE	MEANINGFUL	SATISFACTORY	BEYOND	
CATEGORY	REQUIREMENTS						
MSG OVERSIGHT	1.1 Government Engagement*				X		https://www.doi.gov/eiti/faca
	1.2 Industry Engagement*				X		https://www.doi.gov/eiti/faca
	1.3 Civil Society Engagement*				X		https://www.doi.gov/eiti/faca
	1.4 MSG Governance*				X		https://www.doi.gov/eiti/faca
	1.5 Workplan*				X		https://www.doi.gov/eiti/faca
LICENSES AND CONTRACTS	2.1 Legal Framework				X		https://useiti.doi.gov/how-it-works/
	2.2 License Allocations				X		https://www.boem.gov/Gulf-of-Mexico-Region-Leasing-Information/ ;
	2.3 License Register				X		https://www.boem.gov/Gulf-of-Mexico-Region-Leasing-Information/ ; https://www.boem.gov/Lease-and-Grant-Information/ ; http://www.blm.gov/lr2000/ ; http://www.blm.gov/wo/st/en/prog/energy.html
	2.4 Policy on Contract Disclosure				X		https://useiti.doi.gov/how-it-works/federal-laws/
	2.5 Beneficial Ownership				X		Roadmap Drafted
	2.6 State Participation	N/A					
MONITORING PRODUCTION	3.1 Exploration Data				X		https://useiti.doi.gov/explore/ ; https://www.boem.gov/Status-of-Gulf-of-Mexico-Plans/ ;
	3.2 Production Data				X		https://useiti.doi.gov/explore/ and https://useiti.doi.gov/downloads/#production-all
	3.3 Export Data				X		https://useiti.doi.gov/explore/ ; https://www.census.gov/foreign-trade/statistics/state/data/index.html

EITI REQUIREMENTS ASSESSMENT CARD _ PRE-ASSESSMENT USEITI 11/2016

REVENUE COLLECTION	4.1 Taxes and Revenues			X		Voluntary for Companies
	4.2 In-kind revenues	N/A				
	4.3 Barter Agreements	N/A				
	4.4 Transportation Revenues	OUT OF SCOPE				
	4.5 SOE Transactions	N/A				
	4.6 Direct Subnational Payments			X		Adapted Implementation; https://useiti.doi.gov/explore/AK/ ; https://useiti.doi.gov/explore/MT/ ; https://useiti.doi.gov/explore/WY/
	4.8 Data Timeliness*				X	Within one year – 2016 Annual Report
	4.1 Data Comprehensiveness			X		Government prohibited tax disclosure; full disclosure government non-tax revenues; voluntary company disclosure.
	4.9 Data Quality				X	https://useiti.doi.gov/how-it-works/audits-and-assurances/
	4.7 Disaggregation			X		Government disclosure of company level; 2019 Dodd-Frank 1504; https://useiti.doi.gov/how-it-works/federal-revenue-by-company/2015/
REVENUE ALLOCATION	5.2 Subnational Transfers				X	https://useiti.doi.gov/explore/#federal-disbursements ; https://useiti.doi.gov/downloads/disbursements/ https://useiti.doi.gov/downloads/USEITI_extractive-revenue-appendix_2015-12-22.pdf ;
	5.1 Distribution of Revenues				X	https://useiti.doi.gov/explore/#federal-disbursements and https://useiti.doi.gov/downloads/disbursements/
	5.3 Revenue Management and Expenditures	Optional				
SOCIOECONOMIC CONTRIBUTION	6.2 SOE Quasi-fiscal expenditures	N/A				
	6.1 Mandatory Social Expenditures	N/A				
	6.1 Discretionary Social Expenditures	N/A				
	6.3 Economic Contribution				X	https://useiti.doi.gov/explore/#economic-impact ; https://useiti.doi.gov/downloads/#gdp ; https://useiti.doi.gov/downloads/#jobs ; https://useiti.doi.gov/downloads/#jobs ; https://useiti.doi.gov/downloads/#jobs

EITI REQUIREMENTS ASSESSMENT CARD _ PRE-ASSESSMENT USEITI 11/2016

							tps://www.census.gov/foreign-trade/statistics/state/data/index.html
OUTCOMES AND IMPACT	7.1 Public Debate					X	https://useiti.doi.gov/case-studies/
	7.2 Data Accessibility					X	https://useiti.doi.gov/ and IA TOR
	7.3 Follow up on Recommendations				X		https://www.doi.gov/eiti/FACA/msg-meeting-minutes
	7.4 Outcomes and Impact of Implementation				X		https://www.doi.gov/eiti/public-engagement and Annual Activity Reports at https://www.doi.gov/eiti/faca
OVERALL ASSESSMENT							

Legend

	The country has made no progress in addressing the requirement. The broader objective of the requirement is in no way fulfilled.
	The country has made inadequate progress in meeting the requirement. Significant elements of the requirement are outstanding and the broader objective of the requirement is far from being fulfilled.
	The country has made progress in meeting the requirement. Significant elements of the requirement are being implemented and the broader objective of the requirement is being fulfilled.
	The country is compliant with the EITI requirement.
	The country has gone beyond the requirement.
	This requirement is only encouraged or recommended and should not be taken into account in assessing compliance.
	The MSG has demonstrated that this requirement is not applicable in the country.
-	No change in performance since the last Validation.
←	The country is performing worse than in the last Validation.
→	The country is performing better than in the last Validation.
*	Safeguard



United States Department of the Interior

OFFICE OF NATURAL RESOURCES REVENUE

P.O. Box 25165
Denver, Colorado 80225-0165

NOV 02 2017

Mr. Fredrik Reinfeldt
Chair, Extractive Industries Transparency Initiative Board
Ruseløkkveien 26
0251 Oslo
Norway

Dear Chair Reinfeldt:

The United States has made significant progress meeting individual requirements of the Extractive Industries Transparency Initiative (EITI) since the fall of 2011 when the U.S. announced that it would begin the multi-year process of becoming an EITI compliant country. The Department of the Interior established a multi-stakeholder group in December 2012 and achieved Candidate Country status in March 2014. Perhaps our most significant accomplishment is the creation of an open source, open code interactive web-based data portal (<https://useiti.doi.gov>) on which the agency has unilaterally disclosed 2013, 2014, and 2015 revenues by company, commodity, and revenue type, as well as production data across all commodities. This portal is the new global standard in revenue governance transparency. We are happy to report that use by state, local and tribal governments is increasing as well. While the U.S. government remains committed to fighting corruption in the extractive industries sector, and the ideals of transparency enshrined in the EITI Principles and the EITI Standard, it is clear that domestic implementation of EITI does not fully account for the U.S. legal framework. Effective immediately, therefore, the United States must withdraw as an EITI Implementing Country.

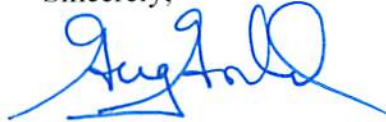
The Office of Natural Resources Revenue (ONRR), which maintains the primary role in the U.S. Government for the collection and disbursement of revenue related to energy and non-energy mineral resources, remains fully committed to institutionalizing the EITI principles of transparency and accountability consistent with U.S. law. ONRR intends to mainstream government reporting of energy production and the associated revenue collection and disbursement. ONRR is also committed to continue its efforts to promote public awareness and engage stakeholders in a public conversation of the potential impacts of proposed policies and regulations related to revenue collection from such development. We will continue to unilaterally disclose revenue payments received for extractive operations on federal land through our open data portal, and we will continue to improve our reporting through the inclusion of additional states and tribes.

Please know that the U.S. Department of State will continue to lead the United States' commitment to the EITI as a Supporting Country, a role that the United States has played since the beginning of the initiative. The U.S. political and financial support of the EITI over many

years has been second to none. In conjunction with the U.S. Agency for International Development, the State Department will continue to promote transparency, fight corruption and ensure good governance, as well as to support country-level EITI implementation. We continue to value the EITI as a critical tool to promote transparency, increase competitiveness, and combat corruption around the world.

Despite the fact that the U. S. laws prevent us from meeting specific provisions of the EITI Standard, we look forward to working together to promote transparency, fight corruption and ensure good governance.

Sincerely,

A handwritten signature in blue ink, appearing to read "Gregory J. Gould", with a stylized flourish extending from the end.

Gregory J. Gould
Director

US EITI Reporting Improvement Workshop

Facilitator Notes (edited)

Held 11 January 2017

Actions/Discussion needed at February MSG

- Present and decide on voluntary template built off of previous years' template for company reporting
 - The purpose of this reporting template is for disclosure and public information it is NOT for IA reconciliation as it has been in the past. It also would be to pilot a reporting template that ultimately allows companies to be compliant with §1504 regulations and the SEC.
 - Consider combining ONRR rents and bonuses in the pilot template.
 - Consider combining other revenues, offshore inspection fees, civil penalties
 - Additional BLM revenue?
 - Add a Beneficial Ownership "page" per the road map.
 - Add under signatory box the signatory organization (executive, financial, or accounting) per §1504 regulations.
 - Project level reporting would be included in the template in 2018, in a stepped fashion.
 - The current template would not ask for foreign payments but the §1504 regulations do require that.
 - The template will need to have a caveat that this data is unilateral, voluntary reporting by companies and may not be consistent with other data sets.
- Discuss proposed outreach to companies for voluntary reporting, through what means, and for what intent (see below for further detail).
- Further define the IA TOR.
- Decide on existing reconciliation approach for 2017.
 - *Likely recommendation:* Do not reconcile via IA as in 2015 and 2016. Expend resources to align existing audit and assurance processes with EITI Intl 4.9, including using mainstreaming feasibility report and work of Reconciliation Work Group.
 - *Risk:* audit and assurance cross-walk and alignment with 4.9 identifies gaps to address and there will be no "IA reconciled" data for the 2017 report and 2018 April validation.

Activities Needed after the February MSG

- Continue work to align audit and assurance processes with 4.9
- Detail how to explain through illustrations, explanations, and other means why mainstreaming reconciliation via audit and assurance processes is appropriate in the 2017 report.
- Engage with SEC about assisting in creating jointly the SEC reporting template for §1504 (likely Spring timeframe). The group recognized that the power of the template would ultimately be if

SEC takes it up and uses and/or requires it. Ultimately, once §1504 reporting begins, companies will only want one form and the SEC and its authority will be whom companies will most likely respond to (i.e., the DOI EITI form may merge with the SEC one by 2019).

- Reach out to targeted universe companies to encourage voluntary reporting (see below).
- Consider for the June MSG meeting a presentation of or by the Natural Resource Governance Institute with their data base seeking to compare how companies and countries are handling new reporting requirements, including project level reporting.
- *Materiality*: the US EITI materiality threshold would drop for DOI revenues to the de minimus \$100,000 (unilateral disclosure) and there would be no margins of variance, at least outside the standard DOI audit process under review now. Taxes would not have an official materiality threshold until §1504 reporting begins. Once §1504 reporting begins, the de-facto materiality standard for taxes would be all publicly traded companies who report to the SEC that meet the basic de minimus reporting threshold outlined in §1504 regulations (again, something like \$100K).

Draft Outreach Approach

- The group agreed that for targeted, measurable outreach in 2017 (and likely 2018) during the transition to §1504, the goal would be to identify the top/largest X# companies extracting each of the 6 in-scope commodities by total revenue, production, or other means, and through a combination of IA communications and industry/CSO outreach, encourage and support voluntary reporting.
- While outreach will be targeted, all companies who currently have data unilaterally disclosed would be able to voluntarily report if they wished to do so.
- If this conceptual approach is approved at the February meeting, two things will then need to occur; 1) the Implementation Subcommittee will need to develop the outreach target metrics of number of companies and the means to determine “size” or “top.”; 2) the Communications Subcommittee will then develop an outreach plan.
- It is expected outreach on this interim/transition approach toward 2019 will involve a webinar for companies, speaking at various conferences like COPAS, and IA communications to companies identified for outreach.
- The timeline for company reporting requires the MSG to approve the template in concept and draft final at the February MSG meeting; outreach to begin in the spring; and the voluntary reporting period to run from May 2017 to early September 2017.

The Rationale for Voluntary Reporting

The group discussed the rationales for why companies would voluntarily report under this new, interim, transitional approach until reporting begins under §1504. The ideas are below:

- Help be a part of shaping the ultimate reporting framework for §1504 by participating in our pilot voluntary reporting.

- Highlight your contributions to the U.S. Government and the value you provide to the U.S. economy, taxpayers, and federal revenues.
- Supplement your other public disclosures of your contributions to the U.S. Treasury through voluntary reporting to the USEITI Data Portal
- For those who participated in the past, this will be a much simpler approach that does not require reconciliation.
- Consider this a tool in good corporate governance, risk management, and social license to operate.

US EITI Reporting Improvement Workshop

Facilitator Notes

Held 11 January 2017

Actions/Discussion needed at February MSG

- Present and decide on voluntary template built off of previous years' template for company reporting
 - The purpose of this reporting template is for disclosure and public information it is NOT for IA reconciliation ~~has~~ it has been in the past. It also would be to ~~also~~ pilot a reporting template that ultimately ~~that~~ allows companies to be compliant with §1504 regulations and the SEC.
 - Consider combining ONRR rents and bonuses in the pilot template.
 - Consider combining other revenues, offshore inspection fees, ~~civilian~~ penalties
 - Additional BLM revenue?
 - Add a Beneficial Ownership "page" per the road map.
 - Add under signatory box the ~~level or~~ signatory organization (executive, financial, or accounting etc.) per §1504 regulations.
 - Project level reporting would be included in the template form in 2018, in a stepped fashion.
 - The current template would not ask for foreign payments but the §1504 regulations do will require that.
 - The template ~~it~~ will need to have a caveat that this data is unilateral, voluntary reporting by companies and may not be consistent with other data sets.
- Discuss proposed outreach to companies for voluntary reporting, through what means, and for what intent (see below for further detail).
- Further define the IA TOR.
- Decide on existing reconciliation approach for 2017.
 - *Likely recommendation:* Do not reconcile via IA as in 2015 and 2016. Expend resources to align existing audit and assurance processes with EITI Intl 4.9, including using mainstreaming feasibility report and work of Reconciliation Work Group.
 - *Risk:* audit and assurance cross-walk and alignment with 4.9 identifies gaps to address ~~is not sufficient~~ and there will be no "IA reconciled" data for the 2017 ~~for the~~ report and 2018 April validation.

Activities Needed after the February MSG

- Continue work to align audit and assurance processes with 4.9
- Detail how to explain through illustrations, explanations, and other means why mainstreaming reconciliation via audit and assurance processes is appropriate in the 2017 report.

- Engage with SEC about assisting in creating jointly the SEC reporting template for §1504 (likely Spring timeframe). The group recognized that the power of the ~~template form~~ would ultimately be if SEC takes it up and uses and/or requires it. Ultimately, once §1504 ~~reporting beginsis fully implemented~~, companies will only want ~~to do~~ one form and the SEC and its authority will be whom companies will most likely respond to (i.e., the DOI EITI form may merge with the SEC one by 2019).
- Reach out to targeted universe companies to encourage voluntary reporting (see below).
- Consider for the June MSG meeting a presentation of or by the Natural Resource Governance Institute with their data base seeking to compare how companies and countries are handling new reporting requirements, including project level reporting.
- *Materiality*: the US EITI materiality threshold would drop for DOI revenues to the de minimus \$100,000 (unilateral disclosure) and there would be no margins of variance, at least outside the standard DOI audit process under review now. Taxes would not have an official materiality threshold until §1504 ~~reporting beginsis in place~~. Once §1504 ~~reporting beginswas in place~~, the ~~de-facto~~ materiality standard for taxes would be all publicly traded companies who report to the SEC that meet the basic de minimus reporting threshold outlined in §1504 regulations (again, something like \$100K).

Draft Outreach Approach

- The group agreed that for targeted, measurable outreach in 2017 (and likely 2018) during the transition to §1504, the goal would be to identify the top/largest X# companies extracting each of the 6 in-scope commodities by total revenue, production, or other means, and through a combination of IA communications and industry/CSO outreach, encourage and support voluntary reporting.
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- Highlight your contributions to the U.S. Government and the value you provide to the U.S. economy, taxpayers, and federal revenues.
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- For those who participated in the past, this will be a much simpler approach that does not require reconciliation.
- Consider this a tool in good corporate governance, risk management, and social license to operate.

The Trade Secrets Act

- How do you determine if there is a Trade Secrets Act (TSA) problem and how is it handled in the reports?

o Mr. Kronebusch: The experts in the government determine what they feel could potentially cause competitive harm. If the government discloses numbers four or five months after the end of the year, and look at yearly not monthly revenues, some might conclude that there is minimal potential for competitive harm.

o ONRR representative: When a request for information comes in, staff look into it to see if it might reach a threshold for causing competitive harm. It is easier for us to respond to these types of requests on a case-by-case basis than to report everything annually. The latter requires tremendous resources and time, although technically it is not difficult. The MSG should discuss this resource issue now and next year.

- If you determine there's a Trade Secrets Act (TSA) problem, how is that reflected in the reports?

o Mr. Kronebusch: Currently in the data portal, there is a "W "for withheld, reported by the company. For oil and gas, if you go to the state website for a lease's production and have the lease number, you could theoretically figure out the price per barrel or mcf. For solid minerals it is stricter.

o Industry representative: As long as there is a delay in the release of the information and it is broken down annually, not by month, there is less risk for companies in oil and gas. For hard rock it is different.

- USEITI should be sure to explain to and educate the public about why there may be TSA issues with coal and other minerals, to avoid suspicion. USEITI should explain how unitization and communitization agreements work, and potentially even provide visualizations. It should look into creating an animated training module for the data portal.

o Mr. Kronebusch: ONRR already has reporter training two to three times a year and has many presentations on what these agreements are, and the life of a lease from cradle to grave. There are many kinds of educational materials like this that USEITI could put on the data portal.

o ONRR representative: The MSG could add this as a special topic to next year's report. Linking the data portal to some of ONRR's training is a great idea. For example, ONRR has a new training system where it uses videos that the MSG could link into the data portal. Steps towards ONRR setting up a lease-level disclosures system:

- If ONRR decided to perform lease-level unilateral disclosure, would it just be a matter of feeding data into a spreadsheet once it is set up?

Mr. Kronebusch: ONRR has the information and could do it. ONRR had to do it for this presentation.

- Based on information on bonuses and rents by lease, should USEITI present the revenues by lease? Would this be more meaningful than doing it by agreement?

- o Mr. Kronebusch: Doing it by the lease only makes sense. Everyone can agree on what that number means, and it's simpler to track. With agreements it is difficult to keep track of all the layers.

- o ONRR representative: ONRR is committed to reporting out the leases at some point. ONRR wants to make it automated, so it does not need to create a spreadsheet each time. Otherwise, the data is out of date very quickly. ONRR has a system where you can send in a FOIA request and the staff will get back to you with the information. This works fairly well and if ONRR changes it, it wants to do it right.

- From an industry perspective, if this is just unilateral disclosure of lease level data, then this could be a wonderful approach. But if USEITI tries to reconcile projects to the leases it could get messy, and industry likely will not report everything at the lease level under SEC 1504.

- From a stakeholder perspective, it would help to see what the leases look like without having to do a FOIA request, so you can know more about who the industry players are in your community. These developments are part of a wonderful story about something emerging from USEITI that is creating searchable, usable data that is making government more efficient.

- BOEM is already providing lease-level disclosure in the Outer Continental Shelf, so there is the beginning of a precedent for this in DOI.

- What is the source of the wait for ONRR to implement this? ONRR representative: It is a matter of getting ONRR's technology to the point where it can do this in an automated fashion. It is a capacity challenge with respect to implementing a business intelligence unit.

- Does ONRR intend to unilaterally disclose lease level information where it can, except for when there is a TSA issue? ONRR representative: Yes, ONRR is committed to doing that when it can do it in an automated fashion. If the MSG feels strongly it needs to do it in the interim using a spreadsheet to meet its mandate, then ONRR could do that but it may not make a lot of sense.

- State and county level reporting seems of more interest to communities than lease level reporting, since leases cross several counties and likely will not mean a lot to people. Currently, the U.S. has reporting by state and county and should at least continue it at that level. However, both are useful and there are also reasons for the lease level data.

42 USC 17374: Transparency in extractive industries resource payments

Text contains those laws in effect on February 5, 2017

From Title 42-THE PUBLIC HEALTH AND WELFARE

CHAPTER 152-ENERGY INDEPENDENCE AND SECURITY

SUBCHAPTER VIII-INTERNATIONAL ENERGY PROGRAMS

Part C-Miscellaneous Provisions

Jump To:

[Source Credit](#)

§17374. Transparency in extractive industries resource payments

(a) Purpose

The purpose of this section is to-

- (1) ensure greater United States energy security by combating corruption in the governments of foreign countries that receive revenues from the sale of their natural resources; and
- (2) enhance the development of democracy and increase political and economic stability in such resource rich foreign countries.

(b) Statement of policy

It is the policy of the United States-

- (1) to increase energy security by promoting anti-corruption initiatives in oil and natural gas rich countries; and
- (2) to promote global energy security through promotion of programs such as the Extractive Industries Transparency Initiative (EITI) that seek to instill transparency and accountability into extractive industries resource payments.

(c) Sense of Congress

It is the sense of Congress that the United States should further global energy security and promote democratic development in resource-rich foreign countries by-

- (1) encouraging further participation in the EITI by eligible countries and companies; and
- (2) promoting the efficacy of the EITI program by ensuring a robust and candid review mechanism.

(d) Report**(1) Report required**

Not later than 180 days after December 19, 2007, and annually thereafter, the Secretary of State, in consultation with the Secretary of Energy, shall submit to the appropriate congressional committees a report on progress made in promoting transparency in extractive industries resource payments.

(2) Matters to be included

The report required by paragraph (1) shall include a detailed description of United States participation in the EITI, bilateral and multilateral diplomatic efforts to further participation in the EITI, and other United States initiatives to strengthen energy security, deter energy kleptocracy, and promote transparency in the extractive industries.

(e) Authorization of appropriations

There is authorized to be appropriated \$3,000,000 for the purposes of United States contributions to the Multi-Donor Trust Fund of the EITI.

(Pub. L. 110-140, title IX, §935, Dec. 19, 2007, 121 Stat. 1748 .)

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Text contains those laws in effect on February 5, 2017

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(Pub. L. 110–140, [title IX](#), [§935](#), [Dec. 19, 2007](#), 121 Stat. 1748 .)

<Member Name>

<Address>

<Address>

<Address>

Dear <Member Name>:

Thank you for participating in the United States Extractive Industries Transparency Initiative (USEITI) Advisory Committee. Your work helped to make the public more aware of the contributions of the extractive industries to the U.S. economy and jobs.

This journey began in September 2011, when as part of the U.S. Open Government Partnership, the Office of Natural Resources Revenue (ONRR) began collaborating with other Government agencies, departmental bureaus and offices, and industry and civil society stakeholders to implement USEITI. Since the first public meeting in 2013, through to the 20th meeting in 2017, the USEITI Multi-stakeholder Group (MSG) worked collaboratively to successfully reach consensus on how to implement USEITI.

Highlights of our joint commitment to transparency and good governance of U.S. extractive sector revenues include:

- Becoming the first G7 country and second Organization for Economic Cooperation and Development (OECD) country to achieve Candidate Country status and become an EITI implementing country. U.S. leadership has played a crucial role in the endorsement of the EITI by the G-7, the G-20, and the United Nations Security Council.
- Disclosing unilaterally in 2014, for the first time, Department of the Interior (DOI) production data and calendar-year revenue data by company, revenue type, and commodity. The DOI has unilaterally disclosed for calendar years 2013-2015, \$33.1 billion in revenues paid by companies for extraction on Federal lands and waters.
- Publishing in December 2015, the first online Report and Executive Summary on the DOI data portal <https://useiti.doi.gov/>, and in November 2016, the second online Report and Executive Summary. Building on your direction in December 2017, ONRR will complete a third online report.
- Demonstrating zero unresolved discrepancies between Federal Government disclosed revenues received from oil, gas, and mining companies, with parallel disclosure by companies of what they have paid to the Government in royalties, rents, bonuses, taxes, and other payments.

- Demonstrating DOI has robust ONRR-managed audit and assurances practices in place to assure accountability for the revenues paid and received for our Nation's oil, gas, and mineral resources.
- Building the DOI data portal with modern, open-source technologies so that techniques and tools can be shared and replicated throughout the U.S. and in other EITI countries around the world. The website's open data sets and visualizations can be reused for strategic reporting and reposted and sent through social media, thus further informing the public and open debate on the extractives industry in the U.S. The portal is the new global standard in revenue governance transparency.
- Expanding public awareness of the role of extractive industries at the state and local level. The States of Montana, Wyoming, and Alaska collaborated with USEITI to allow for expanded State reporting of extractive revenues. The MSG also furthered local accountability and transparency by including 12 county case studies that depict the impact of specific extractive industries on local communities.

The EITI Standard fits within ONRR's guiding principles of accountability, professionalism, integrity, partnerships, and innovation. We strive to be recognized as a world-class natural resources revenue management program, setting the standard for accountability and transparency. In the long term, extractive industry transparency should not be confined to EITI reporting, rather be recognized an integral part of how Government manages. Therefore, at DOI we have initiated steps to move towards institutionalizing innovation in digital services and mainstreaming Government extractives revenue data pipelines and end-user needs. Moving forward in this journey, institutionalizing EITI will continue to improve Government revenue transparency in the U.S. and continue to serve as an example internationally.

Again, thank you for your contribution in promoting revenue transparency and accountability in the extractive sector.

Sincerely,

Judy Wilson
Acting Designated Federal Officer,
USEITI Advisory Committee

U.S. House of Representatives
Committee on Natural Resources
Washington, DC 20515

June 6, 2017

The Honorable Ryan Zinke
Secretary
Department of the Interior
1849 C Street, N.W.
Washington, D.C. 20240

Dear Secretary Zinke:

The U.S. Extractive Industries Transparency Initiative (EITI) Advisory Committee was scheduled to meet on Wednesday and Thursday of this week to continue the work required of the U.S. to become EITI compliant. However, on May 25, 2017, the Department of the Interior (DOI) published a notice postponing the scheduled meeting, saying merely that it would be “rescheduled at a later date.”¹ When combined with reports from earlier this year, this postponement appears to reflect a lack of commitment to EITI by this Administration. The EITI is a global initiative to fight corruption and encourage transparency in the development of energy and mineral resources, and the United States’ commitment to this effort, and to these ideals, has never been called into question—until now.

In March, press reports indicated that DOI was backing away from EITI and would abandon attempts to become a compliant country under that initiative.² This news drew sharp condemnation from outside watchdog groups,³ the current Democratic Ranking Member and former Republican Chairman of the Senate Foreign Relations Committee,⁴ and others. The Department insisted shortly thereafter that it “remains committed to the principles and goals of EITI including transparency and good governance of the extractive sectors,” but also that “no decision has been made on applying for validation under the EITI standard.”⁵

These actions suggest that DOI may be deciding to prioritize the desires of fossil fuel and mining companies to keep their activities secret over the principles of transparency and good governance. Abandoning efforts to become EITI compliant now would erase years of effort for no apparent positive purpose, other than as simply another favor to industry.

In 2011, as part of the Open Government Partnership, the United States announced its intention to become an EITI compliant country. The goals of doing so were to ensure that taxpayers were

¹ 82 F.R. 24141 (May 25, 2017).

² E&E News, *U.S. opts out of transparency effort for oil, coal firms*, March 20, 2017.

³ Global Witness, *U.S. Administration Sounds Death Knell for Transparency Initiative*, March 20, 2017.

⁴ Cardin-Luger Statement on U.S. Withdrawal from Extractive Industries Transparency Initiative, March 20, 2017.

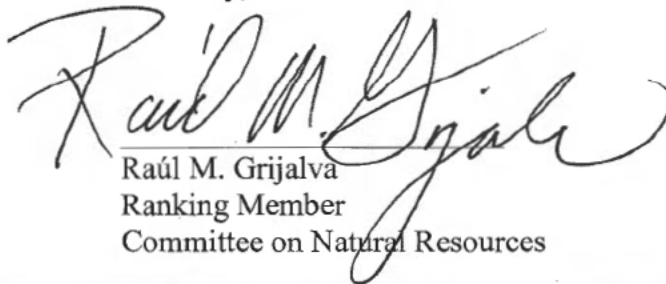
⁵ E&E News, *Department hits back at critics on mining transparency*, March 21, 2017.

receiving the money owed to them for the extraction of coal, oil, gas and minerals on federal land, to promote a transparent process for the extractive industries in the United States, and to set a positive example for the rest of the world. Since then, the U.S. has undergone a years-long process to meet the eight primary requirements necessary to become an EITI compliant country. A May 2017 report by the Interior Department's Office of Inspector General found that the U.S. has met "seven of the eight EITI requirements and partially met one requirement in its effort to achieve EITI compliant status, the highest level of implementation."⁶

As a world leader in producing coal, oil, natural gas, and minerals, the United States has a responsibility to govern these industries in a manner that is open and accountable to the American public and set an example for other countries that also have abundant resources. The Department of the Interior must reconsider any decision to reverse course from working to achieve EITI compliance.

The Secretary of the Interior serves as the Administration's senior official representative for EITI implementation. Please clarify the Trump Administration's stance on EITI in writing no later than June 30, 2017. Additionally, as a first step to reassure the public of the Interior Department's commitment to transparency, I ask that you commit by that date to holding the postponed U.S. EITI Advisory Committee meeting no later than the end of August, 2017. The activities and duties of the Advisory Committee must continue if the U.S. is to manage its natural resources in a transparent manner. If you have questions about this letter, please have your staff contact Steve Feldgus on the Democratic Staff of the Natural Resources Committee at (202) 225-6065.

Sincerely,



Raúl M. Grijalva
Ranking Member
Committee on Natural Resources

⁶ "United States' Implementation of the Extractive Industries Transparency Initiative," Report No.:2016 EAU 041. Office of the Inspector General, Department of the Interior. May 2017.
https://www.doioig.gov/sites/doioig.gov/files/AIE_EITI_FinalInspectionReport_Public.pdf

WGEI MEETING LOGISTICS

25-28 September 2017

We look forward to hosting you during the WGEI meeting in September! Please see below important information regarding logistics.

KEY DETAILS

Location: The WGEI steering committee meeting will take place in the Staats Briefing Room at GAO headquarters, 441 G Street, NW, Washington, DC 20548.

Date and Time: The meeting will begin at 8:30 a.m. on Tuesday, 26 September 2017, and will conclude on the afternoon of Thursday, 28 September. A detailed agenda is forthcoming.

In addition, for those who are able to arrive by Monday, 25 September, we will convene at GAO headquarters on Monday at 10:00 am for a tour of the U.S. Capitol Building (followed by a picnic). Please see below for additional information.

Attire: Business attire is suggested, although the excursions will be casual (see below).

Special Assistance: Please contact Bridget Grimes at grimesb@gao.gov if you have any special needs (such as wheelchair access) so that any necessary accommodations may be made in advance.

GETTING TO GAO (INCLUDING BUILDING ACCESS)

GAO is on Metro's Red Line at the **Judiciary Square** stop (National Building Museum, **F Street exit**). Proceed around the museum to GAO at 441 G Street, NW. Alternately, you can take the Green or Yellow Line to the **Gallery Place/Chinatown** stop and walk to GAO's 441 G Street entrance. For a map of the Metro, please see <https://www.wmata.com/schedules/maps/upload/2017-System-Map.pdf>

Building Entrance: GAO is a secure building. Please follow these instructions to enter:

1. Enter the GAO building using the 441 G Street, NW entrance.
2. Report to the lobby table attendant and be prepared to show a photo ID. NOTE: Please ensure you have a valid official photo ID with you at all times.
3. State the purpose of your visit: WGEI steering committee meeting.
4. A security guard will inspect your belongings and direct you to pass through a metal detector.
5. A GAO representative will escort you to the meeting. Please note that GAO protocol requires all guests to have an escort in the building.

PRE-MEETING EXCURSION AND PICNIC

On Monday 25 September, we will convene at GAO headquarters before we travel via GAO vans to the U.S. Capitol for a tour. The U.S. Capitol building is about 1.2 miles (almost 2 kilometers) from GAO.

- **Security requirements:** At the Capitol, visitors will be asked to present all carried items for inspection. The Capitol also prohibits all liquids (including water), food, aerosol containers and non-aerosol spray, any pointed objects (pens and pencils are permitted), weapons, and any bag larger than 18" wide x 14" high x 8.5" deep. For more information and a full list of items, please see <https://www.visitthecapitol.gov/plan-visit/capitol-etiquette>

After our tour, we will travel via GAO vans to our picnic site at Fort Ward Park in Alexandria, Virginia, which is roughly 9 miles (14.5 kilometers) from GAO, for a casual picnic.

What to wear: Casual, comfortable attire is suggested for 25 September, as the picnic will be outdoors. As September weather in Washington can vary quite a bit—from hot and humid to cool—please dress accordingly. Although the picnic area features a large pavilion and is shaded by trees, we also suggest bringing sunscreen.

28 SEPTEMBER BASEBALL GAME

The baseball game scheduled for the evening of Thursday 28 September is a casual, outdoor event, and we encourage casual, comfortable attire. The game—featuring Washington's professional team, the Washington Nationals—starts at 7:00pm, and we suggest bringing a jacket should the temperature fall throughout the evening. Regarding transportation, the stadium is easy to get to via Metro (from the Gallery Place Metro stop, take the Green Line to the Navy Yard – Stadium stop). Taxis are also available. However, the stadium is not far from GAO (approximately 2 miles, or 3.2 kilometers), and you may wish to walk there, as some GAO staffers who are also attending will likely do (and they would be happy to walk with you and show off the DC sites along the way). For those who registered, we will purchase your tickets in advance.

- **Please note:** The stadium has metal detectors. Your bag will be searched at the entrance gate (note that your bag can be no larger than 16"x16"x8" inches). Prohibited items include weapons, selfie sticks, non-collapsible umbrellas, and metal, plastic, or glass containers of any kind (apart from clear factory-sealed or empty plastic water bottles no larger than one liter, juice boxes, insulin containers and baby food). For more information, please see <http://mlb.mlb.com/was/ballpark/information/index.jsp>.

QUESTIONS?

If you have any questions or need any assistance, please contact Bridget Grimes at 1-202-512-4960 or by email at grimesb@gao.gov.



USEITI Mainstreaming Feasibility Study

May 2017



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The United States Extractive Industries
Transparency Initiative

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Executive Summary

[THE IA WILL COMPLETE THIS SECTION ONCE THE MSG DOES/DOES NOT RECOMMEND]

Based on the evidence available the USEITI Multi-Stakeholder Group (MSG) [recommends/does not recommend] pursuing mainstreaming by ordering the following steps from the Independent Administrator.

Mainstreaming Overview

What is the purpose and process for mainstreaming?

The objective of mainstreaming is to recognize implementing countries that make transparency integral to their systems. Requirement six of the EITI Standard states that “where legally and technically feasible, implementing countries should consider automated online disclosure of extractive revenues and payments by governments and companies on a continuous basis.”

Mainstreaming is the formal process countries pursue to demonstrate integrated transparency. The process consists of seven phases: formal commitment, feasibility study, work plan, application, approval, implementation, and review.

What does the feasibility study entail?

The Independent Administrator (IA) is preparing this study at the request of the USEITI MSG in anticipation of a decision on whether the U.S. will submit a formal application for mainstreaming.

The feasibility study consists of four main components including a review of materials, stakeholder consultation, feasibility study, and plan of action. The study requires information on the track record of reconciliation, an explanation of how the U.S. will increase and embed disclosures, an evaluation of data quality, and options for data reconciliation. This study makes a statement of U.S. readiness on each of those components below.

In order to prepare this study, the IA gathered and reviewed relevant documents and research around processes, systems, data, and controls in the U.S. both for the Government and companies. In addition to this literature review, the IA also interviewed select stakeholders from all three sectors: Government, Industry, and Civil Society. The IA used a standard interview guide to gain perspectives and insights on data timeliness, reliability, and comprehensiveness, as well as on the U.S.’s progress towards mainstreaming to meet EITI international standards.

Lastly, the IA spoke to select stakeholders from Government and Industry in order to fill any data gaps or better understand processes and controls relevant for this study.

U.S. Track Record of Reconciliation

In order for countries to be considered for mainstreaming, they must show a track record of reconciliation without major errors. The EITI does not define the length of time required, a materiality threshold, or a maximum number of discrepancies. As a result, this section will contain a summary of the U.S. record of reconciliation, thresholds, unexplained variances, and the like.

Unilateral Disclosure of Revenues (UDR) in the U.S.

Each year ONRR unilaterally discloses calendar year energy and mineral revenues paid to the Department of the Interior (DOI). These disclosures are disaggregated at the company level and reported by commodity and revenue type. The UDR process showcases the U.S. commitment to unilaterally disclose Federal natural resources revenue data, by company and commodity, and revenue stream. These disclosures use information reported by Federal lessees on Forms ONRR-2014 and ONRR-4430. The unilateral disclosure of this data is available on both ONRR's Statistical Information Site and the USEITI Data Portal.

Specifically, the UDR includes:

Topic	Disclosure Detail
Calendar Years Disclosed	2013-2016
Unique Identified Companies	1,635
Payments Disclosed	9,974
Total \$ Amount Disclosed	\$38,699,490,038
Commodities (or Commodity Categories)	17
Government Agencies Included	3 (ONRR, BLM, OSMRE)
Revenue Streams	9 (ONRR Royalties, Inspection Fees, Civil Penalties, and Other Revenues; ONRR/BLM Rents and Bonuses; and OSMRE AML fees including audits and large charges and Civil Penalties including late charges)

These amounts will grow annually as ONRR continues to unilaterally disclose revenues. The dataset has been cleaned and organized for ease of use by the general public. It delineates each payment by calendar year, corporate name, commodity, and revenues.

Adapted Implementation for Subnational Payments in the U.S.

EITI Standard Requirement 4.2 (d) requires reporting and reconciliation of material company payments to subnational government entities and the receipt of these payments. Separately, EITI Standard Requirement 4.2 (e) requires reporting on mandatory revenue transfers from

national governments to subnational governments. The EITI Board approved USEITI's request for adapted implementation of the EITI Standard for subnational reporting as a part of the approval of the USEITI candidacy application. The EITI Standard allows for adapted implementation "where the country faces exceptional circumstances that necessitate deviation from the implementation requirements" (EITI Standard Requirement 1.5). The approved adapted implementation considered that the USEITI reporting will comply with EITI Standard 4.2 (e)'s requirements by reporting 100% of extractives-specific revenue collected by the US Federal Government and transferred to US state governments within the unilateral data disclosure. However, payments made by companies to state governments (4.2 (d)) and revenue collected by state governments, will not directly be included in the reconciliation.

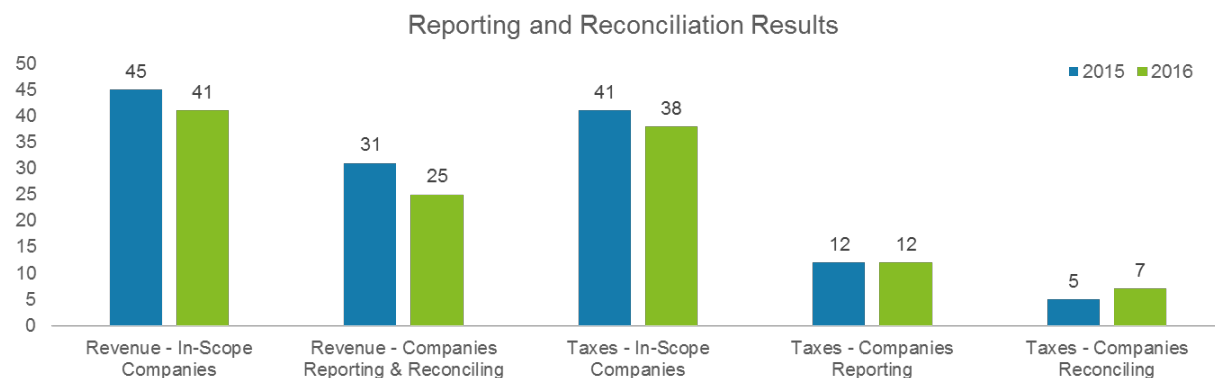
What is the U.S. record of results for reconciliation?

The U.S. conducted its first reconciliation in 2015. The MSG set the scope of reconciliation as the top paying companies who, together, accounted for 80% of revenues paid to ONRR. The first period of reconciliation was Calendar Year (CY) 2013. Across 31 companies and 10 revenue streams, overall variance for all DOI revenues came to \$93,976,582, or 1.1% of all revenues reported by companies. For five companies reconciling taxes, there was one variance, which totaled \$6,297,360, or 3.3% of reconciled taxes. Seventeen discrepancies exceeded the margins of variance determined by the MSG. The IA—working with in-scope companies and government entities—resolved or explained all discrepancies. Explanations included differences regarding when payments were recorded and how they were classified.

In the following year, the U.S. conducted its second reconciliation, covering CY 2015. Similar to the first year of reconciliation, the MSG set the scope of reconciliation to include the top paying companies who, together, accounted for 80% of revenues paid to ONRR. Of the 25 companies reporting, the overall variance for all DOI revenues came to \$156,387,357, or 3.24%. Of 7 companies reconciling taxes, the overall variance value came to \$120,122,958, or 33.8% of the total value of taxes reconciled; 21 discrepancies exceeded the margins of variance determined by the MSG. All 21 were resolved or explained for the same reasons mentioned above.

Each year, companies could choose to report and reconcile both taxes and DOI revenues. More companies chose to report and reconcile DOI revenues than taxes.

Figure 1. USEITI Reporting and Reconciliation Results (2015 and 2016)



Result	2015	2016
DOI Revenues Reported	100% of 2013 revenues	100% of 2014 and 2015 revenues (only 2015 reconciled)
Companies Participating	31 of 45 companies	25 of 41 companies
DOI Revenues Reported & Reconciled	\$8.5B (81% of in-scope DOI revenues, 67% of all DOI revenues)	\$4.83B (79% of in-scope DOI revenues, 62% of all DOI revenues)
Companies Reporting Taxes	12 of 41 reported \$190M	12 of 38 reported -\$308M
Companies Reconciling Taxes	5 of 41 reconciled \$90M	7 of 38 reconciled -\$130M
Variances	17	21
Variances Resolved or Explained	100%	100%

What are the expected results in 2017?

The USEITI MSG decided not to conduct IA reconciliation of government/company revenue reporting in 2017 due to its judgement that the reconciliation process is redundant with established and documented audit and assurances procedures and controls in place in the U.S. government and in companies¹. In place of a reconciliation process, the MSG decided to continue with the UDR and to document controls in place in the contextual narrative. The USEITI MSG believes that this process will continue to be comprehensive, timely, and accurate and will be made publically available via existing sources, except where current laws or regulations prohibit data disclosure.

USEITI plans to produce an Annual Report for 2017 and will continue to update the USEITI Data Portal with additional contextual narrative information and additional data from states.

¹ Decision of USEITI MSG, Feb 2 2017

Increasing and Embedding Disclosures

How does the government embed and increase disclosures?

The 2016 EITI Standard encourages countries to make use of existing reporting systems for EITI rather than duplicating them in an EITI report. To this end, the International Secretariat has hailed the USEITI Data Portal as one of the best examples for mainstreaming data.

The U.S. government publicly discloses all data that has been embedded in the USEITI Data Portal. This data is updated annually. Key characteristics of this system are that:

- The USEITI Data Portal includes **federal production data** for 55 products extracted from 2006 to 2015. This data can be filtered by product type, region (including state, county, and offshore region), and both calendar and fiscal years. It also discloses and publishes **federal revenue by company**. Data can be filtered by commodity category and/or region and goes from 2006 to 2015. Company data, provided by ONRR in its unilateral disclosure, can be filtered by commodity and/or revenue type and covers 2013-2015 revenue.
- The USEITI Data Portal also includes **economic impact data on the extractive industries**, including Gross Domestic Product, Exports, and Jobs. It can be filtered by region, with results shown as \$ values or % values, from 2006 to 2015. Additional filters include by commodity for exports and by job type for jobs.
- Beyond disclosing DOI data, the USEITI Data Portal **aggregates and makes accessible relevant data sets from other government organizations**, including the Energy Information Administration, the Bureau of Economic Analysis, and the Bureau of Labor Statistics, as well as selected state and local government data.

In addition to the USEITI Data Portal, ONRR's Statistical Information Site (<http://statistics.onrr.gov/>) provides datasets on disbursement (at a fund or state level and by fiscal year) and reported revenue data (including sales volumes, sales values, and revenue by commodity), which is shared at the state, onshore, offshore, and Indian levels in the U.S.

The portal also includes reconciliation data and corporate income tax data for those companies that have opted to report their tax data. Currently, the Tax Reform Act of 1976 (26 U.S. Code § 6103) prohibits disclosure of Federal Income Tax data without the consent of the taxpayer. However, the Internal Revenue Service (IRS) discloses aggregate tax liability by industry based on a stratified sample of individual company tax returns, and this aggregate information has been included in the 2015 and 2016 USEITI reports.

Furthermore, the collection of corporate income taxes are subject to financial controls similar to other government revenue collections. The U.S. Department of the Treasury's Bureau of the Fiscal Service collects corporate income taxes.

In summary, the Government discloses the majority of data required for mainstreaming on the USEITI Data Portal. Disclosures by IRS provide information on taxes at an aggregate industry level but not by company. Opportunities for the government to increase and embed disclosures include the expansion of the revenue streams disclosed, including the coal excise tax, and the commodities in-scope.

How does the extractives industry increase and embed disclosures?

Companies in the extractive industries in the United States operate within a system of controls and audits that vary based on their ownership status and internal procedures.

Public Companies

In 2016, 34 of the 41 in-scope companies were public. Public companies must annually disclose their financial statements and the result of their audits. Of the 34 companies, 29 follow the United States General Accepted Accounting Principles (GAAP). The remaining five companies follow the International Financial Reporting Standards (IFRS). For each, independent auditors review and attest to the internal controls of the companies, in addition to auditing their financial statements. Based on a review of company 10-Ks, these public companies arrange their internal controls according to the framework established by the Committee on Sponsoring Organizations of the Treadway Commission's (COSO) *Internal Control – Integrated Framework* (2013). COSO is a joint initiative of the American Accounting Association, American Institute of CPAs, Financial Executives International, the Association of Accountants and Financial Professionals in Business, and the Institute of Internal Auditors. The appendix contains information on in-scope companies' disclosures, forms, and auditors, as well as links to available annual reports or 10-Ks for 2015, the last year for which all companies have created reports.

Private Companies

Private companies have fewer requirements to make their information and financial statements public. Seven in-scope companies in 2016 were private. These companies, while not subject to the same disclosure requirements as public companies, still operate within the system of controls and audits that public companies operate. Importantly, they are and can be subject to an audit from the IRS.

Voluntary Disclosures

In addition to these internal controls, external audits and related disclosures, a number of in-scope companies report EITI-related data voluntarily or according to European regulations. (Rio Tinto, included below, is not an in-scope company, but is a USEITI MSG member and so is included.)

Company	Commodity	Reports Under	Disclosures
BP	Oil & Gas	U.K. law	BP reports payments to governments at the project level. Payments are unaudited, but independently assured by Ernst & Young. They do not include tax information. http://www.bp.com/content/dam/bp/pdf/sustainability/group-reports/bp-report-on-payments-to-governments-2015.pdf
ENI	Oil & Gas	Voluntary	ENI reports payments to governments at the national level and their report adds additional contextual information. It is unaudited. https://www.eni.com/en_IT/sustainability/integrity-human-rights/transparency-of-payments.page
Shell	Oil & Gas	U.K. law	Shell voluntarily reported payments to governments prior to the implementation of British regulations and now reports according to those regulations. It reports all payments to governments at the project level. Their report is unaudited. http://www.shell.com/sustainability/transparency/revenues-for-governments.html
Statoil	Oil & Gas	Norwegian law	Statoil reports payments to government at the project and government levels. It also includes contextual information in their annual report. Their report is unaudited. http://www.statoil.com/no/InvestorCentre/AnnualReport/AnnualReport2015/Documents/DownloadCentreFiles/01_KeyDownloads/2015%20Payments%20to%20governments.pdf
BHP Billiton	Coal & Hardrock	Voluntary	BHP Billiton reports government payments (both tax and non-tax) as well as contextual information and data on broader economic contributions (e.g. wages). Their non-tax data includes payments to governments and on a project level. Their report is audited by an independent auditor according to Australian Auditing Standards. http://www.bhpbilliton.com/our-approach/operating-with-integrity/tax-and-transparency
Rio Tinto	Coal & Hardrock	Voluntary	Rio Tinto reports payments to governments (both tax and non-tax) and publishes an annual Taxes Paid report. Payments are reported on a government and project level. The report includes economic contribution data and contextual information, including case studies. The report is independently audited. http://www.riotinto.com/ourcommitment/spotlight-18130_18998.aspx

These reports suggest best practices for encouraging further disclosure of payments by private companies.

In addition, publicly listed companies in the U.S. are required to comply with the reporting requirements under the Sarbanes-Oxley Act. The Act and the corresponding SEC rule (<https://www.sec.gov/rules/final/33-8238.htm>) require that company's Boards "include in their annual reports a report of management on the company's internal control over financial reporting."² Specifically, the SEC rule states the annual report must include:

- 1) A statement of management's responsibility for establishing and maintaining adequate internal control over financial reporting for the company
- 2) Management's assessment of the effectiveness of the company's internal control over financial reporting as of the end of the company's most recent fiscal year
- 3) A statement identifying the framework used by management to evaluate the effectiveness of the company's internal control over financial reporting (As mentioned above, the most commonly used framework is the Committee on Sponsoring Organizations of the Treadway Commission's (COSO) *Internal Control – Integrated Framework*)
- 4) A statement that the registered public accounting firm that audited the company's financial statements included in the annual report has issued an attestation report on management's assessment of the company's internal control over financial reporting. This review of controls by the company's external auditors (monitored by the Public Company Accounting Oversight Board) will follow a review by the company's own internal auditors (reporting to the Board's Audit Committee.)

Review of controls is a part of the annual financial statement audit that every public company receives from an independent public accounting firm. This audit provides investors and other interested parties with an assessment as to whether a company's financial results are fairly presented in all material respects in conformity with an established uniform body of accounting standards. Private companies typically are subject to financial statement audits when other parties, such as creditors and lenders, must rely on and require the same level of assurance and attestation.

² U.S. Securities and Exchange Commission, *Final Rule: Management's Report on Internal Control Over Financial Reporting and Certification of Disclosure in Exchange Act Periodic Reports*, 17 CFR PARTS 210, 228, 229, 240, 249, 270 and 274. <https://www.sec.gov/rules/final/33-8238.htm>. Accessed on May 2, 2017.

Evaluating Data Quality

The requirements for mainstreaming include determining whether data from both government and industry sources are up to date, comprehensive, and reliable outside of the EITI reporting structures. This section outlines characteristics of U.S. data in these three categories.

Up to Date Data

The EITI Standard requires that information be reported on an annual basis, and requires that the data disclosed be “no older than the second to last complete accounting period.” Where government and industry currently report, U.S. data is disclosed on an annual basis and within the second to last complete accounting period. Likewise, the ONRR UDR data is reported for the previous accounting period (e.g., the 2016 report includes 2015 data).

Comprehensive Data

The Government’s unilateral disclosure of revenues received covers all in-scope, non-tax payments received by the Government, including for companies not in scope for USEITI. Unilateral disclosure in the U.S. covers royalties, rents, bonuses, and other revenues both by revenue stream and by company.

Disclosure of Federal Income Tax is made by the Department of the Treasury on an aggregate basis by industry. Some companies voluntarily disclose Federal Income Tax data as part of EITI reporting, to fulfill regulatory requirements in other countries, or as part of their own transparency reporting.

USEITI provides contextual narrative information through the USEITI Data Portal. The data portal is a detailed overview of the extractive industry in the U.S. on Federal government lands. The site contains dozens of pages, tables and graphics that allow users to dynamically explore data related to the extractive industries in the United States. It also explains USEITI and how the extractive industries function in the U.S. Specifically it includes:

- 15+ in-depth static contextual pages, explaining who owns natural resources, the laws and regulations governing natural resource extraction, how natural resources result in Federal revenue and detail on those revenue streams, and measures effecting data accuracy and accountability for data presented.
- 55 dynamic regional data profile pages, which have contextual data integrated throughout.
- 12 county case study pages examining counties that are major producers of in-scope commodities and the socio-economic impact of extractives industries in those counties.

Additional data portal information includes a glossary related to the extractive industries, pages enabling download of datasets for further analysis, and additional data documentation and usage notes.

Reliable Data

Extractive industry companies and the U.S. government are subject to laws and regulations that set the process for receiving payments and for companies making payments to the Federal government. The processes for how payments and revenues are recorded and verified in the extractive industries in the United States are detailed in USEITI's *Audit and Assurance Practices and Controls in the U.S. Factsheet* available

here: https://useiti.doi.gov/downloads/USEITI_budget-audit-factsheet_2016-08-17.pdf. The appendix includes tables outlining the major laws establishing the fiscal regime, fees, and fines related to extractive industries revenue collection in the United States.

Standards for both the Federal government and companies are promulgated by regulatory and voluntary oversight bodies³. Standards exist which define:

- how companies and the government report their revenue data and financial information;
- how internal and external audit procedures provide assurance of payments and collections;
- how external audit provides assurance regarding company and government financials and disclosure of audit results and audited financial statements for public companies.

The appendix includes a table of laws, regulations, professional standards, and regulatory organizations used by companies and governments to guide the reporting of financial information in the United States, as well as by auditors during the financial statement audit process.

Reconciliation and Mainstreaming

Once a country is approved for mainstreaming, it is no longer required to complete the reconciliation process. If EITI data is comprehensive and reliable and financial data is “audited in accordance with international standards, the procedure does not require a comprehensive reconciliation of government revenues and company payments.” This section details the processes for reconciliation, assurance, and audit that are in place at ONRR and other U.S. Government agencies.

There are generally four levels of mainstreamed controls:

³ https://useiti.doi.gov/downloads/USEITI_budget-audit-factsheet_2016-08-17.pdf

- Upfront Reconciliation of Transaction Data Between DOI, Treasury, and Companies
- Internal Audit and other Assurance Processes within DOI
- External Audit of DOI
- Other Ad-hoc Oversight from the Office of Inspector General, Congress, and other Bodies

As part of the pre-reconciliation process integral to ONRR's function of receiving and processing company reporting and payments, ONRR conducts 100% upfront reconciliation.

This report covers CY2015 Rents, Royalties, and Bonuses, which together constitute 95% of DOI revenue streams, as well as Corporate Income Taxes. See the table below for additional detail.

Revenue Stream	% of DOI Revenues	Up Front Reconciliation	Internal Controls	External Audits	Ad-Hoc Oversight
ONRR Royalties	78.2%	✓	✓	✓	✓
ONRR & BLM Bonuses	14.6%	✓	✓	✓	✓
ONRR & BLM Rents	3.1%	✓	✓	✓	✓
OSMRE AML Fees	2.5%	✓	✓	✓	✓
BLM Permit Fees	1.3%	✓	✓	✓	✓
ONRR Offshore Inspection Fees	0.7%	✓	✓	✓	✓
ONRR Other Revenue	0.4% (Negative Amount)	✓	✓	✓	✓
ONRR Civil Penalties	0.1%	✓	✓	✓	✓
OSMRE Civil Penalties	0.03%	✓	✓	✓	✓
Corporate Income Taxes	N/A	✓	✓	✓	✓

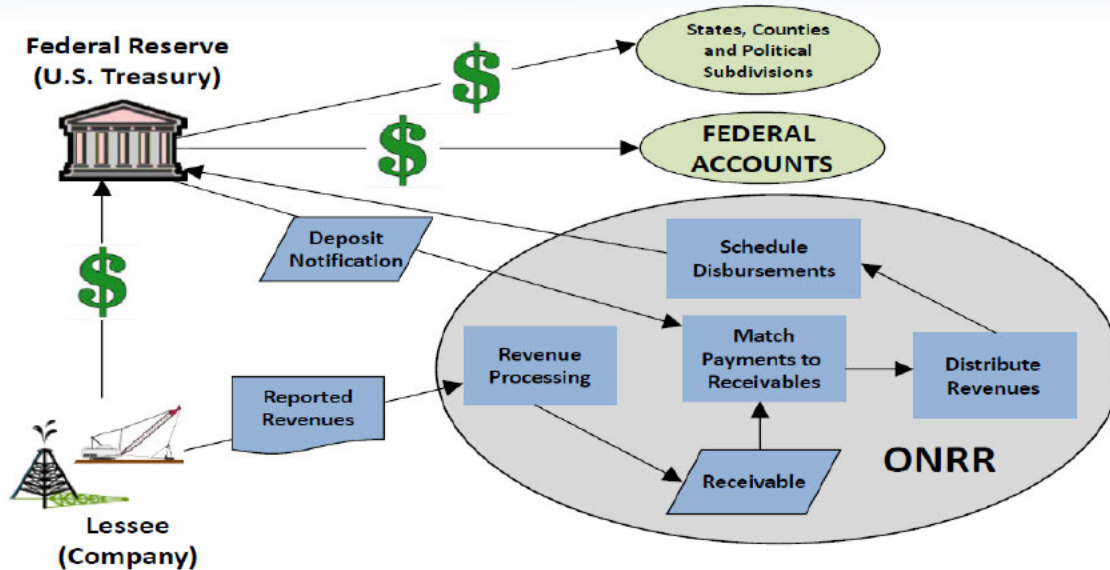
Note: % totals are higher than 100% due to rounding and the fact that ONRR Other Revenue was negative.

ONRR's Up Front Reconciliation Process

ONRR's mission is to collect, account for, and verify Federal, State, and Indian energy and natural resource revenues due to States, American Indians, and the U.S. Treasury on behalf of all Americans. Each month, ONRR receives and processes 49,000 royalty and production reports. ONRR's reconciliation process determines if Government is paid what it is owed and that companies report and pay in a timely manner; in this process companies report information the month after the month of production. Comprehensive reporting by companies and payors occurs on a "project-level" (or lease level) basis.

The below graphic illustrates the 100% up-front reconciliation and matching of company payments to ONRR revenues and distribution of the revenue recipients.

Figure 2. Up-front Reconciliation and Matching of Company Payments



In this process, companies make payments to the Treasury, companies report monthly to ONRR those revenues paid to the U.S. Treasury; for every report, ONRR begins the data mining process (Missing Reports, Volume Comparisons, LVS/GVS, High Level Analyses of Sales Values, Royalty Values, Adjustments), followed by Compliance Reviews, as outlined in additional detail in the sections below.

DOI Mainstreamed Processes and Controls

ONRR's Internal Controls & Processes

The U.S. has a set of standards, controls, and audits which are outlined in more detail below in accordance with guidance from the GAO Green Book. These internal controls aim to achieve reliability and accuracy in payment collection, accounting, and reporting.

Components of Internal Control	Principles
Control Environment	1. Demonstrate Commitment to Integrity and Ethical Values 2. Exercise Oversight Responsibility 3. Establish Structure, Responsibility and Authority 4. Demonstrate Commitment to Competence 5. Enforce Accountability
Risk Assessment	6. Define Objectives and Risk Tolerances 7. Identify, Analyze, and Respond to Risk 8. Assess Fraud Risk 9. Analyze and Respond to Change
Control Activities	10. Design Control Activities 11. Design Activities for Information Systems

	12. Implement Control Activities
Information and Communication	13. Use Quality Information 14. Communicate Internally 15. Communicate Externally
Monitoring	16. Perform Monitoring Activities 17. Remediate Deficiency

Source: OMB Circular A-123

Internal Controls

In addition to the annual Office of the Inspector General (OIG) audits, external third-parties annually audit ONRR's financial functions in accordance with the Generally Accepted Government Auditing Standards (GAGAS). Audits in the U.S. have a high standard of verification in the form of evidence for source documents and records, resulting in greater accuracy of payment and reporting. Additionally, ONRR uses U.S. Standard Government Ledger (USSGL) accounts to prepare external reports to the Office of Management and Budget (OMB), and the U.S. Treasury to provide financial information for inclusion in its annual consolidated Interior Agency Financial Report. Finally, the Chief Financial Officer (CFO) Act requires annual audits of DOI's financial statements, which includes a thorough review of ONRR.

OMB Circular A-123 is a part of the Agency Financial Report. Per this regulation, the DOI Secretary is required to provide the President and Congress an assurance statement on the state of the DOI's internal controls. Congress, OMB, and GAO established the requirement for agencies to develop and maintain effective internal control by issuing Federal guidance, including *OMB Circular A-123: Management's Responsibility for Internal Control*. Under this guidance, management is responsible for establishing and maintaining effective internal controls and financial management systems that meet the objectives of the Federal Managers' Financial Integrity Act.

The A-123 process at ONRR begins with the Director of ONRR issuing guidance to employees outlining the compliance assurance activities to be completed. ONRR's Internal Review, Oversight, and Compliance (IROC) Program provides the leadership and technical support to ONRR employees as they complete the A-123 process. Program Managers of each Assessable Unit (AU) in ONRR use the DOI Integrated Risk Rating Tool (IRRT) to complete a risk assessment of their processes. With that information, IROC develops ONRR's 3-Year Component Inventory and Annual Risk-Based Internal Control Review Plan (3-Year Plan).

In order for ONRR to maintain compliance with OMB Circular A-123 it must complete the following activities:

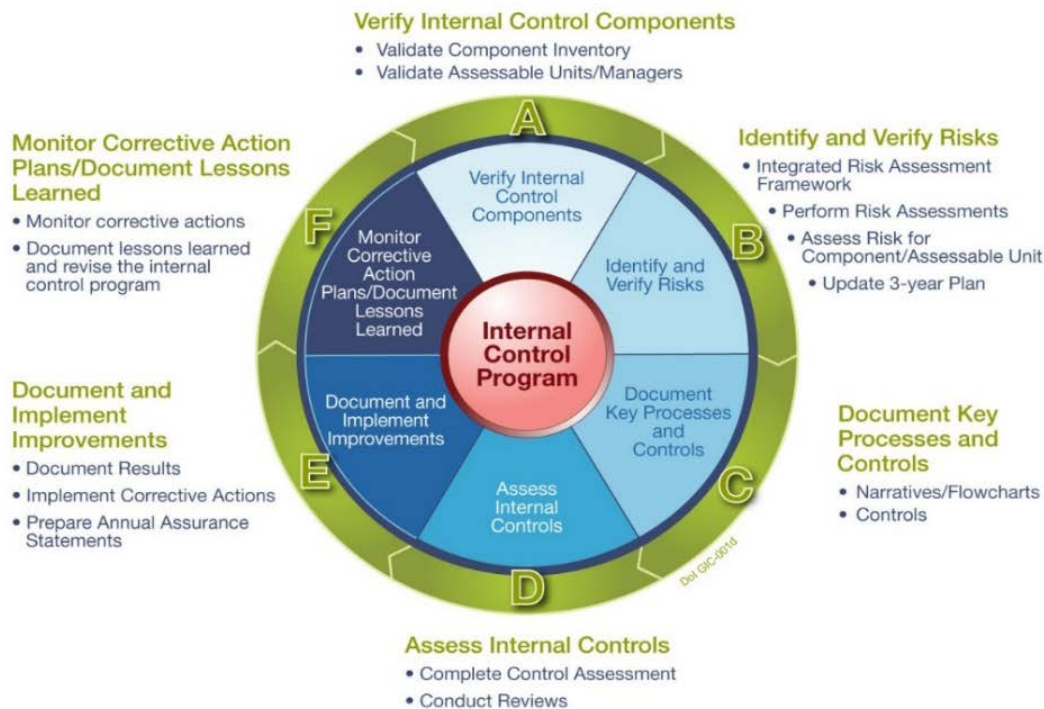
- Submit entry-level risk assessments for each of the Program Directorates: Director/Deputy Director/Directorate Support Office; Audit and Compliance

Management; Coordination, Enforcement, Valuation, and Appeals; and Financial and Program Management;

- Document or update AU key business processes, risks, and internal controls, in both narrative and flowchart form;
- Identify, document, and test key controls of all processes which are significant to a line item on the DOI's Financial Statements;
- Perform DOI-direction and ONRR-directed Internal Control Reviews (ICRs);
- Develop DOI-required Information Technology and overall annual assurance statements

Additionally, DOI has designed an **Integrated Internal Control Program** that is comprised of the plans, methods, and procedures used to support the DOI's mission, goals, and objectives. The DOI has a six-step approach for its Integrated Internal Control Program which aims to enable performance-based management and support DOI's mission while addressing multiple legislative requirements.

Figure 3. DOI's Internal Control Program



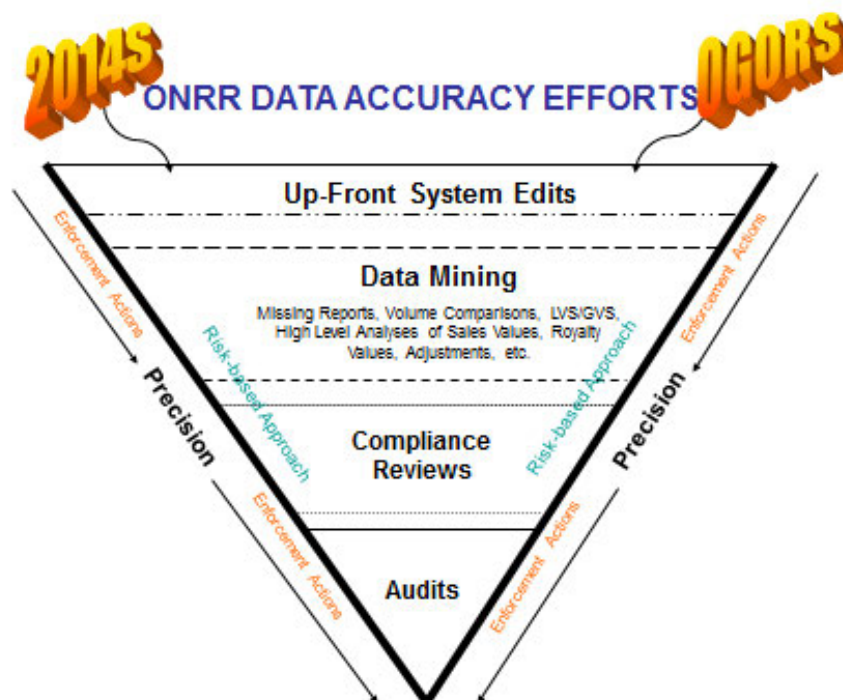
The goals of DOI's Integrated Internal Control Program are to:

- Ensure senior management oversight and coordination at the Department and Bureau level
- Follow a structured approach for assessing the risks facing the organization

- Implement a risk-based approach that weighs costs and benefits
- Improve consistency and comparability of Bureau Internal Control Programs by continuing to refine the internal controls guidance and use standardized tools, templates, and training
- Improve the maturity of DOI's risk management and internal control practices

Lastly, ONRR has controls in place to determine if data submitted by industry is reliable and accurate. These controls occur at different points in the data collection and analysis process, as depicted in the graphic below, and provide the foundation for ONRR's compliance reviews and audits (outlined in the next section).

Figure 4. ONRR's Data Accuracy Process



Data controls and verifications start at the submission stage of industry reporting. Royalty reports (Form ONRR-2014) and production reports (Oil and Gas Operations Reports/OGORs) go through hundreds of up-front system edits and checks for individual companies before they are submitted and accepted into ONRR's financial systems. These edits help prevent industry from submitting incorrect data such as erroneous lease or agreement numbers, incorrect prices, mathematical errors, or missing data elements.

Once the data is submitted by industry, ONRR's Data Mining office analyzes and works with individual companies to resolve various types of reporting errors and anomalies. The data mining phase helps identify specific issues with 2014s and OGORs submissions, as well as

identifying errors that are occurring across multiple companies. When this type of error is identified, ONRR works to provide specific guidance to industry and/or establish improved internal processes for data collection and review.

Data mining focuses on resolving issues collaboratively with companies prior to the any compliance review and/or potential audit, and uses a risk based approach to maximize the coverage based on a proprietary risk calculation tool.

Audit & Compliance Management Function

ONRR's Audit and Compliance Management (ACM) function is a part of the U.S.'s process for data accuracy and assurance. The ACM function serves to verify the accuracy of data reported to ONRR and examines statements, records, and operations of a company to verify compliance with the lease instrument and established regulations, laws, and guidelines. The subsequent information detailed in this section is based on interviews with Federal officials. This information was not independently verified by the IA.

ONRR's ACM function uses a risk-based approach for conducting compliance reviews and audits. This approach uses a risk calculation tool to develop audit and compliance work plans and is used to identify potential risks of non-compliance based on a number of proprietary indicators, including previous audits and compliance reviews and significant of royalty dollars. The risk compliance tool stratifies the compliance of companies and properties into high, medium, and low categories. ACM's work is performed by over 240 staff in six regional offices and also supported by over 125 auditors working for states and tribal nations that have significant extractive industry activity.

Through this function, ONRR conducts multiple evaluative techniques to determine if payments are the appropriate amount.

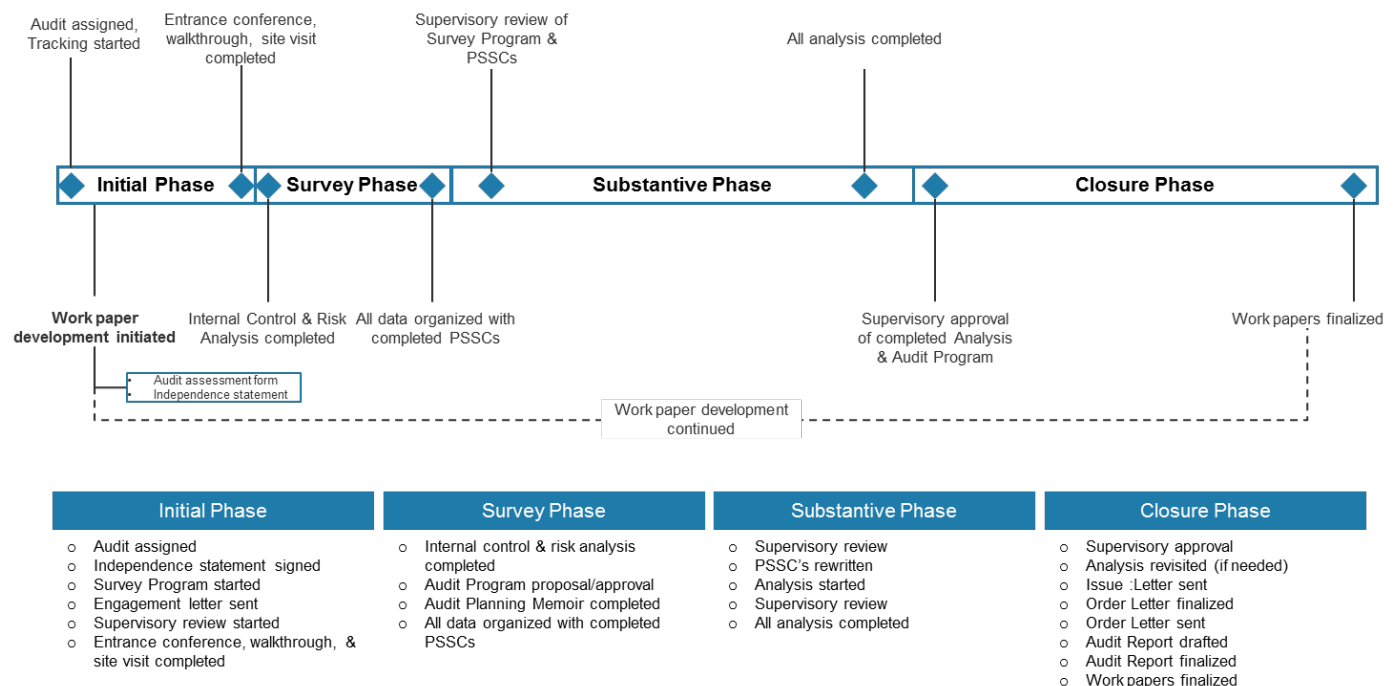
- One month after ONRR receives a payment, it uses up-front system edits to verify royalty and production reports. These include: transportation / processing limits, multiple royalty rates, pricing edits, and reviewing agreement numbers.
- One to two years after a payment, ONRR uses data mining to increase the accuracy of company-reported data before the data is subjected to compliance reviews and audits. Missing reports, adjustment monitoring, adjustments to completed cases, and production comparisons are key components of data mining efforts to determine if company payments are accurate and verifiable.
- Two to three years after a payment, following the up-front-system edits and data mining, ONRR conducts compliance reviews. These compliance reviews are used to examine issues and potential reporting errors identified through up front system checks

and data mining. The compliance reviews are conducted 2-3 years after the original data submissions, to allow for adjustments and clarification in the data. In FY2016, ONRR completed over 500 compliance reviews.

- Seven to nine years after a payment, ONRR's audits are performed and source documentation or other verifying information is obtained to analyze the completeness and accuracy of the production volumes, sales volumes, sales values, transportation and processing allowances, and royalty values in accordance with the reporting and valuation regulations. In FY2016, ONRR ACM conducted 128 audits. ONRR's audit process timeline is outlined in Figure 5.

When ONRR discovers inaccurate payments or potential fraud, it has several enforcement mechanisms at its disposal, including alternative dispute resolution, litigation, and civil penalties.

Figure 5. Audit Process Timeline for ACM



Additional Audits by State and Tribal Audit Committees

In addition to the audits that ONRR conducts of companies' production and payments, state governments also audit companies' reported production and payments. These state government agencies are in turn subject to controls and audits of their own. This multi-layered, reinforcing system of checks and balances strengthens the data's reliability. Furthermore, the State and Tribal Royalty Audit Committee (STRAC) works with the Department of the Interior to audit leases within their respective jurisdictions. This committee consists of eleven (11) states

and nine (9) Indian tribes and exists to help ensure proper payment of royalties from oil, gas and solid mineral companies. The agreements are authorized under Sections 202 and 205 of the Federal Oil and Gas Royalty Management Act (FOGRMA), as amended by the Federal Oil and Gas Royalty Simplification and Fairness Act of 1996 (FOGRSFA). STRAC has helped to further the accountability for the money owed to their jurisdictions and improve the reliability of the data reported.

[Bureau of Land Management \(BLM\) Controls](#)

BLM uses several methods and processes to assure data accuracy and integrity when collecting rents and bonuses.

First, BLM Collections and Billings System builds data integrity into the data collection systems design. BLM uses the Collections and Billings System (CBS) as a single point of entry for billings and collections data entry by field office personnel. CBS interfaces nightly with DOI's Financial and Business Management System to allow exchange and posting of collection information to the general ledger. The CBS uses the Bureau's intranet to transmit collection information and includes several layers of security. In addition, the system allows field personnel to enter any type of collection and organizes the receipt into the correct account by Commodity, Subject, and Action. BLM conducts continuous internal reviews and reports to assure the timeliness, accuracy, and compliance of data entered into the CBS.

Second, the Automated Fluid Minerals Support System (AFMSS) is a BLM-wide Fluid Mineral (oil and gas, geothermal, and helium) authorized use and inspection/enforcement workload support system. The AFMSS internal functionality supports oil, gas, and geothermal lease operations on Federal and Indian Trust Lands, post-lease operational approvals, well and facility data, inspection and enforcement data, assessments and penalties for noncompliance, undesirable event (spills), displays ONRR collected well production data (OGOR), and also includes data on customers (producers/operators). A number of reports supporting BLM business requirements are also included on a Field Office, State Office, and National basis.

AFMSS contains oil, gas, and geothermal facility inspection/compliance data including pre-construction, drilling, production measurement and accountability, facility abandonment, undesirable event, enforcement actions (assessments and penalties), and inspection strategy information. AFMSS also contains oil, gas, and geothermal lease, unit agreement, participating area, communitization agreement, bond coverage, and drainage assessment data.

These assurance mechanisms and processes help BLM to meet internal and external audit requirements and support accurate accounting and reporting.

[Office of Surface Mining Reclamation & Enforcement \(OSMRE\) Controls](#)

OSMRE also uses several methods and/or processes to support data accuracy.

OSMRE uses an internet based system that the coal industry uses to report 99% of the U.S. coal production. The system was designed to pre-populate information about the companies and coal producing permits that they report on, thus reducing data entry error. The system contains numerous edits to assure data accuracy and automatically calculates fee amounts due based on the production data entered by the companies. OSMRE also pre-populates paper reports that the remaining one percent of the coal production is reported on.

Internally, OSMRE conducts continuous internal reviews of both automated and manual data entry reviews for timeliness, accuracy, and compliance of data entered into the Coal Fee Collection Management System.

Externally, OSMRE conducts independent reviews of data in their Coal Fee Collection Management System during audits of coal company records. During those audits, OSMRE auditors review data entered into the Coal Fee Collection Management System against coal company records of reported tonnage to determine whether there are any discrepancies in the data in OSMRE's system.

The efficiencies of the audit program and its related activities have enabled OSMRE to achieve a compliance rate of over 99% at a minimal cost to the AML Fund. OSMRE's process improvements and successful migration to electronic reporting has automated virtually all ministerial functions and eliminated 100% of data entry errors.

Office of the Inspector General Oversight (OIG)

The OIG provides independent oversight and promotes accountability within the program, operations, and management of the Department. The OIG performs the following functions:

- Oversees the contract with an independent CPA firm to perform the Annual Financial Statement/CFO audit
- Conducts energy focused reviews of DOI energy and mineral revenue programs
- Provides leadership and coordination and recommends policies for activities
- Identifies risks and vulnerabilities that directly affect DOI's mission
- Provides a means for keeping interested parties informed about problems and deficiencies relating to the administration of programs and operations and the progress of necessary corrective actions
- Plans to review the activities related to the EITI initiative in 2016

Additional Department of Interior Controls

There are various entities within DOI that support the accuracy, reliability, and timeliness of data collection and reporting. The table below describes the responsibilities and functions of these entities.

DOI Office	Responsibilities/Functions
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Financial and Production Management	<ul style="list-style-type: none"> • Collect, verify, and distribute all rent, royalties and bonuses • Receive, process and verify industry-submitted royalty reports; • Perform Data Mining functions • Receive, process and verify industry-submitted production reports, error correction for all Federal and Indian production; • Oversee meter inspections for production verification.
General Ledger (GL)	<ul style="list-style-type: none"> • Accounts for the billions of dollars ONRR collects and disburses in accordance with Generally Accepted Accounting Principles • Processes payments, prepares reports and reconciliations for the U.S. Treasury • Processes revenue sharing disbursements through to the U.S. Treasury to States and Counties, and transfers to other Federal agencies; processes refunds of overpayments to lessees • Provides the initial trial balance used to develop the Departmental financial statements. <p>GL is subject to an annual financial audit by the Office of Inspector General.</p>
Accounting Services	<p>The Accounting Services branch defines its Accounts Payable (AP) functions as either Federal or Indian.</p> <p>In general, they:</p> <ul style="list-style-type: none"> • Ensure revenues are received with correct information and proper recipients • Prepare disbursement data for the U.S. Treasury and the Office of the Special Trustee • Provide distribution and mineral revenue reports to Federal agencies, States, Tribes, Tribal Allottees, and other requestors.
Accounts Payable Federal	<p>AP Federal oversees system processing of all Payor/Reporter detailed reporting and payments. Employees in this area work closely with various recipient agencies, States and Counties, to resolve issues and ensure timely distribution of shared revenues. Federal statutes and provisions regarding mineral extraction on Federal lands dictate the AP Federal processes.</p>
Accounts Payable Indian	<p>AP Indian is responsible for daily rent and royalty collections on behalf of Indian tribes. AP Indian works extensively with the Bureau of Indian Affairs (BIA), the Office of the Special Trustee for American Indians (OST) and recipient Indian tribes.</p> <p>In general AP Indian will:</p> <ul style="list-style-type: none"> • Prepare a daily report of deposits for OST and a twice-monthly distribution report on leases held by individual Indian allottees (Allotees) • Work with OST and Indian Tribes to answer questions and reconcile accounts, as needed • Work with ONRR's Indian Outreach organization to resolve issues with Allotees

Reporting & Solid Minerals Services Group	<ul style="list-style-type: none"> • Manage other related Federal and Indian account reconciliations • Reconcile payments to receivables within customer accounts • Establish receivables for mineral royalty reports • Identify credit/refund actions, and process related paperwork
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U.S. Government Mainstreamed Processes & Controls

U.S. Treasury, Single Source Cash Flow

The U.S. Treasury and Federal Reserve System (Treasury) serves as the sole provider of financial services for all U.S. federal agencies including ONRR. Treasury maintains a centralized system of accounts for ONRR. The core tenet of this centralized system of accounts is that no single federal agency controls the receipt and payment of public funds. All federal agencies that handle government financial transactions must properly perform their function to support internal government control and the system of central accounts. Treasury performs variance analysis and various other reconciliations on transactions and balances contained within its systems. Treasury contacts ONRR with any questions they may have and can request ONRR justify or make changes. Interior's External Auditor also samples deposit and disbursement data from all Treasury systems and traces that data back to originating lease documents with ONRR's systems or other agency accounting advices. To accomplish these ends, there are several primary systems maintained by Treasury that ONRR utilizes for cash flows. The primary systems ONRR uses to manage cash flows are the Collections Information Repository (CIR) for revenue collections, Intra-governmental Payments and Collections System (IPAC) from intragovernmental transfers, Secure Payment System (SPS) for disbursements and the Central Accounting Reporting System (CARS) for Treasury fund reconciliation.

ONRR receives the majority of its oil and gas collections, as well as geothermal and solid minerals through the CIR. CIR serves as a transaction broker, data warehouse, and reporting solution that provides a single touch-point to exchange all financial transaction information for settled transactions across all collections systems. This enables the U.S. Government to normalize financial transaction reporting and standardize the availability of financial information across all settlement mechanisms and collections systems. CIR greatly improves the way ONRR collects, analyzes, and redistributes financial transaction information, which in turn eliminates redundancies and disconnects across and between the numerous point-to-point connections. The system is self-contained with various related external system interfaces. CIR provides ONRR with collections related to payments from the public sent via Fedwire, Pay.gov, ACH, and check. All payment method transaction information submitted to ONRR is summarized daily into vouchers by CIR. CIR does not allow ONRR to create or alter deposit information.

Whereas ONRR uses CIR for collections from the public, IPAC is used for oil and gas revenues collected by other federal agencies and transferred to ONRR via IPAC. ONRR also uses IPAC to disburse revenue to other federal agencies in accordance with applicable statutes. The IPAC system's primary purpose is to provide a standardized interagency fund transfer mechanism for Federal Program Agencies (FPAs). IPAC facilitates the intragovernmental transfer of funds, with descriptive data from one FPA to another. The IPAC System enables FPAs to exchange accounting and other pertinent information to assist in the reconciliation of funds transferred between FPAs for various interagency transaction types (buy/sell, fiduciary, and other miscellaneous payment and collection transactions). A Sender and Receiver Treasury Account Symbol/Business Event Type Code (TAS/BETC) are validated in the Shared Accounting Module (SAM) and transmitted to the CARS Account Statements at the time of IPAC origination. IPAC standardizes interagency payment, collection, and adjustment procedures through an internet-based application.

The SPS is an application that allows government agencies to create payment schedules in a secure fashion; with strictly enforced separation of duties. Access to SPS is rigidly controlled by both Treasury and ONRR. SPS is ONRR's only avenue to disburse revenue from Treasury to state or local governments and to refund overpayments back to companies.

Lastly, ONRR uses the CARS to report and reconcile all collections and disbursements activity. CARS is a one-stop access point to:

- provide and retrieve data and information from Treasury
- capture and record Treasury Account Symbol (TAS) information for payments
- deposit, and intra-governmental transactions
- provide an account statement of the fund balance with Treasury
- allow access to transaction detail to support research and reconciliation,
- improve the usability and currency of government-wide financial information
- minimize data redundancy and enhances data sharing between Treasury's central accounting system, financial service provider systems, and agency core financial systems

ONRR users reconcile the CARS fund balance with Treasury to ONRR's accounting system via reclassification of collection and disbursement transactions to the proper fund within Treasury. This reconciliation process is performed in the first three business days of each month. Any statements of difference between Treasury and ONRR are not permitted. All discrepancies and out of balances found must be corrected during the current accounting period, or a restatement is required for closed periods. CARS does not allow ONRR to create or delete transactions from the system.

Third Party Audit Procedures

The annual Agency Financial Report (AFR) provides important financial and performance information related to the stewardship, management, and leadership of the public funds and resources entrusted to DOI. Specifically, the report contains DOI's audited financial statements as required by the Chief Financial Officers Act of 1990. The audited financial statements include the custodial revenues managed by ONRR, OSMRE, and BLM. In FY 2014, DOI obtained a clean (unmodified) opinion from the independent auditing firm - this was the 18th consecutive clean opinion for DOI.

The DOI adheres to strict audit and assurance procedures in order to fulfill its fiduciary trust responsibilities to the nation's taxpayers, states, tribal affiliates, and local municipalities. The procedures outlined below reflect the best efforts to compile, structure, and summarize processes generally employed across DOI's bureaus and offices to achieve the Department's overarching mission.

- This analysis first examines the external and independent audit requirements used to evaluate DOI's compliance with audit and assurance protocols.
- Next is a review of the Department's internal audit controls, audit and compliance activities, and peer review processes.
- Last is an examination of the Department's data and IT assurance mechanisms.

In engaging a third-party to conduct its audit, DOI entrusts this independent auditor to conduct audits of the Department's general-purpose financial statements and closing package financial statements in accordance with auditing standards generally accepted in the U.S. The purpose of such an audit is the expression of an opinion as to whether the general-purpose financial statements that have been prepared by management conform with the U.S. generally accepted accounting principles.

In the U.S. such a third-party audit involves the following types of activities, at a high-level:

- Performing procedures to obtain audit evidence about the amounts and disclosures in the general-purpose financial statements and closing package financial statements
- Performing tests of the accounting records and assessing the risks of materials misstatements of the general-purpose financial statements and closing package financial statements, whether due to an error or fraud, to provide a reasonable basis for opinions
- Evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management

- Evaluating the overall general purpose financial statement and closing package financial statement presentation

In the Independent Auditor's Report, KPMG, LLP noted: "In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the financial position of the U.S. Department of the Interior as of September 30, 2014 and 2013, and its net costs, changes in net position, budgetary resources, and custodial activity for the years then ended in accordance with U.S. generally accepted accounting principles."⁴

The audit of ONRR and the Department of the Interior is conducted according to the Generally Accepted Government Auditing Standards. This framework is used for conducting high quality audits with competence, integrity, objectivity, and independence. These standards are promulgated by the U.S. GAO.

Additional Oversight

In addition to external audits from third-party auditors, DOI and ONRR are subject to additional oversight related to the collection, distribution, and reporting of revenues. The DOI OIG provides oversight in a number of areas. OIG's Office of Audits, Inspections, and Evaluations can examine financial statements to determine if they are presented fairly and in accordance with accounting principles. The Office of Investigations conducts, supervises, and coordinates investigations related to allegations of fraud, waste, abuse, or mismanagement of financial resources or resulting in significant financial loss to DOI.

Ultimately, as members of the Executive Branch, DOI and ONRR are subject to congressional oversight. The U.S. Congress has a constitutional responsibility and right to investigate the actions of the Executive Branch and can compel reports, witnesses, and testimony.

Government Accountability Office (GAO)

The GAO supports the Congress in meeting its Constitutional responsibilities and assists in improving the performance and accountability of the Federal government. Its work is done at the request of congressional committees or subcommittees or is mandated by public laws or committee reports, and includes the following activities:

- Audits agency operations to determine whether Federal funds are being spent efficiently and effectively
- Investigates allegations of illegal and improper activities

⁴ Links to the AFRs for FY 2013 and FY 2014, respectively: <http://www.doi.gov/pfm/afr/2013/upload/DOI-FY-2013-AFR.pdf> and <http://www.doi.gov/pfm/afr/2014/upload/DOI-FY-2014-AFR.pdf>

- Reports on how well government programs and policies are meeting their objectives
- Performs policy analyses and outlining options for congressional consideration
- Issues legal decisions and opinions
- Advises Congress and the heads of executive agencies about ways to make government more efficient, effective, ethical, and responsive
- Publishes a High Risk List (<http://www.gao.gov/highrisk/overview>)
- Work leads to laws and acts that improve government operations
- Maintains and updates Generally Accepted Government Auditing Standards

The GAO Comptroller General issues Generally Accepted Government Auditing Standards (GAGAS). GAGAS, which were first published in 1972, and are commonly referred to as the “Yellow Book,” cover Federal entities and those organizations receiving Federal funds. The most recent 2011 revision of Government Auditing Standards represents a modernized version of the standards, taking into account recent changes in other auditing standards, including international standards.

GAGAS incorporates by reference the American Institute of Certified Public Accountants (AICPA) Statements on Auditing Standards (SAS) and Statements on Standards for Attestation Engagements (SSAE). Auditors may elect to use the International Auditing and Assurance Standards Board (IAASB) standards and the related International Standards on Auditing (ISA) and International Standards on Assurance Engagements (ISAE) in conjunction with GAGAS.

The Auditing Standards Board (ASB) of the AICPA develops its SAS using the ISA as the base standard (ISAs are developed by the IAASB), and modify the base standard only where modifications are deemed necessary to better serve the needs of the US legal and regulatory reasons. As noted above, ASB field work and reporting standards for financial audit and attestation engagements are incorporated by reference into the Yellow Book unless specifically excluded.

GAGAS, part 3.31 (2011), encourages internal auditors who work for management of audited entities to use the Institute of Internal Auditor’s (IIA) International Standards for the Professional Practice of Internal Auditing in conjunction with GAGAS.

GAO is a member of the International Organization of Supreme Audit Institutions’ (INTOSAI) Professional Standards Committee which strives to establish an effective framework for professional standards that correspond to the needs of member SAIs. Only GAO, the IIA, and INTOSAI currently issue standards on performance and compliance audits. GAGAS incorporates compliance auditing in its performance auditing standards; INTOSAI has also issued a separate set of compliance audit standards.



The United States Extractive Industries
Transparency Initiative

DRAFT

Recommendation on Mainstreaming

[THE IA WILL COMPLETE THIS SECTION ONCE THE MSG DOES/DOES NOT RECOMMEND]

Based on available evidence, the USEITI MSG [recommends/does not recommend] that USEITI pursues mainstreaming. There are X key reasons for this recommendation.

Appendix 1 – Stakeholder Interview Notes

Interviewees

The IA interviewed 9 MSG members and alternates from each of the three sectors. The IA invited 11 MSG Members/Alternates from across the three sectors. The following 9 members are those who agreed to participate.

Sector	Name	Organization
Civil Society	Danielle Brian	Project on Government Oversight
Civil Society	Keith Romig, Jr.	United Steelworkers
Industry	Veronika Kohler	National Mining Association
Industry	Phil Denning	Shell Oil Company
Industry	Aaron Padilla	American Petroleum Institute
Government	Greg Gould	Department of the Interior
Government	Curtis Carlson	Department of the Treasury
Government	Mike Matthews	State of Wyoming – Department of Audit
Government	Jim Steward	Department of the Interior

Responses

The interviews covered the individuals' goals for USEITI, the U.S. track record of reconciliation, and evaluating the data quality of USEITI as they related to mainstreaming. Key takeaways on those subjects are included below. They are organized by sector.

Topic	Sector	Takeaway
Goals for	CSO	CSO representatives spoke of a range of goals for USEITI,

USEITI including: consolidating already available public data in an easily accessible place, creating a meaningful contextual narrative, revealing new information that had not previously been publicly available, and representing specific constituents.

CSO is split on how reconciliation fits into their goals. A view was expressed that reconciliation was inherently comparing company data to company data (i.e., government data was just company data provided to the government by the company). Another viewed reporting and reconciliation as a positive with the exception of tax reporting and reconciliation.

Neither saw mainstreaming specifically fitting into their goals for USEITI.

Government expressed a range of goals, including: educating the public, participating and leading on an international stage, creating something useful for public and the government, improving government operations, achieving a workable solution within U.S. laws, and achieving validation.

Goals for USEITI Government Government did not see reconciliation as a part of their goals, a value add for the U.S. public, a valuable use of taxpayer money, an achievable reality for taxes, or valuable to USEITI as a whole.

Mainstreaming was seen as the only feasible way for the U.S. to achieve validation, it's viewed as easier, and likely to increase participation. They see audits and controls in the U.S. as already achieving the purpose of reconciliation as laid out in USEITI.

Goals for USEITI Industry Industry stated goals for USEITI of increasing transparency and data accessibility to the public, increasing public understanding and confidence, articulating the current state of U.S. management as a model internationally, and building trust with the other sectors.

Industry did not see reconciliation as fitting materially into

those goals. Responses noted it as a check-the-box exercise and a waste of time.

Mainstreaming is seen as essential by industry, and merited based on the current systems in place. Mainstreaming would save taxpayer money, reduce the burden on companies, and free up time to undertake activities more useful for the American public.

Track Record of Reconciliation	CSO	CSO saw the track record of reconciliation as strong with regards to non-tax revenue but as weak and lacking reporting and reconciliation of taxes.
Track Record of Reconciliation	Government	<p>Government saw the track record of revenues as very strong given the U.S. system of audits, controls, checks, and balances. They viewed tax reporting and reconciliation as the biggest weakness given the legal prohibitions against disclosure and the lack of company involvement.</p> <p>Government viewed the decline in the number of companies as an effect of broader market forces (the decline in commodity prices and company bankruptcies) not specifically reflective of USEITI.</p>
Track Record of Reconciliation	Industry	<p>Industry saw the track record of reconciliation in the U.S. as strong given audits, controls, and systems in place. Reconciliation helped to prove in another way that the numbers match and that the U.S. has already mainstreamed.</p> <p>Industry didn't view the decline in the number of companies as important; they saw reconciliation as having achieved its purpose of showing the dollars match. They also did not view it as decreasing the amount of information available given data disclosures.</p>
Evaluating U.S. Data Quality	CSO	<p>CSO saw the strength of U.S. data in government disclosure and the promise of government project level disclosure, even if it's upon request. CSO also noted that U.S. data was up to date and reliable.</p> <p>CSO viewed the lack of tax reporting and reconciliation and</p>

		the rescinding of Dodd-Frank 1504 as the fatal weakness of U.S. data quality.
Evaluating U.S. Data Quality	Government	<p>Government saw the strength of U.S. data in it being up-to-date, reliable due to the stringent system of audits and controls in the United States, and comprehensive for nontax revenues. They noted that USEITI has achieved an unprecedented level of disclosure and that contextual narrative information helped to make data comprehensible.</p> <p>They viewed the lack of tax disclosure, given U.S. laws, as the chief weakness in U.S. data comprehensiveness and the rescinding of Dodd-Frank 1504 as fatal to U.S. hopes of achieving that kind of disclosure, and with it mainstreaming.</p>
Evaluating U.S. Data Quality	Industry	<p>Industry articulated an extensive list of U.S. data quality strengths, including: public accessibility, level of disaggregation, up-to-date nature, and reliability based on controls and audits, contextual explanations of data, and comprehensive release of appropriate data.</p> <p>Industry generally saw less cause for concern with the rescinding of Dodd-Frank 1504 and articulated cases for how the U.S. can mainstream given current controls and disclosures. They saw limited influence on U.S. companies due to EU directives related to disclosure.</p>

Appendix 2 – Relevant U.S. Laws & Regulations

Select Laws Establishing the Fiscal Regime for Extractive Industries in the U.S.

Law Name and Code	Description	Relevant Lands or Waters	Relevant Natural Resources
<u>The General Mining Law of 1872 As Amended</u> ⁵ (30 USC § 29 and 43 CFR 3860)	Provides the right to patent, meaning transfer to private ownership, federal land and natural resources for mining. Since October 1, 1994, Congress has imposed a budget moratorium on any new mineral patent applications.	Federal Onshore (public domain)	Locatable hard rock minerals (e.g., gold, silver, and copper)
<u>Leasing of Allotted Lands for Mining Purposes Act of 1909</u> ⁶ (25 USC § 396 and 25 CFR 212)	States that all lands allotted to Indians, except those made to members of the Five Civilized Tribes and Osage, may be leased for mining purposes for any term of years as may be deemed advisable by the Secretary of the Interior.	Indian (allotted)	Not specified
<u>Mineral Leasing Act of 1920 As Amended</u> ⁷ (30 USC 181 et seq.)	Creates a system of leasing mineral resources on federal lands for extraction, and grants the Bureau of Land Management (BLM) authority to administer mineral leasing.	Federal Onshore (public domain)	Coal, oil, gas, oil or gas shale, sodium, potassium, phosphate, sulfur, and gilsonite
<u>Indian Mineral Leasing Act of 1938</u> ⁸ (25 USC § 396a et seq.)	Opens un-allotted lands within any Indian reservation for leasing for mining purposes by authority of the tribal council and approval from the Secretary of the Interior.	Indian (tribal)	Not specified
<u>Mineral Leasing Act for</u>	Extends Mineral Leasing Act of 1920 and authority of the Secretary of the Interior	Federal onshore	Coal, oil, gas, oil or gas shale,

⁵ http://apps2.eere.energy.gov/wind/windexchange/wind_installed_capacity.asp

⁶ <http://www.gpo.gov/fdsys/pkg/USCODE-2011-title25/pdf/USCODE-2011-title25-chap12-sec396.pdf>

⁷ http://www.blm.gov/pdata/etc/media/lib/blm/wo/Communications_Directorate/legislation/Par.23212.File.dat/mla_1920_amendments1.pdf

⁸ <http://www.gpo.gov/fdsys/pkg/USCODE-2009-title25/html/USCODE-2009-title25-chap12.htm>

Law Name and Code	Description	Relevant Lands or Waters	Relevant Natural Resources
<u>Acquired Lands of 1947</u> ⁹ (30 USC § 351 et seq. and 43 CFR 3420)	to govern mineral leasing on federal acquired lands.	(acquired)	sodium, potassium, phosphate, sulfur, and gilsonite
<u>Mineral Materials Act of 1947</u> ¹⁰ (30 USC § 601 et seq.)	<u>Also known as the Common Varieties Act, regulates the sale and permitting of the most common hardrock minerals, in place of the General Mining Law of 1872.</u>	Federal onshore	Common hardrock minerals (e.g., sand, gravel, stone, pumice, cinders, etc.)
<u>Submerged Lands Act of 1953</u> ¹¹ (43 USC § 1301 et seq.)	<u>Recognizes the states' rights to the submerged navigable lands within their boundaries as well as the marine waters within their boundaries, often defined as three geographical miles from the coastline.</u>	State offshore	All natural resources
<u>Outer Continental Shelf Lands Act of 1953 As Amended</u> ¹² (43 USC § 1331)	Gives the Secretary of the Interior responsibility for administering mineral exploration and development and other energy resources on the Outer Continental Shelf, subject to environmental safeguards. Mandates receipt of fair market value for mineral leasing.	Outer Continental Shelf	Oil, gas, and other minerals
<u>Geothermal Steam Act of 1970</u> ¹³ (30 USC § 1001, et seq.)	Allows the leasing of federal land under BLM's administration for geothermal resource development, excluding prohibited lands.	Federal onshore	Geothermal
<u>Mining and Minerals Policy</u>	Amends the Mining Act of 1920. Establishes the national interest to	Federal onshore	All natural resources

⁹ http://www.blm.gov/pdata/etc/medialib/blm/wo/Communications_Directorate/legislation/Par.23212.File.dat/mla_1920_amendments1.pdf#page=56

¹⁰ [http://legcounsel.house.gov/Comps/Act%20Of%20July%2031.%201937-\(Materials%20Act%20Of%201947\).pdf](http://legcounsel.house.gov/Comps/Act%20Of%20July%2031.%201937-(Materials%20Act%20Of%201947).pdf)

¹¹ <http://www.boem.gov/uploadedFiles/submergedLA.pdf>

¹² <http://www.gpo.gov/fdsys/pkg/USCODE-2010-title43/html/USCODE-2010-title43-chap29-subchapIII.htm>

¹³ <http://www.gpo.gov/fdsys/pkg/STATUTE-84/pdf/STATUTE-84-Pg1566.pdf>

Law Name and Code	Description	Relevant Lands or Waters	Relevant Natural Resources
<u>Act of 1970</u> ¹⁴ (30 USC § 21a)	develop a domestic private enterprise mining industry while addressing adverse environmental impacts.		
<u>Federal Coal Leasing Amendments Act (FCLAA) of 1976</u> ¹⁵ (90 STAT 1083)	Amends Section 2 of the Mineral Leasing Act of 1920. Requires all public lands available for coal leasing to be leased competitively, the government to only accept lease bids equal to or greater than fair market value, the consolidation of leasing into logical mining units, lease holders to continually operate, and other measures.	Federal onshore	Coal
<u>Surface Mining Control and Reclamation Act (SMCRA) of 1977</u> ¹⁶ (30 USC § 1201 et seq.)	Creates the Office of Surface Mining, Reclamation, and Enforcement (OSMRE) to establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations, under which OSMRE is charged with balancing the nation's need for continued domestic coal production with protection of the environment; requires coal mine owners to post bonds as insurance for reclaiming the land after current mining operations, and requires them to pay into the Abandoned Mine Reclamation Fund, a fund intended to address mines abandoned prior to 1977.	Federal onshore	Coal
<u>Federal Oil and Gas Royalty Management Act (FOGRMA) of 1982</u> ¹⁷ (30 USC § 1701 et	Grants the Secretary of the Interior authority for managing and collecting oil and gas royalties from leases on federal and Indian lands.	Federal onshore, Indian, and Outer Continental Shelf	Oil and gas

¹⁴ <http://www.gpo.gov/fdsys/pkg/USCODE-2011-title30/pdf/USCODE-2011-title30-chap2-sec21a.pdf>

¹⁵ <http://www.gpo.gov/fdsys/pkg/STATUTE-90/pdf/STATUTE-90-Pg1083.pdf>

¹⁶ <http://www.gpo.gov/fdsys/pkg/STATUTE-91/pdf/STATUTE-91-Pg445.pdf>

¹⁷ http://www.boem.gov/uploadedFiles/BOEM/Oil_and_Gas_Energy_Program/Leasing/Outer_Continental_Shelf/Lands_Act_History/federal%20og%20royalty%20mgmt.pdf

Law Name and Code	Description	Relevant Lands or Waters	Relevant Natural Resources
seq.)			
Indian Mineral Development Act of 1982 ¹⁸ (25 USC §§2101-2108)	Provides Indian tribes with flexibility in the development and sale of mineral resources, including opportunities to enter into joint venture agreements with mineral developers.	Indian (tribal)	Oil and gas, coal, geothermal, and other mineral resources
Federal Onshore Oil and Gas Leasing Reform Act (FOOGLRA) of 1987 ¹⁹ (30 USC § 181 et seq.)	Amendment to the Mineral Leasing Act of 1920. Gives the Forest Service the authority to proactively offer leases for oil and gas on National Forest System lands provided environmental and other land-use regulations are met. BLM largely administers leasing on these lands.	Federal onshore	Oil and gas
Federal Oil and Gas Royalty Simplification and Fairness Act (RSFA) of 1996 ²⁰ (30 USC § 1701 et seq.)	Improves royalty management from federal and Outer Continental Shelf oil and gas leases.	Federal onshore and Outer Continental Shelf	Oil and gas
Energy Policy Act (EPA) of 2005 ²¹ (42 USC § 13201 et seq.)	Addresses energy production in the U.S., including the production, transportation, or transmission of energy on the Outer Continental Shelf waters from sources other than oil and gas (e.g., wind energy); incentives for oil and gas development; and provisions to access oil and gas resources on federal lands.	Federal onshore and Outer Continental Shelf	Oil, gas, coal, wind, solar, hydropower, and geothermal
Gulf of Mexico Energy Security Act (GOMESA) of 2006 ²² (120 Stat. 2922)	Opens 8.3 million acres in the Gulf of Mexico for oil and gas leasing, shares leasing revenues with gulf producing states and the Land & Water Conservation Fund, and bans oil and gas leasing within	Outer Continental Shelf	Oil and gas

¹⁸ <http://www.gpo.gov/fdsys/pkg/STATUTE-96/pdf/STATUTE-96-Pg1938.pdf>

¹⁹ <http://www.gpo.gov/fdsys/pkg/USCODE-2011-title30/pdf/USCODE-2011-title30.pdf>

²⁰ http://www.onrr.gov/laws_r_d/PubLaws/PDFDocs/rsfa.pdf

²¹ <http://www.gpo.gov/fdsys/pkg/BILLS-109hr6enr/pdf/BILLS-109hr6enr.pdf>

²² <http://www.boem.gov/Oil-and-Gas-Energy-Program/Energy-Economics/econ/GOMESA-pdf.aspx>

Law Name and Code	Description	Relevant Lands or Waters	Relevant Natural Resources
	125 miles off the Florida coastline in the Eastern Planning Area and a portion of the Central Planning Area until 2022.		

There are other laws governing natural resources and extractive companies' operations. Some of these laws require companies to pay fees. Violating some of these laws can also result in companies paying fines.

Select Laws Resulting in Fines or Fees for Extractive Industries Companies in the U.S.

Law Name and Code	Description	Relevant Lands	Relevant Natural Resources
Federal Land Policy and Management Act (FLPMA) of 1976 ²³ (43 USC §1701 et seq.)	Requires BLM to administer federal lands using a land use planning framework that includes no unnecessary or undue degradation, multiple-use, sustained yield, considerations for present and future generations, and public planning. Requires receipt of fair market value for use of federal lands and resources.	Federal onshore and Indian	All natural resources
Clean Air Act (CAA) of 1970 ²⁴ (42 USC §7401 et seq.)	Outlines steps that federal agencies, state and local governments, and industry must take to decrease air pollution. Oil and gas wells are exempt from legal aggregation, whereby the emissions from small sites that are connected, in close proximity, or under shared ownership are added together and regulated as "stationary sources" if they emit or could emit 100 tons per year of a pollutant.	All lands	All natural resources, except when oil and gas are exempted
Clean Water Act (CWA) of 1972 ²⁵ (33 USC §1251 et seq.)	Establishes regulatory framework to protect water quality and monitor discharges of pollutants into waters in the U.S. The U.S. Environmental Protection	All lands	All natural resources, except when oil and gas are

²³ <http://www.boem.gov/Oil-and-Gas-Energy-Program/Energy-Economics/econ/GOMESA-pdf.aspx>

²⁴ <http://www.gpo.gov/fdsys/pkg/USCODE-2008-title42/pdf/USCODE-2008-title42-chap85.pdf>

²⁵ <http://www.gpo.gov/fdsys/pkg/USCODE-2010-title33/pdf/USCODE-2010-title33-chap26.pdf>

Law Name and Code	Description	Relevant Lands	Relevant Natural Resources
	Agency does not require National Pollutant Discharge Elimination System (NPDES) permits for uncontaminated storm water discharges from oil and gas exploration, production, processing or treatment operations, transmission, or drill site preparation. ²⁶		exempted
<u>Safe Drinking Water Act (SDWA) of 1974²⁷ (42 USC 300f-300j)</u>	<u>Protects public health by regulating the nation's public drinking water supply and its sources. As of the 2005 Energy Policy Act, hydraulic fracturing fluids are exempt from underground injection control permits unless diesel fuel is used in the extraction process.</u> ²⁸	All lands	All natural resources, except when oil and gas are exempted
<u>Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980²⁹ (42 USC 9601-9675)</u>	<u>Provides a federal "superfund" to clean up uncontrolled or abandoned hazardous-waste sites as well as accidents, spills, and other emergency releases of pollutants and contaminants into the environment, and gives the U.S. Environmental Protection Agency the power to seek out those parties responsible for any release and assure their cooperation in the cleanup.</u>	All lands	All natural resources, except when oil and gas are exempted
<u>Endangered Species Act (ESA) of 1973³⁰ (16 USC § 1531 et seq.)</u>	<u>Protects and recovers imperiled species and the ecosystems upon which they depend.</u>	All lands	All natural resources
<u>Marine Mammal</u>	<u>Prohibits, with certain exceptions, the "take" of marine mammals in U.S. waters</u>	All lands	All natural resources,

²⁶ U.S. Environmental Protection Agency, "Regulation of Oil and Gas Construction Activities," 9 March 2009, <http://water.epa.gov/polwaste/npdes/stormwater/Regulation-of-Oil-and-Gas-Construction-Activities.cfm>

²⁷ <http://www.epw.senate.gov/sdwa.pdf>

²⁸ U.S. Environmental Protection Agency, "Regulation of Hydraulic Fracturing Under the Safe Drinking Water Act," http://water.epa.gov/type/groundwater/uic/class2/hydraulicfracturing/wells_hydroreg.cfm

²⁹ <http://www.epw.senate.gov/cercla.pdf>

³⁰ <http://www.nmfs.noaa.gov/pr/pdfs/laws/esa.pdf>

Law Name and Code	Description	Relevant Lands	Relevant Natural Resources
<u>Protection Act of 1972</u> ³¹ (16 USC 1361 et seq.)	<u>and by U.S. citizens on the high seas, and the importation of marine mammals and marine mammal products into the U.S.</u>		except when oil and gas are exempted

There are many other laws with which extractive industries companies must comply. DOI, the Environmental Protection Agency (EPA), the National Oceanic and Atmospheric Administration (NOAA), and other federal agencies' websites contain more comprehensive lists of related laws that they enforce:

- DOI BOEM: <http://www.boem.gov/Regulations/BOEM-Governing-Statutes.aspx>
- DOI BSEE: <http://www.bsee.gov/Regulations-and-Guidance/BSEE-Governing-Statutes/>
- DOI BLM: <http://www.blm.gov/wo/st/en/info/regulations.html>
- EPA: <http://www2.epa.gov/laws-regulations/laws-and-executive-orders#majorlaws>
- NOAA: http://www.nmfs.noaa.gov/ole/about/what_we_do/laws.html

Laws, Regulations, Professional Standards, and Regulatory Organizations

Law, Regulation, Professional Standard, or Regulatory Organization	Acronym	Description
US Generally Accepted Accounting Principles	GAAP	GAAP is the standardized accounting rule set for federal government entities, as well as publicly traded or private companies domiciled in the United States or for other international jurisdictions where GAAP is required. GAAP enables stakeholders of companies to compare accounting statements for different companies and industries by using a standard methodology. Because of various accounting and financial reporting standards, the federal government tailors GAAP to meet its unique characteristics and circumstances.
Internal Revenue	IRS	The IRS is the revenue service of the US Federal Government. The IRS is a bureau within the Department of the Treasury, and

³¹ <http://www.nmfs.noaa.gov/pr/pdfs/laws/mmpa.pdf>

Law, Regulation, Professional Standard, or Regulatory Organization	Acronym	Description
Service		is under the immediate direction of the Commissioner of Internal Revenue. The IRS is responsible for collecting taxes and the administration of the Internal Revenue Code.
Securities and Exchange Commission Act	SEC	The Securities Exchange Act of 1934 established the SEC to govern the securities industry. By regulation of the SEC, public companies must have their financial statements prepared in accordance with GAAP or International Financial Reporting Standards (IFRS), as issued by the International Accounting Standards Board (IASB), and audited each year by an independent registered public accounting firm. During an audit, the independent auditor examines, on a test basis, evidence supporting the amounts and disclosures in the financial statements. The auditor provides a written opinion on whether the company's financial statements are, in all material respects, fairly presented in accordance with GAAP or IFRS.
Sarbanes-Oxley Act	SOX	SOX requires all financial reports for large public companies (those with a market capitalization of \$75 million and referred to as "accelerated" filers and those subject to SEC reporting requirements) to include an Internal Control over Financial Reporting (ICFR) certification by company management and an ICFR opinion by the independent auditor as of the specified balance sheet date Congress passed SOX in 2002, in part, to further protect investors from fraudulent accounting activities by public companies.
Public Company Accounting Oversight Board	PCAOB	PCAOB exists to confirm that the registered public accounting firms are auditing the financial statements and ICFR of public companies in accordance with auditing standards established and adopted by the PCAOB. The PCAOB is a nonprofit corporation established by Congress to oversee the audits of public companies in order to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports.
American Institute of Certified Public	AICPA	AICPA requires independent auditors to comply with the audit standards issued by the AICPA for the audits of all companies that are not subject to SEC jurisdiction. The AICPA has released

Law, Regulation, Professional Standard, or Regulatory Organization	Acronym	Description
Accountants		mandatory audit and attest standards for conducting, planning, and reporting on audit and attestation engagements of private companies.
Financial Accounting Standards Board	FASB	The FASB is a private, nonprofit organization with a primary purpose of establishing and improving GAAP within the US. The SEC designated the FASB as the organization responsible for setting accounting standards for public companies in the US. The FASB created a council known as the Private Company Council (PCC). The PCC and the FASB work jointly to mutually agree on a set of criteria to decide whether and when alternatives within GAAP are warranted for private companies.
International Financial Reporting Standards	IFRS	IFRS are a set of accounting standards developed by the International Accounting Standards Board (IASB) that is intended to establish a consistent global standard for the preparation of public company financial statements or those entities domiciled outside the US. The IASB, based in London, is an independent accounting standard-setting body. It is funded by contributions from major accounting firms, private financial institutions, industrial companies, central and development banks, national funding regimes, and other international and professional organizations throughout the world. Approximately 120 nations and reporting jurisdictions permit or require IFRS for domestic listed companies. The SEC is currently considering whether it will incorporate IFRS into the financial reporting system for US issuers. There is currently no estimated date for when such a decision might be made.
Generally Accepted Auditing Standards	GAAS	GAAS are the minimum standards for auditing private companies and come in three categories: general standards, standards of fieldwork, and standards of reporting. PCAOB has adopted these standards for public (traded on the open market) companies. Each audit engagement may require audit work beyond what is specified in the GAAS in order to provide a written opinion on whether a set of financial statements is, in all material respects, fairly presented in accordance with

Law, Regulation, Professional Standard, or Regulatory Organization	Acronym	Description
		GAAP.
Generally Accepted Government Auditing Standards	GAGAS	GAGAS provides a framework for conducting high quality audits of government resources and programs with competence, integrity, objectivity, and independence. Government auditing is an essential tool that allows legislators, oversight bodies, those charged with governance, and the public to hold government agencies accountable. GAGAS is used by auditors of government entities, entities that receive government awards, and other audit organizations performing audits. The US Government Accountability Office (GAO) is responsible for maintaining and updating GAGAS. GAO is an independent, nonpartisan agency that works for Congress. Often called the “congressional watchdog,” GAO investigates the Executive Branch of the federal government.
Chief Financial Officers Act of 1990 (P.L. 101-576)	CFO Act	The CFO Act of 1990 established a leadership structure, provided for long range planning, required audited financial statements, and strengthened accountability reporting in the federal government. The aim of the CFO Act is to improve financial management systems and information. The CFO Act also requires the development and maintenance of agency financial management systems that comply with the following: applicable accounting principles, standards, and requirements; internal control standards; and requirements of the Office of Management and Budget (OMB), the US Department of the Treasury, and other agencies. Reports of audits conducted under the CFO Act are done on an annual basis and must be completed by November 15 following the close of the fiscal year (September 30) for which the financial statements were prepared.
Government Management Reform Act of 1994 (P.L. 103-356)	GMRA	GMRA requires the independent, external audit of agency financial statements and the preparation and audit of a consolidated financial statement for the federal government on an annual basis.
OMB Circular A-	A-136	OMB provides annual updates to Circular No. A-136 which

Law, Regulation, Professional Standard, or Regulatory Organization	Acronym	Description
136 (Financial Reporting Requirements)		provides federal guidance for agency and government-wide financial reporting. This Circular establishes a central point of reference for all federal financial reporting guidance for the Executive Branch departments, agencies, and entities required to submit an Agency Financial Report (AFR) under the CFO Act and the GMRA. In compliance with the CFO Act, the GMRA, and Circular A-136, DOI publishes an AFR every fiscal year.
Federal Financial Management Improvement Act of 1996 (P.L. 104-208)	FFMIA	FFMIA requires federal agencies to implement and maintain financial management systems that substantially comply with federal financial management systems requirements, applicable federal accounting standards, and the US Standard General Ledger at the transactional level.
Federal Information Security Management Act of 2002 (P.L. 107-347)	FISMA	FISMA requires federal agencies to provide information security controls commensurate with the risk and potential harm of not having those controls in place. FISMA also requires the heads of agencies and the Office of Inspector General (OIG) to conduct annual IT security reviews and perform annual independent evaluations of effectiveness of the agency's security programs and systems and report their results to OMB and Congress.
Federal Accounting Standards Advisory Board	FASAB	FASAB was established in October of 1990 by the Secretary of the Treasury, the Director of OMB, and the US Comptroller General. This board possesses the legal authority under various laws to establish accounting and financial reporting standards for the federal government. In October 1999, the AICPA recognized FASAB as the board that promulgates generally accepted accounting principles for federal entities.
OMB Circular No. A-123	A-123	A-123 prescribes management's responsibilities for establishing and maintaining effective internal controls and financial management systems that meet the objectives of the Federal Managers' Financial Integrity Act.
OMB Bulletin 14-02 (Audit Requirements)		OMB Bulletin No. 14-02, issued on October 21, 2013, establishes minimum requirements for independent audits of federal financial statements. This bulletin implements the

Law, Regulation, Professional Standard, or Regulatory Organization	Acronym	Description
for Federal Financial Statements)		audit provisions of the CFO Act of 1990, as amended, the GMRA, and FFMIA.

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Appendix 3 – In-Scope Company Audit

Company	Public / Private	Entity type	Disclosure of Beneficial Owners	Applicable Accounting Standards	Form 10-K <i>Or</i> Annual Report	Form 20-F	Form 40-F	Publicly Available Financial Statements	External Auditors
Alpha Natural Resources, Inc.	Public	Corporation	Yes	US GAAP	✓	•	•	Yes	KPMG
Anadarko Petroleum Corporation	Public	Corporation	Yes	US GAAP	✓	•	•	Yes	KPMG
Apache Corporation	Public	Corporation	Yes	US GAAP	✓	•	•	Yes	E&Y
Arch Coal, Inc.	Public	Corporation	Yes	US GAAP	✓	•	•	Yes	E&Y
Arena Energy, LLC	Private	Limited partnership	Yes		•	•	•	No	Unavailable
BHP Billiton LTD	Public	Foreign corporation (Australia)	Yes	IFRS	✓	✓	•	Yes - Annual Report	KPMG
BOPCO, LP	Private	Limited partnership	No		•	•	•	No	Unavailable
BP America Inc.	Public	Subsidiary of foreign corporation (England)	Yes	IFRS	✓	✓	•	Parent Only*	E&Y
Chevron U.S.A. Inc.	Public	Corporation	Yes	US GAAP	✓	•	•	Yes - Annual Report	PWC
Cimarex Energy Co.	Public	Corporation	Yes	US GAAP	✓	•	•	Yes	KPMG
Cloud Peak Energy Resources, LLC	Public	Corporation	Yes	US GAAP	✓	•	•	Yes	PWC
Concho Resources, Inc.	Public	Corporation	Yes	US GAAP	✓	•	•	Yes	Grant Thornton
ConocoPhillips	Public	Corporation	Yes	US GAAP	✓	•	•	Yes	E&Y
Continental Resources, Inc.	Public	Corporation	Yes	US GAAP	✓	•	•	Yes	Grant Thornton



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Devon Energy Corporation	Public	Corporation	Yes	US GAAP	✓	•	•	Yes	KPMG
Encana Corporation	Public	Foreign corporation (Canada)	Yes	US GAAP	✓	•	✓	Yes - Annual Report	PWC
Energy XXI	N/A	Foreign corporation (Bermuda)	Yes	US GAAP	✓	•	•	Yes	BDO USA
ENI Petroleum	Public	Foreign corporation (Italy)	Yes	IFRS	✓	•	•	Yes	Unavailable
EOG Resources, Inc.	Public	Corporation	Yes	US GAAP	✓	•	•	Yes	Deloitte & Touche
EPL Oil & Gas, Inc.	Public	Subsidiary of foreign corporation (Italy)	Yes	US GAAP	✓	•	•	Parent Only*	BDO USA
Exxon Mobil Corporation	Public	Corporation	Yes	US GAAP	✓	•	•	Yes	PWC
Fieldwood Energy LLC	Private	Limited liability company	Yes		•	•	•	No	Unavailable
Freeport-McMoRan Inc.	Public	Corporation	Yes	US GAAP	✓	•	•	Yes	E&Y
Hess Corporation	Public	Corporation	Yes	US GAAP	✓	•	•	Yes	E&Y
Jonah Energy LLC	Private	Limited liability company	Yes		•	•	•	No	Unavailable
Linn Energy, LLC	Public	Limited liability company	Yes	US GAAP	✓	•	•	Yes	KPMG
LLOG Exploration Company LLC	Private	Subsidiary of limited liability company	Yes		•	•	•	No	Unavailable
Marathon Oil Company	Public	Corporation	Yes	US GAAP	✓	•	•	Yes	PWC
Murphy Oil USA Inc.	Public	Corporation	Yes	US GAAP	✓	•	•	Yes	KPMG
Noble Energy, Inc.	Public	Corporation	Yes	US GAAP	✓	•	•	Yes	KPMG
Oxy USA, Inc.	Public	Corporation	Yes	US GAAP	✓	•	•	Parent Only*	KPMG
Peabody Energy Corporation	Public	Corporation	Yes	US GAAP	✓	•	•	Yes	E&Y
QEP Resources, Inc.	Public	Corporation	Yes	US GAAP	✓	•	•	Yes	PWC
Red Willow Offshore, LLC	Private	Limited liability company, Southern UTE Indian Tribe	No		•	•	•	No	Unavailable
Shell E&P Company	Public	Foreign corporation (UK)	Yes	IFRS	✓	✓	•	Yes - Annual Report	PWC
Statoil Gulf of Mexico	Public	Foreign corporation (Norway)	Yes	IFRS	✓	✓	•	Yes - Annual Report	Unavailable



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Stone Energy Corporation	Public	Corporation	Yes	US GAAP	✓	•	•	Yes	E&Y
Talos Energy LLC	Private	Limited Liability Company	Yes		•	•	•	No	Unavailable
Ultra Resources Inc.	Public	Foreign corporation (Canada)	Yes	US GAAP	✓	•	•	Yes	E&Y
W&T Offshore, Inc.	Public	Corporation	Yes	US GAAP	✓	•	•	Yes	E&Y
WPX Energy, Inc.	Public	Corporation	Yes	US GAAP	✓	•	•	Yes	E&Y

Note: Annual report and 10-Ks are accessible as of April 6, 2017 and link to 2015 reports, the most recent year for which all companies (or parent companies) have filed reports.

Acronyms of auditors are as follows: Ernst & Young (E&Y) and PricewaterhouseCoopers (PWC)

From the Approved March 2016 MSG meeting when the EITI document on Mainstreaming was distributed as a meeting material:

4. Subcommittee and Work Group Planning

Mr. Gould asked the Reconciliation and Reporting Work Group to explore how the EITI International Board's recently announced "mainstreaming" policy could be applied in the US context.

Mr. Gould suggested that the International Board's focus on "mainstreaming" may allow for some efficiencies in reporting that could allow for consideration of other issues, such as defining materiality.

Ms. Milin suggested that the "mainstreaming" approach suggested by the International Board could be a more effective approach to conserving resources than trying to create a new, different sampling approach that may pose validation issues.

Members of the industry and government sectors expressed support for including a visualization about the US budget, audit, and assurance processes in order to support USEITI's case for future mainstreaming of reporting.

A CSO sector member suggested that state opt-in is relevant for "mainstreaming" efforts because it involves enhancing collaboration between agencies and sharing data in cost-efficient ways. She suggested that setting up forums for peer-to-peer learning could be useful to state opt-in. Another CSO sector member posited that universities may be able to set up those sorts of forums.

From the June 2016 Approved Minutes:

The purpose of the meeting was to receive updates from the Independent Administrator on various aspects of developing the online report and executive summary for the 2016 USEITI Report and how to move forward with these; discuss communications and state and tribal opt-in efforts; and discuss the prospects for proceeding with mainstreaming of USEITI reporting into US government processes, the inclusion of beneficial ownership information, and validation of US EITI Reports.

The MSG approved the undertaking of a pre-feasibility exercise for mainstreaming of USEITI.

The Secretariat was charged with Working with the International EITI Secretariat and the IA to conduct a prefeasibility exercise for mainstreaming of USEITI. Report on results at November MSG meeting.

3. Mainstreaming

John Harrington presented information about the Reporting and Reconciliation Work Group's due diligence and discussions around the new EITI option to pursue mainstreaming of reporting. He explained that an increasing number of legal mandates coming into place in the United States, European Union, and other jurisdictions replicate some of the EITI requirements. So, the revised EITI Standard introduces the option for countries to include the reporting of EITI-related information through regular

government channels as opposed to a stand-alone EITI report. Mainstreaming could also mean that some core elements of EITI, such as reconciliation of reported revenue, would no longer be required. Mr. Harrington reviewed the principles underpinning mainstreaming, the procedures for mainstreamed disclosures, and the uncertainties for USEITI around participating in mainstreaming. Mr. Harrington noted that the EITI Board Chair indicated that the Board is intending to initiate mainstreaming with countries that can more fully meet all of the requirements in the EITI Standard, meaning that the US likely would not be considered in the first batch.

From Mr. Bartlett: The full feasibility study would be much more extensive. The pre-feasibility exercise could likely focus on scoping and likely hurdles and be prepared by the next MSG meeting in November. Another consideration for USEITI is that, with adapted implementation approved for the first two reports, a mainstreaming feasibility study could choose to focus only on Federal revenues or it could include state and tribal revenues given the need to report these beginning with the third USEITI report.

Following the presentation, MSG members asked the following questions and made the following comments:

- What are the advantages and disadvantages of mainstreaming?
 - o It would allow USEITI to avoid the cost of reconciliation and instead dedicate those resources to making the contextual narrative and overall reporting more robust. It could also provide an incentive for other countries to pursue strengthening their controls to a similar level as the US so that they can also forgo reconciliation.
 - o John Mennel, IA team member, added: Mainstreaming would also make the EITI process more sustainable in the sense that integrating reporting into normal government functioning is more likely to persist than a standalone EITI reporting process. Additionally, the US likely saw some benefits from the reconciliation process in 2015 in terms of cleaning up data, but the costs of reconciliation likely outweigh those benefits over time.
 - o Sam Bartlett, International EITI Secretariat, also suggested that mainstreaming could have a public benefit in that it makes up-to-date information more readily and easily publicly accessible. For example, an internet search for royalty payments in their state should yield accurate data.

The concept of mainstreaming has been part of the thinking for USEITI from the beginning since EITI implementation was intended to spur greater transparency across the Department of the Interior. The inclusion of mainstreaming in the 2016 EITI Standard allows the US to formalize that greater transparency.

- The Office of Natural Resources Revenue (ONRR) already undertakes significant effort to verify data with payers. The EITI reconciliation process could be seen as duplicative of this ONRR verification process.

o Mainstreaming could obviate the need for reconciliation. ☐ Comment from Pat Field, facilitator: We will need to clarify whether mainstreaming applies to all aspects of reporting or only to some aspects.

From the November 2016 Meeting:

Review of DOI Audit Procedures

☐ Initially, the review of DOI audit procedures was also for purposes of determining the potential for mainstreaming. USEITI should include some linkages to that issue in the report.

K. Mainstreaming

John Cassidy, IA team member from Deloitte, presented the IA's assessment of the feasibility of mainstreaming. He commented that mainstreaming is based on an idea that drafting an annual EITI report may not be the best use of time for every country; it might be preferable to automate the process and make it part of the everyday business of the government and companies. He clarified that mainstreaming does not change what the EITI standard requires; rather, it is another way of meeting the requirement.

Mr. Cassidy reviewed the various steps for mainstreaming, noted that from now into next year the MSG is focused on studying the feasibility of mainstreaming, reviewed next steps in the IA's feasibility study, reviewed current processes and procedures related to mainstreaming in the U.S., and suggested a number of potential areas for the U.S. to improve its EITI performance and potential for success with mainstreaming.

Potential areas for improvement include doing more to showcase unilateral disclosure already occurring in the U.S., filling the gap on tax and project-level reporting through SEC 1504, and better explaining the audit requirements that currently exist. He concluded by noting that a decision on mainstreaming did not need to be made at the present MSG meeting.

MSG members made the following comments and asked the following questions on the presentation; direct responses are indicated in italics, with the speaker identified as appropriate:

☐ I thought the MSG had agreed to conduct a *prefeasibility study*, not a feasibility study.

o Mr. Gould: The MSG did discuss a pre-feasibility study. ONRR opted to have the IA start on a full feasibility study in order to keep moving forward if USEITI is to pursue mainstreaming. If there are concerns about this, the MSG can discuss this further.

o IA team member: Upon review, the IA determined that the differences between a pre-feasibility study and a full feasibility study were minimal.

☐ You mentioned the politics have changed on Dodd Frank. How so? IA team member: There is now increased uncertainty on what might happen. Dodd Frank would play an important role if mainstreaming goes forward. The IA's view is mainstreaming would be a multi-year process, and in many ways would follow a parallel path with SEC 1504.

☐ What EITI documents authorize the criteria that the data must be comprehensive, up-to-date, and reliable, and are they really an adequate scoping for whether government data is helpful? IA team member: The comprehensive, reliable and up-to-date standard is from the validation guidelines document. Two additional criteria might be data quality and transparency.

☐ Commenters expressed diverse opinions on the significance of corporate income tax reporting and reconciliation. One suggested that what matters is that the USEITI numbers are adding up in reconciliation, and the taxes would therefore add up as well. Another commented that even if the Treasury Department has excellent systems, the U.S. is still falling short on making tax information publicly available. Another noted that it would be helpful for civil society to indicate if its priority right now is EITI compliance or tax reporting, so that USEITI can prioritize its efforts. Mr. Cassidy noted that the IA will set up stakeholder interviews on the tax issue, which will likely happen between now and February. Mr. Mennel suggested there is an argument that what is required by 1504 is sufficient for mainstreaming.

☐ There were various perspectives on how much of a “deal breaker” the tax issue will be for the U.S. One suggested it would definitely be a problem with the EITI International Board. Another noted that ONRR worked closely with the SEC to use USEITI as a means for compliance with the 1504 standard and suggested that will bode very well for mainstreaming. An IA team member commented that it is impossible to know whether tax reporting is a deal breaker at this time. No other feasibility study has been conducted and the only other country going forward on mainstreaming is Norway. The language in the standard says “all transactions,” which implies all companies. However, it is reasonable to assume that the board will draw the line somewhere short of “all transactions” for the sake of practicality but USEITI will need to make a case for where the line should be.

☐ USEITI might be able to look at mainstreaming as an opportunity help maintain momentum on government efficiency

From February Draft Minutes

1. Reporting and Reconciliation of Company Revenues - Judy Wilson and Bob Kronebusch of ONRR presented information about the work of the Reporting Improvement Workgroup. Following the presentations, Dan Dudis, Public Citizen, thanked Ms. Wilson and expressed support for the workgroup’s proposed approach of conducting reconciliation via “mainstreaming of EITI reporting” rather than performing an independent reconciliation of revenues for USEITI by the Independent Administrator as this would avoid duplication of work. Mike Matthews, State of Wyoming, noted that states and tribes also conduct compliance reviews in addition to the federal and company audits and reviews surveyed by the workgroup.

b) Audit & Assurances

Mr. Hawbaker provided an overview of existing content about the US audit and assurance process and of potential new content that could be added with the intention of strengthening USEITI's case for mainstreaming and foregoing independent reconciliation by the Independent Administrator. Mr. Bugala suggested that USEITI use an alternate term for "foregoing reconciliation," such as "not reconciling twice."



OFFICE OF
INSPECTOR GENERAL
U.S. DEPARTMENT OF THE INTERIOR

UNITED STATES’ IMPLEMENTATION OF THE EXTRACTIVE INDUSTRIES TRANSPARENCY INITIATIVE



OFFICE OF
INSPECTOR GENERAL
U.S. DEPARTMENT OF THE INTERIOR

Memorandum

To: Greg Gould
Director, Office of Natural Resources Revenue

From: Mary L. Kendall
Deputy Inspector General

Subject: Final Inspection Report – United States’ Implementation
of the Extractive Industries Transparency Initiative
Report No. 2016-EAU-041

This memorandum transmits the findings of our inspection of the United States’ implementation of the Extractive Industries Transparency Initiative (EITI). Our inspection objective was to determine the status of the U.S. implementation of the EITI standard. We are not making any recommendations in this report but are providing it for information purposes only.

The legislation creating the Office of Inspector General requires that we report to Congress semiannually on all audit, inspection, and evaluation reports issued; actions taken to implement our recommendations; and recommendations that have not been implemented.

If you have any questions concerning this report, please do not hesitate to contact me at 202-208-5745.

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Results in Brief

The United States (U.S.) has made significant progress meeting the individual requirements necessary to achieve compliant status with the Extractive Industries Transparency Initiative (EITI). EITI is a global initiative that promotes revenue transparency and accountability for natural resource extraction. The Department of the Interior (DOI) works in collaboration with industry and civil society partners¹ to implement EITI on behalf of the United States.

Our review found that the U.S. has met seven of the eight EITI requirements and partially met one requirement in its effort to achieve EITI compliant status, the highest level of implementation. It has only partially met the revenue collection requirement (Requirement 4) because it has been unable to obtain full disclosure of extractive resource payments from companies, thus preventing the required reconciliation to Government receipts. In addition, the U.S. has encountered challenges as part of its participation in EITI that could prevent it from reaching the goal of compliant status. Should the U.S. not achieve compliant status, its standing in EITI would be diminished.

In spite of the framework laid out in Requirement 4 and the ensuing challenges, the U.S. could still meet this requirement. Through its regular ongoing operations, the U.S. has a system in place that achieves the standard's disclosure and reconciliation requirement, through a process known as mainstreaming. This reporting method may enable the U.S. to meet the EITI reporting and reconciliation mandates without necessarily following the prescriptive language of the standard.

We are not making any recommendations in this report but are providing this document for informational purposes to the Office of Natural Resources Revenue—DOI's EITI representative—and to the members of the U.S. EITI multi-stakeholder group for use as they move forward.

At the close of our field work, senior Government officials disclosed that the U.S. was considering not pursuing the validation process because of uncertainties in achieving Requirement 4. Most likely, the U.S. would transition from an implementing country to a supporting country of EITI. Nevertheless, the U.S. intends to continue its efforts to disclose revenue and maintain its public website.

¹ Civil society is defined as community and citizenry involvement. In the U.S., it includes academia, non-governmental organizations, and labor unions.

Introduction

Objective

We conducted this inspection to determine the status of the United States' (U.S.) implementation of the Extractive Industries Transparency Initiative (EITI) standard.

Appendix 1 contains the scope and methodology, as well as sites visited.

Background

EITI is a global initiative that aims to promote revenue transparency and accountability for natural resource extraction (e.g. oil, natural gas, coal, gold, and renewable energy). The initiative grew out of concern about corruption and mismanagement of these resources worldwide. Many EITI participating countries are in developing parts of the world, and the initiative seeks to strengthen these government and company systems. The U.S. Government, however, has long had a management system featuring numerous controls and protections to oversee natural resource extraction, which helps reduce the risk of corruption.

As a leading extractive producer of such natural resources as oil, natural gas, and coal, the U.S. announced its intention to join EITI in September 2011. The Secretary of the Interior serves as the Administration's senior official responsible for EITI implementation. The Office of Natural Resources Revenue (ONRR) within DOI serves as the Government's lead representative on the multi-stakeholder group (MSG). The U.S. has been working toward achieving compliant status, and validation is scheduled to begin in April 2018.

To date, DOI expenditures for EITI have totaled approximately \$6.5 million, of which the Government spent \$2.8 million in fiscal year 2016. The largest expenditures included Government labor and contracts for outside services. Current estimates of expenditures for reconciliation of Government receipts to company payments total \$519,000 per year.

The EITI standard has eight primary requirements and multiple subparts that countries must follow when implementing EITI. A synopsis of the eight EITI standard requirements is detailed in Figure 1 below.

EITI Standard Requirements

I: Multi-stakeholder group oversight. Government, industry, and civil society engagement.

EITI Standard Requirements	
2: Legal and institutional framework.	Disclosure of legal framework and fiscal regime governing extractive industries.
3: Exploration and production.	Disclosure of exploration and production activities, as well as export data.
4: Revenue collection.	Disclosure and reconciliation of company payments and Government revenues.
5: Revenue allocations.	Disclosure of revenue distribution, revenue management, and expenditures.
6: Social and economic spending.	Disclosure of social expenditures and the extractive sector's impact on the economy.
7: Outcomes and impact.	Disclosure of discrepancies identified in EITI reports, as well as lessons learned during implementation.
8: Compliance and deadlines for implementing countries.	Outlines timeframes established by the EITI international board and consequences of noncompliance with the deadlines and requirements for EITI implementation.

Figure 1. A full explanation of EITI requirements is available at <https://eiti.org/eiti-requirements>.

The initiative is implemented by governments, in collaboration with the MSG, which includes industry and civil society, the latter defined as community and citizenry involvement (e.g. academia and non-governmental organizations). In the U.S., MSG formation in 2012 brought together these three sectors for the first time to achieve a common goal. Initially skeptical, MSG members found that genuine cooperation could generate appreciation for differing viewpoints.

EITI has 56 participating countries. Each country that chooses to implement the EITI standard must establish an MSG that oversees implementation. In addition, most countries, including the U.S., create a national secretariat with a full-time staff to administer the program. The EITI international board, headquartered in Oslo, Norway, is the governing body. Countries implementing the standard publish an annual report in which governments publicly disclose payments received from companies obtained from extractive resources, which are subsequently reconciled.

Countries join EITI with the goal of achieving compliance with the EITI standard. To achieve compliant status, a country must go through the EITI validation process. This includes a comprehensive evaluation of the country's progress toward achieving the eight requirements, as determined by the EITI international board. A country must make satisfactory progress on each requirement in the standard in order to achieve compliant status.

Results

Progress in Complying with EITI

The U.S. has been working on EITI implementation since 2011. It has made significant progress meeting the individual requirements necessary to achieve the highest level of EITI implementation, known as compliant status. Based on our analysis, the U.S. has met seven of the eight requirements and partially met Requirement 4, which necessitates that all Government revenue receipts be reported and subjected to reconciliation. Reconciliation involves comparison of Government receipts to company payments, and explains significant discrepancies between the two. This activity is performed by a third party, known as the independent administrator. The Office of Inspector General (OIG) independently assessed the status of DOI's EITI implementation, as shown in Figure 2.²

OIG Assessment of DOI EITI Implementation		
Requirement	Status	Comments
I – MSG oversight.	Met	MSG formed, with equal representation by government, industry, and civil society. All required meetings and work products achieved.

² The EITI international board is the body that officially determines whether a country has fulfilled the standard, and sets four categories of progress for assessing a country's compliance with each requirement: satisfactory, meaningful, inadequate, and no progress. Our determination of the status does not directly align with those categories identified in the standard. Our assessment was not intended to mirror the board or duplicate any effort. For simplicity, we established our own categories: met, partially met, and not met.

OIG Assessment of DOI EITI Implementation

Requirement	Status	Comments
2 – Legal and institutional framework.	Met	<p>Collaborating with the General Services Administration, DOI produced a public website known as the portal, which houses natural resource data along with the electronic version of the annual EITI report. We found that the portal, which went online in December 2015, presents natural resource-related information in a user-friendly format. The international board has recognized the portal as a model for other countries to emulate.</p> <p>Online data portal provides details on allocation of contracts and licenses, with links to Bureau of Land Management and Bureau of Ocean Energy Management websites.</p>
3 – Exploration and production.	Met	Online data portal provides details on fossil fuels, renewable energy, and non-energy minerals, as well as exports of various commodities.
4 – Revenue collection.	Partially Met	Low disclosure of nontax and tax revenues by companies prevent required comprehensive reconciliation of Government revenue receipts to company payments.
5 – Revenue allocations.	Met	Online data portal provides details on all revenue streams, distribution of revenues, and recipients.
6 – Social and economic spending.	Met	Online data portal provides details on extractive sector contributions to the economy.

OIG Assessment of DOI EITI Implementation		
Requirement	Status	Comments
7 – Outcomes and impact.	Met	<p>Online data portal contains recommendations for addressing reconciliation discrepancies and improving the EITI process.</p> <p>To illustrate extractive industry impacts on local communities, the annual report includes 12 county case studies from across the country, as well as data from 18 states, in an effort to increase public awareness.</p> <p>MSG has actively solicited input from the general public concerning U.S. involvement in EITI. Public interest in EITI is not yet strong, but MSG efforts to obtain outside input and to publish meeting minutes promote EITI's principles of openness and transparency.</p>
8 – Compliance and deadlines for implementing countries.	Met	Deadlines for annual progress reports met, and deadlines for EITI reports surpassed.

Figure 2: OIG's assessment of DOI implementation of EITI requirements.

Challenges in Complying with EITI Revenue Collection Requirement

DOI faces numerous difficulties in trying to meet Requirement 4. Some are less challenging than others, providing opportunities for solutions, while others may offer no alternative course of action.

Voluntary initiative

The voluntary nature of EITI makes full company participation in nontax and tax revenue disclosures difficult to obtain. Companies are not compelled to report revenue and tax data, and do not see the benefit of participation. Consequently, a significant number have chosen not to participate.

U.S. privacy laws

Section 6103 of the Internal Revenue Code (26 U.S.C.) provides for the confidentiality of tax returns and return information. It prevents the U.S. Internal

Revenue Service (IRS) from disclosing returns and return information unless the taxpayer authorizes the release or one of several exceptions are met.

Low company participation

EITI Requirement 4 calls for comprehensive disclosure and reconciliation of company payments and Government revenues from extractive industries. Companies make payments to the U.S., and the payments are considered revenues when collected.

In the U.S., revenues associated with extractive industries consist of two categories—nontax and tax. Nontax revenues are comprised of 11 revenue streams (e.g., royalties, bonuses, rents, inspection and permit fees, and civil penalties), whereas tax revenues represent corporate income tax payments reported to the IRS.

Requirement 4 presents a major challenge for the U.S. because of the numerous companies that operate on Federal lands and large sums of revenue involved. Specifically, more than 3,000 companies paid the Federal Government \$12.64 billion and \$7.80 billion in nontax extractive revenue for the 2015 and 2016 reports, respectively. Since full company participation in the initiative would have been too time consuming and costly to accomplish, the MSG decided to select a manageable sample of companies. This required establishing materiality thresholds, as the standard allows, for company reporting and subsequent reconciliation. The MSG found that a significant and achievable sample of companies could be selected by setting the threshold at \$50 million and \$37.5 million of total annual revenue reported to ONRR by a parent company, including its subsidiaries, for 2015 and 2016. The threshold amount varies yearly due to changes in commodity prices, which in turn affects the amount of payments made to ONRR. For nontax revenues, this reduced the 3,000 company universe to 45 companies for the 2015 annual report, and 41 companies for the 2016 report. For tax revenues, the sample became 41 companies for the 2015 report, and 38 companies for the 2016 report. The number of companies can change from year to year due to factors such as mergers, acquisitions, and bankruptcies.³

Unfortunately, a significant number of companies that were asked to participate declined the request, and so the amount of revenues actually reported and reconciled were far less than the 80 percent target (see Figure 3).⁴ We determined the U.S. has only partially met Requirement 4. This low level of company participation is of concern as the U.S. seeks validation.

³ Companies chosen for participation represent the largest producers of oil, gas, coal, and hard rock in the U.S., including, among others, ExxonMobil Corporation, Chevron Corporation, Shell E&P Company, Arch Coal, Inc., and Peabody Energy Corporation.

⁴ Although the target for reconciling tax revenue was all the companies asked to participate in EITI, the U.S. did not report the total amount of tax revenue because companies are not required to disclose this information.

Results From Companies Subject To Reconciliation (Dollars in Billions)				
Report Year	Nontax		Tax	
	Target	Achieved	Target	Achieved
2015				
Number of Companies Disclosed	45	31 (69%)	41	12 (29%)
Number of Companies Reconciled	45	31 (69%)	41	5 (12%)
Revenues Reconciled	\$10.44	\$8.50 (81%)		
2016				
Number of Companies Disclosed	41	25 (61%)	38	12 (32%)
Number of Companies Reconciled	41	25 (61%)	38	7 (18%)
Revenues Reconciled	\$6.11	\$4.83 (79%)		

Figure 3. Information about companies not disclosing their payments. In the tax column, the target for revenues reconciled could not be established and reconciled because most companies did not report tax data.

Subnational reporting

The EITI standard requires that MSG establish whether or not direct payments from companies to subnational government entities (states and tribes in the U.S.) are significant.⁴ If significant, then disclosure and reconciliation of payments to these entities are included in the EITI report. Given significant practical barriers to collecting data from all 50 states, the MSG focused its efforts on 18 states with the most extractive revenue.

To date, only three of these 18 states have chosen to disclose data about their extractive industries. These three still have not agreed to reconcile company payments to Government receipts. Further, since U.S. law recognizes Tribes as

⁴ Subnational is defined as below the national Government level—in the U.S. this refers primarily to state and tribal governments.

sovereign nations, they are not bound to participate in EITI, and no tribes have volunteered for this purpose.

Although the U.S. received approval from the EITI international board to deviate from full subnational reporting for past reports, it has no guarantee that this approval will continue in the future.

Beneficial ownership

As of January 2020, the standard requires disclosure of beneficial ownership information in the EITI report. Beneficial ownership refers to individuals who directly or indirectly own or control a corporate entity.

In December 2016, the U.S. published its “roadmap” or plan for meeting the future beneficial ownership disclosure requirement. Collection and disclosure of this information may prove problematic, however, since the U.S. does not have an institutional structure for public disclosure of beneficial ownership, and voluntary participation may produce limited results. For example, DOI does not have any mechanism to collect beneficial ownership information when conducting lease sales related to extractive industry operating rights on U.S. Federal lands or for regulating extractive operations, as well as collecting production related fees and royalties.

Mainstreaming

Mainstreaming is a mechanism through which countries disclose revenue collection, accounting, and disbursement as part of routine Government operations. It is advantageous for two reasons – first, it highlights countries that make transparency an integral and routine feature of their management systems. Second, countries that achieve mainstreaming do not have to undergo the reconciliation process. To achieve mainstreaming, the U.S. must submit to a rigorous application process, which is subject to approval by the international board.

We found the U.S. is actively pursuing mainstreaming to satisfy Requirement 4 by reporting that it routinely discloses 100 percent of all nontax revenue streams. In addition, the U.S. is preparing a thorough description of its robust audit processes and procedures for the 2017 annual report. Among these are the following—

- ONRR and its State and tribal partners help ensure that companies pay correctly through the use of audits, compliance reviews, data mining, and an enforcement program;
- ONRR accounts for nontax revenues using company-submitted royalty reports—more than 150 up-front automated edits of these reports help detect irregularities;
- Bureau of Land Management and Bureau of Safety and Environmental Enforcement conduct physical inspections of lease operations;

- An independent accounting firm annually audits DOI's financial statements, which include extractive revenue;
- DOI and DOI's bureaus are independently audited by the Office of Inspector General, and IRS receives audit oversight from the Treasury Inspector General for Tax Administration; and
- IRS verifies tax payments made by companies.

These processes and procedures ensure accountability for 100 percent of natural resource revenues. Accordingly, the U.S. could be in compliance with Requirement 4, even if full reporting and reconciliation from the EITI international board is considered questionable. Although mainstreaming could be a possible solution to demonstrate that the U.S. has complied with Requirement 4, the request has not yet been approved by the international board. Further, it is questionable whether or not the international board would grant such approval. Also, the U.S. still has work left to accomplish in order to develop the contextual narrative of its audit processes and procedures in a manner that fully demonstrates compliance with Requirement 4.

At the close of our field work, Government senior officials disclosed that the U.S. would no longer pursue the validation process because of uncertainties in achieving Requirement 4. Instead, the U.S. will move from being an implementing country to a supporting country of EITI. Nevertheless, the U.S. intends to continue its efforts to disclose revenue and maintain the online data portal.

Appendix I: Scope and Methodology

Scope

Our inspection examined the activities of the United States' implementation of the Extractive Industry Transparency Initiative (EITI) since 2011.

Methodology

We conducted this review from June through March 2017. During our inspection, we—

- reviewed relevant laws, regulations, policies and procedures concerning U.S. EITI implementation;
- reviewed and analyzed data and documents, both hardcopy and electronic;
- reviewed the EITI standard and requirements;
- attended two quarterly multi-stakeholder group meetings;
- interviewed representatives from the EITI international board's secretariat and U.S. Department of State;
- interviewed key members of Government, industry, and civil society sectors;
- interviewed the Director of the Office of Natural Resources Revenue (ONRR) and key agency staff with EITI responsibilities; and
- interviewed key representatives from the independent administrator, Deloitte Touche, LLP.

We visited—

- ONRR offices in Washington, D.C., and Lakewood, CO; and
- Deloitte Touche, LLP, in Arlington, VA.

We did not test operation and reliability of internal controls related to USEITI. We were provided with computer-generated data related to EITI expenditures, which we used but did not test for completeness and accuracy.

We conducted this inspection in accordance with the Quality Standards for Inspection and Evaluation as put forth by the Council of the Inspectors General on Integrity and Efficiency. We believe that the work performed provides a reasonable basis for our conclusion.

Report Fraud, Waste, and Mismanagement



Fraud, waste, and mismanagement in Government concern everyone: Office of Inspector General staff, departmental employees, and the general public. We actively solicit allegations of any inefficient and wasteful practices, fraud, and mismanagement related to departmental or Insular Area programs and operations. You can report allegations to us in several ways.



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Opening Remarks

- o Good morning everyone and welcome back to the Department of the Interior for the 20th Meeting of the USEITI Multistakeholder Group. It's good to see all your familiar faces. I hope your travels have been pleasant.
 - o For record I am Judy Wilson – Program Manager for USEITI and your Designated Federal Official for this USEITI Advisory Committee / MSG.
 - o Last month began the new Administration and the inevitable transfer of power that marks each new Administration. We are still very early in the Administration. We await confirmation of the Honorable Ryan Zinke to Secretary of the Interior, who yesterday was approved by the Senate Committee on Energy and Natural Resources. Once the nominees clear committee, it's up to the Senate Majority Leader (Mitch McConnell to determine the schedule for floor votes). His confirmation vote has not yet been scheduled. We continue to brief the President's advisors and representatives here at Interior. They liked the 2016 USEITI Executive Summary we prepared and said they plan to take a look at the data portal as soon as things settled down.
 - o I know Dodd-Frank 1504 is on your minds. As you are aware the House Rules Committee held a hearing Monday on several Joint Resolutions including Joint Resolution 41 providing for congressional disapproval under chapter 8 of title 5, United States Code, of a rule submitted by the Securities and Exchange Commission relating to "Disclosure of Payments by Resource Extraction Issuers". The Senate has yet to vote on the joint resolution and the President has not yet signed anything. At Interior, we will remain silent on the Joint Resolution to disapprove the Securities and Exchange Commission's rule.
 - o Let's begin today by having everyone introduce themselves for the record.
 - o I'd like to begin with the co-chairs.
- [Danielle, Veronika and Greg introduce themselves]
- o Thank you.
 - o Now let's go around the room, starting to my right.
- [Introductions by all in attendance in person and on the phone lines]
- o Before we jump into the agenda, I'm required to cover a few logistical items.
 - o Our facilitator, Pat Field from the Consensus Building Institute is here today and will be keeping us on track. Thank you for being here.
 - o The meeting is being recorded and minutes are being taken by Toby Berkman / Tushar Kansal of CBI.

o Just a reminder, please state your name and affiliation when you speak today, and for Alternates who wish to speak, please identify yourselves when you come to the table in place of a member.

o Let me introduce Kim Oliver, Kim will go over a few housekeeping and safety items before we begin

[Kim Oliver will review the housekeeping items]

o Thank-you Kim.

o Now I'd like to turn it over to Pat Field to review today's Agenda, which you should all have in your folders.

USEITI PRE-VALIDATION ASSESSMENT

MSG Oversight				
EITI Provisions	Self-Assessment Questions	Progress	Evidence and Rationale	Action points
Government oversight of the EITI process EITI provision 1.1.	Has the government issued a public statement of its intention to implement the EITI (1.1.a)?	Met	On September 20, 2011, President Obama announced the United States' intention to implement EITI as a signature initiative of the U.S. National Action Plan for the Open Government Partnership.	
	Has the government appointed a senior individual to lead on the implementation of the EITI (1.1.b)?	Met	In October 2011, the President announced that Secretary of the Interior and his staff will work with industry and civil society to develop a sensible plan to disclose relevant information about revenues from oil, gas, and mining assets, and to enhance the accountability and transparency of our revenue collection efforts.	
	Is the government fully, actively and effectively engaged in the EITI process (1.1.c)? Evidence could include input to and attendance at MSG meetings, submission of data required for the EITI reporting process, commitment to resolving bottlenecks such as legal barriers to disclosure or procurement issues, provision of funding for the EITI process, outreach to stakeholders that are not members of the MSG, use of EITI data and other information to promote public debate, etc.	Met	1. Members from both Federal, State, and Subnational Governments are represented on the USEITI MSG Stakeholder Advisory Committee. 2. The list of members can be found online at: https://www.doi.gov/sites/doi.gov/files/uploads/list_of_members_08-11-16.pdf 3. MSG Meeting Summaries can be found at: https://www.doi.gov/eiti/FACA/msg-meeting-minutes	
	Are senior government officials represented on the MSG (1.1.d)?	Met	Gregory Gould (Dir. ONRR) representing Department of Interior and Curtis Carlson (Dir. Business Revenue Division) representing Department of Treasury are both senior officials with the Federal Government.	
Company engagement EITI provision 1.2.	Are companies fully, actively and effectively engaged in the EITI process (1.2.a)? Evidence could include input to and attendance at MSG meetings, submission of data required for the EITI reporting process, commitment to resolving bottlenecks such as legal barriers to disclosure or procurement issues, provision of funding for the EITI process, outreach to stakeholders that are not members of the MSG, use of EITI data and other information to promote public debate, etc.	Met	1. Members from Industry are represented on the USEITI MSG Stakeholder Advisory Committee. 2. The list of Members can be found online at: https://www.doi.gov/sites/doi.gov/files/uploads/list_of_members_08-11-16.pdf 3. For the 2016 USEITI Report 25 out of 41 companies voluntarily reported and reconciled revenues and 12 out of 38 companies voluntarily reported taxes of which 7 authorized the government to report to the IA and reconciled taxes. 4. At the March 2016 MSG Meeting the MSG adopted the Implementation Subcommittee's recommendation on encouraging industry peer discussions. 5. The March 2016 Meeting Summary can be found online at: https://www.doi.gov/sites/doi.gov/files/uploads/useiti_msg_-_mar_2016_mtg_summary_v5_160426.pdf	
	Is there an enabling environment for company participation in the EITI by analysing how relevant laws, regulations, and administrative rules as well as actual practice in implementation of the EITI have affected company participation in the EITI process? Where laws, regulation or administrative rules have constituted an obstacle to implementation, or where there is an enabling legal environment but actual practice differs, the validator should document the circumstances of the case and any efforts to address the issue be it proactive removal of potential obstacles or reactive action to address any obstacles that have arisen. The validator should cite stakeholders' views on whether any obstacles to company participation have been removed. (1.2.b-c).	Met	1. The USEITI Independent Administrator issues to ONRR a final debrief report which captures a number of lessons learned for program implementation, including areas to improve, gaps to fill, and successes to build on. Lessons learned for the reporting and reconciliation process are based on the IA experience as well as feedback received from companies. 2. Key points from this final debrief are shared with the co-chairs and the MSG at the subsequent public meeting. 3. Key points for the debrief for the 2015 Report were shared with the MSG at the March 2016 MSG Meeting. 4. The March 2016 Meeting Summary can be found online at: https://www.doi.gov/sites/doi.gov/files/uploads/useiti_msg_-_mar_2016_mtg_summary_v5_160426.pdf	

USEITI PRE-VALIDATION ASSESSMENT

MSG Oversight				
EITI Provisions	Self-Assessment Questions	Progress	Evidence and Rationale	Action points
Civil society engagement EITI provision 1.3.	In assessing civil society engagement and the environment for civil society participation, the validator is expected to apply the guidance set out in the civil society protocol.	Met	1. Members from Civil Society are represented on the USEITI MSG Stakeholder Advisory Committee. The list of Members can be found online at: https://www.doi.gov/sites/doi.gov/files/uploads/list_of_members_08-11-16.pdf 2. In the Fall of 2013, DOI held several public outreach sessions around the country to ask for stakeholder input on the US Candidacy Application. The summaries and comments received from stakeholders can be found online at: https://www.doi.gov/eiti/FACA/outreach	
MSG governance and functioning EITI provision 1.4.	Information about outreach to stakeholders prior to the establishment of the MSG (1.4.a.i), including whether the invitation to participate in the group was open and transparent;	Met	Prior to the establishment of the MSG, DOI held several public outreach sessions around the country to ask for stakeholder input on the implementation for USEITI. A stakeholder assessment was conducted by the Consensus Building Institute (CBI) and represents CBI's independent findings and recommendations based on input from a public comment period, public listening sessions, and targeted multi-sector interviews.	
	Information on the membership of the multi-stakeholder group, and the process by which each stakeholder group nominated their representatives (1.4.a.ii). With regards to representation on the MSG, the validator should provide evidence that civil society and companies have appointed their own representatives. This could for example include: - evidence of civil society and company outreach efforts to engage a diverse range of stakeholders in the EITI process prior to nomination of MSG representatives, including outreach activities, stakeholder mapping etc.; - details about the civil society and company MSG representation nomination process, including information about election processes, any criteria for diverse representation agreed by civil society (regional, ethnic, indigenous, gender, issues, community groups etc.) and companies (sectors, international, domestic, industry bodies etc.) where applicable; and - where MSG members have changed, details about the reasons for the change and the process for re-nominating members.	Met	Per the MSG Terms of reference and consistent with the MSG Charter, "MSG membership will consist of representatives from government, industry and civil society. The Secretary of the Interior appoints the MSG members and alternates as individuals. Any changes or vacancies in membership require a new appointment by the Secretary under the FACA nomination process as described in the Charter. MSG membership reflects the EITI requirement to include representation from government, industry, and civil society stakeholder sectors (Sectors). The Secretary or her/his designee appoints members from a pool that has been vetted and recommended by each sector per the EITI requirement 1.4i of sectors self-selecting their representatives. " 2. The MSG Terms of Reference can be found online at: https://www.doi.gov/sites/doi.gov/files/uploads/msg_updated_useiti_terms_of_reference_06282016.pdf 3. The MSG nomination process is documented and can be found online at: https://www.doi.gov/sites/doi.gov/files/uploads/msg_eiti_membershipprocess_final.pdf	
	Where multi-stakeholder group membership has changed, documentation of whether there has been any suggestion of coercion or attempts to include members that will not challenge the status quo and whether internal rules for changing MSG representatives have been followed (1.4.a.ii; 1.4.b.vi).	Met	The USEITI Secretariat keeps an official record of all MSG resignations, they are available upon request. The Secretariat also prepares a quarterly vacancy report that is provided to the General Services Administration who oversees all Federal Advisory Committees. Vacancy Reports are also available upon request.	
	Stakeholder views on whether they are adequately represented, including any evidence that stakeholders have provided input to and agreed with the MSG's policy regarding the number of MSG representatives from each stakeholder group, alternates and rotation (1.4.a.ii) as well as stakeholder views on whether their representation sufficiently reflects the diversity of their constituency. (Note: There is no requirement that stakeholders are equally represented numerically.)	Met	At each MSG Meeting there is a public comment period where any member from the public may voice their view or opinion on any topic related to USEITI governance or implementation. The public may also provide comments on an ongoing basis by contacting the USEITI Secretariat at: useiti@ios.doi.gov	

USEITI PRE-VALIDATION ASSESSMENT

MSG Oversight				
EITI Provisions	Self-Assessment Questions	Progress	Evidence and Rationale	Action points
	<p>civil society MSG members are operationally and in policy terms independent of government and companies (1.4.a.ii). In making this assessment, the validator may wish to consider:</p> <ul style="list-style-type: none"> - Evidence of any civil society constituency discussions or agreed consistency policies related to ensuring policy and operational independence from members of parliament from the ruling party, other political parties aligned with the government, or extractive companies. - Evidence that any potential conflict of interests or issues affecting civil society MSG members independence have been transparently disclosed. - Details about the articles of association, objectives, work programmes and funding sources of civil society organisations represented on the MSG. 	Met	<p>Per the MSG Terms of Reference and consistent with the MSG Charter, "MSG membership will consist of representatives from government, industry and civil society. The Secretary of the Interior appoints the MSG members and alternates as individuals. Any changes or vacancies in membership require a new appointment by the Secretary under the FACA nomination process as described in the Charter. MSG membership reflects the EITI requirement to include representation from government, industry, and civil society stakeholder sectors (Sectors). The Secretary or her/his designee appoints members from a pool that has been vetted and recommended by each sector per the EITI requirement 1.4i of sectors self-selecting their representatives."</p> <p>2. The MSG Terms of Reference can be found online at: https://www.doi.gov/sites/doi.gov/files/uploads/msg_updated_seiti_terms_of_reference_06282016.pdf</p> <p>3. The MSG nomination process is documented and can be found online at: https://www.doi.gov/sites/doi.gov/files/uploads/msg_eiti_memberprocess_final.pdf</p> <p>4. Each open nomination period is announced in the Federal Register, which also documents the nomination process.</p> <p>5. Section 5703 of Title 5 of the U.S. Code allows travel expenses for MSG Members away from their homes and while engaged in MSG business the same as persons employed by the Federal government.</p> <p>6. Each MSG Public Meeting is preceded by sector caucus and the government makes available during the course of each MSG</p>	
	<p>the MSG includes appropriate stakeholders and whether MSG members appear to have sufficient capacity to carry out their duties (1.4.b.i).</p> <p>decision-making is conducted in an inclusive way which treats each constituency as a partner (1.4.b.vi) (for guidance on the interpretation of this provision please see Guidance Note 14). The validator is expected to assess whether the decision-making rules agreed by the MSG are being followed including by consulting documentation and stakeholder views on how MSG decisions have been taken and whether all stakeholders are involved in decision-making.</p>	Met	Same as above.	
	<p>decision-making is conducted in an inclusive way which treats each constituency as a partner (1.4.b.vi) (for guidance on the interpretation of this provision please see Guidance Note 14). The validator is expected to assess whether the decision-making rules agreed by the MSG are being followed including by consulting documentation and stakeholder views on how MSG decisions have been taken and whether all stakeholders are involved in decision-making.</p>	Met	<p>1. The MSG decision making process is documented in Section VII of the MSG terms of reference which can be found online at: https://www.doi.gov/sites/doi.gov/files/uploads/msg_updated_seiti_terms_of_reference_06282016.pdf</p> <p>2. All MSG Meetings are facilitated by an independent third party facilitator, CBI. CBI also facilitates Subcommittee and Workgroup meetings at the request of those committees.</p>	
	<p>The validator is expected to confirm that the MSG has agreed Terms of Reference (TORs) that give the MSG a say over implementation. The Validator is expected to document whether the TORs:</p> <ul style="list-style-type: none"> • outline the role and responsibilities of MSG members and whether MSG members are effectively carrying out their tasks, including evidence of outreach activities and liaison with constituency groups (1.4.b.i-iii); • give the MSG a mandate to approve workplans, the appointment of the Independent Administrator including the Terms of Reference for the Independent Administrator's work, EITI Reports and annual activity reports (1.4.b.iv-v); and • include internal governance rules and procedures (1.4.b.vi-viii), and assess whether these are followed, including whether per diem practices have been published. 	Met	<p>The MSG Terms of Reference are publicly available and can be found online at: https://www.doi.gov/sites/doi.gov/files/uploads/msg_updated_seiti_terms_of_reference_06282016.pdf</p>	
	<p>The validator is also expected to note any concerns with regards to adherence to the TOR.</p>	Met	<p>Any issues with adherence to the TOR have been raised either in co-chair meetings or at MSG Meetings. Summaries of each meeting can be found online at: https://www.doi.gov/eiti/FACA/msg-meeting-minutes</p>	

USEITI PRE-VALIDATION ASSESSMENT

MSG Oversight				
EITI Provisions	Self-Assessment Questions	Progress	Evidence and Rationale	Action points
Work plan EITI provision 1.5	<p>The validator is expected to document that a publicly accessible EITI workplan has been agreed by the MSG, and assess whether it includes:</p> <ul style="list-style-type: none"> • Objectives for implementation that are linked to the EITI principles and reflect national priorities for the extractive industries (1.5.a). The Validator should document any efforts to consult key stakeholders on the objectives for implementation (1.5.b); • Measurable and time-bound activities to achieve the agreed objectives (1.5.c); • Activities aimed at addressing any capacity constraints identified (1.5.c.i); • Activities related to the scope of EITI reporting (1.5.c.ii); • Activities aimed at addressing any legal or regulatory obstacles identified (1.5.c.iii); • Plans for implementing the recommendations from Validation and EITI reporting (1.5.c.iv); • Costings and funding sources, including domestic and external sources of funding and technical assistance (1.5.d); • A timetable for implementation (1.5.g). If the timetable is not being met, the validator – based on evidence from key stakeholders and others – should give an opinion on whether the delays in meeting the timetable are reasonable. The validator is invited to comment on the overall progress in implementing the workplan. 	Met	The USEITI Workplans for 2014, 2015, 2016 and 2017 are available online and can be found at: https://www.doi.gov/eiti/faca	
	<p>The validator is expected to document whether the workplan has been made widely available to the public (1.5.e) and has been reviewed and updated annually. The validator is expected to note whether or not the MSG has considered extending the detail and scope of EITI reporting to address issues such as revenue management and expenditure, transportation payments, discretionary social expenditures, ad-hoc sub national transfers, beneficial ownership and contracts when reviewing the workplan (1.5.f).</p>	Met	Same as above.	Same as above.

USEITI PRE-VALIDATION ASSESSMENT

Award of Contracts and Licenses				
EITI Provisions	Self-Assessment Questions	Progress	Evidence and Rationale	Action points
Legal framework EITI provision 2.1.	The validator is expected to document whether a summary description of the fiscal regime has been disclosed, including the level of fiscal devolution, an overview of the relevant laws and regulations, and information on the roles and responsibilities of the relevant government agencies (2.1.a).	Met	This has been documented in the 2015 Executive Summary and is also available on the USEITI Data Portal online at: https://useiti.doi.gov/how-it-works/#laws-governance	
	The validator is expected to document whether the EITI Report includes any information about reforms that are underway (2.1.b). Such disclosures are encouraged, but not required and should not be considered in assessing compliance with the EITI Standard.	Met	This has been documented in the 2015 Executive Summary and is also available on the USEITI Data Portal online at: https://useiti.doi.gov/how-it-works/#laws-governance	
License allocations EITI provision 2.2.	The validator is expected to document whether the information about the process for awarding or transferring the license(s) set out in provision 2.2.a has been comprehensively disclosed for any license awards or transfers pertaining to the companies covered by the EITI Report during the financial year covered by the EITI report. The validator should also comment on the disclosure of information regarding license awards and transfers made during the financial year covered by the EITI report that did not generate material revenues in that period, but are expected to generate material revenues in the future, including any legal and practical barriers to such disclosures (2.2.a)		The USEITI Data Portal points to BOEM and BLM websites for current lease information.	
	Where companies covered by the EITI Report hold licenses that were not awarded or transferred during the financial year covered by the EITI Report, the validator may wish to comment on the disclosure of information related the allocation of these licenses. The validator's findings will not have implications for compliance with the EITI Standard (2.2.b).		See above	
	The validator is expected to document whether the government has disclosed the list of applicants and the bid criteria related to any bidding processes that took place in the accounting period covered by the EITI Report (2.2.c).		See above	
	The validator is expected to document whether the EITI Report includes any additional information about the allocation of licenses, including whether the EITI Report includes commentary on the efficiency and effectiveness of these systems (2.2.d). Such disclosures are encouraged, but not required and should not be considered in assessing compliance with the EITI Standard.		See above	
License registers EITI provision 2.3.	The validator is expected to document whether the information set out in provision 2.3.a-b has been disclosed for all the licenses held by companies covered in the EITI reporting process.		The data portal points to BOEM and BLM websites for current lease information.	

USEITI PRE-VALIDATION ASSESSMENT

Award of Contracts and Licenses				
EITI Provisions	Self-Assessment Questions	Progress	Evidence and Rationale	Action points
	The validator is expected to document whether the information set out in provision 2.3.b is also available for the licenses held by entities not covered by the EITI reporting process, and if not, document the reasons for any gaps (2.3.b-c). Comprehensive disclosure is expected, but not required for compliance with the EITI Standard. Where information about licenses held by entities not covered by the EITI reporting process is missing, the validator is expected to evaluate whether the MSG has documented and explained the barriers to provision of this information and any government plans to overcome these barriers.	See above		
Contracts EITI provision 2.4.	The validator is expected to document whether the government's policy on contract transparency has been disclosed. This should include relevant legal provisions, actual disclosure practices and any government reforms that are planned or underway (2.4.b). The validator is expected to document whether the EITI Report includes disclosures of contracts and licenses. Such disclosures are encouraged but not required and should not be considered in assessing compliance with the EITI provisions (2.4.a). Where contracts are disclosed, the validator is expected to document whether the EITI Report provides an overview of the contracts and information on how these can be accessed (2.4.b).	The policy on contract disclosure was explained briefly in the 2015 Executive Summary on page 43 and 44. See above		
Beneficial ownership EITI provision 2.5	The validator is expected to document whether the EITI Report documents the government's policy and MSG's discussion on disclosure of beneficial ownership in accordance with provision 2.5.b.i.		The Beneficial Ownership Work Group prepared the draft Beneficial Ownership Roadmap for Implementation Subcommittee review who subsequently approved to recommend to the MSG to review, discuss and ultimately approve. The MSG approved the Beneficial Ownership Roadmap at the 19th MSG Meeting in November 2016. The approved Roadmap can be found online at: https://www.doi.gov/sites/doi.gov/files/uploads/draft_bo_roadmap_10-30-16_clean.pdf	The MSG approved Beneficial Ownership Roadmap was transmitted to the International Secretariat on 12/15/16.
	Effective as of 1 January 2017 the validator is expected to document whether the MSG has published a roadmap for beneficial ownership disclosure in accordance with provision 2.5.b.ii, including progress with implementation of the roadmap.	See above		See above
	Effective as of 1 January 2020, the validator is expected to document whether beneficial ownership has been disclosed in accordance with provisions 2.5 c-f.	See above		See above
	The validator is also expected to document if the implementing country has a publicly available register of the beneficial owners in accordance with provision 2.5.a. Such disclosures are recommended, but not required and should not be considered in assessing compliance with the EITI Standard.	See above		See above

USEITI PRE-VALIDATION ASSESSMENT

Award of Contracts and Licenses				
EITI Provisions	Self-Assessment Questions	Progress		Evidence and Rationale
State-ownership EITI provisions 2.6	The validator is expected to document whether there are any state-owned enterprises engaged in the extractive sector, and if so, whether the prevailing rules and practices regarding the financial relationship between the government and state-owned enterprises have been disclosed (2.6.a). This could include rules and practices governing transfers of funds between the SOE(s) and the state, retained earnings, reinvestment and third-party financing.	N/A		
	The validator is expected to document whether the government and SOE(s) have disclosed their level of ownership in mining, oil and gas companies operating within the country's oil, gas and mining sector, including those held by SOE subsidiaries and joint ventures, and any changes in the level of ownership during the reporting period in accordance with provision 2.6.c. Where changes to ownership have occurred, the validator is expected to confirm whether the terms of the transactions have been disclosed and the reasons for any gaps in disclosure. Reporting on changes to ownership is expected, but not required and should not be considered in assessing for compliance with the EITI Standard. Where information about changes to ownership is not disclosed, the validator is expected to evaluate whether the MSG has documented and explained the barriers to provision of this information and any government plans to overcome these barriers.	N/A	See above	
	The validator is expected to document whether details about any loans or loan guarantees to mining, oil and gas companies operating within the country have been disclosed (2.6.c).	N/A	See above	

USEITI PRE-VALIDATION ASSESSMENT

Exploration and Production				
EITI Provisions	Self-Assessment Questions	Progress	Evidence and Rationale	Action points
Exploration activities EITI provision 3.1.	The validator is expected to document whether an overview of the extractive industries, including any significant exploration activities, has been disclosed (3.1)	Met	This requirement was met on the USEITI Data Portal found online at: https://useiti.doi.gov/explore/ ; https://useiti.doi.gov/how-it-works/production/ ; https://useiti.doi.gov/search-results/?q=Exploration	
Production data EITI provision 3.2.	The validator is expected to document whether total production volumes and the value of production by commodity have been disclosed, including whether this information is further disaggregated by state/region where relevant (3.2). Where the MSG has disclosed the sources of production data and information on how production data has been calculated, the validator should take note of this. Reporting on such information is encouraged, but not required and should not be considered in assessing for compliance with the EITI Standard.	Met	This requirement was met on the USEITI Data Portal found online at: https://useiti.doi.gov/explore/ ; https://useiti.doi.gov/explore/#production ; https://useiti.doi.gov/downloads/#production-all ; https://useiti.doi.gov/downloads/federal-production/	
Export data EITI provision 3.3.	The validator is expected to document whether total export volumes and the value of exports by commodity have been disclosed, including whether this information is further disaggregated by state/region of origin where relevant (3.3). Where the MSG has disclosed the sources of export data and information on how export data has been calculated, the validator should take note of this. Reporting on such information is encouraged, but not required and should not be considered in assessing for compliance with the EITI Standard.	Met	This requirement was met on the USEITI Data Portal found online at: https://useiti.doi.gov/explore/ ; https://useiti.doi.gov/downloads/#exports ; https://useiti.doi.gov/explore/#economic-impact ; https://www.census.gov/foreign-trade/statistics/state/data/index.html	

USEITI PRE-VALIDATION ASSESSMENT

Revenue Collection				
EITI Provisions	Self-Assessment Questions	Progress	Evidence and Rationale	Action points
Comprehensive disclosure of taxes and revenues EITI provisions 4.1.	The MSG has agreed on a materiality definition, including any reporting thresholds, as well as the options considered and the rationale for the materiality definition (4.1.a).	Met	<p>1. At the 5th MSG Meeting in July 23-24, 2013, the MSG agreed to a reconciliation materiality threshold for companies that pay \$50 million in revenues annually to ONRR, capturing 80% of revenues paid to ONRR in the first report, and a threshold of \$20 million, capturing 90% in the second report. Based on 2013 ONRR data, this would require voluntary participation by 40 companies and 63 payors in the first report, 70 companies and 117 payors in the second report. However, capturing 90% in the second report was pending achieving compliance in the First Annual Report and the MSG reviewing lessons learned and reviewing company reach-out.</p> <p>2. The December 2014 MSG Decision Matrix (http://www.doi.gov/eiti/FACA/upload/USEITI-Company-and-Project-LevelRecommendation.pdf) documents the companies to be included in the 2015 Reconciliation Report are Companies that reported over \$50 million in revenues to ONRR (80% of total revenues). Those identified Companies voluntarily participate in both non-tax revenue and tax revenue reporting and reconciliation. Further, the December Matrix also specifies Companies that voluntarily submit their taxes will be identified; those Companies that choose not to submit will also be identified; Companies can also agree to reconciliation (this recommendation pending MSG approval). At the 13th MSG Meeting in February 24-24, 2015, the MSG approved the incorporation of the content of the tax reporting cover letter into the Reporting Template Guidance. The letter (http://www.doi.gov/eiti/FACA/upload/Tax-Authorization-Memo.pdf) provided the necessary form and instructions to authorize the Internal Revenue Service (IRS) to release certain specified corporate income tax payment and refund transactions data for calendar year 2013 to Deloitte & Touche LLP in order to reconcile corporate income tax payments.</p> <p>3. The March 2016 Decision Matrix subsequently documented Companies should be considered in-scope and their submitted payments will be reconciled if they are part of the top 80% of revenue reported to ONRR for CY 2015. This will include 41 companies with a revenue threshold of \$37 million or more reported to ONRR in CY 2015.</p>	At the 20th MSG Meeting in February 2017 the MSG will decide on mainstreaming which may affect reporting thresholds.
	The revenue streams considered material are listed and described in the EITI Report (4.1.a).	Met	<p>See above</p> <p>1. In-scope revenue streams and companies - https://useiti.doi.gov/downloads/USEITI_executive-summary_2015-12-22.pdf (page 92)</p> <p>2. https://useiti.doi.gov/explore/#revenue; https://useiti.doi.gov/how-it-works/revenues/;</p> <p>3. https://useiti.doi.gov/how-it-works/corporate-income-tax/;</p> <p>https://useiti.doi.gov/downloads/USEITI_extractive-revenue-appendix_2015-12-22.pdf</p> <p>4. https://useiti.doi.gov/downloads/federal-revenue-by-location/</p>	
	The validator is expected to document whether the revenue streams listed in provision 4.1.b have been considered. Where the MSG has agreed to exclude certain revenue streams from the EITI Report, the validator is expected to document and evaluate the rationale for their exclusion (4.1.b).	Met	See above	
	The MSG has identified the companies making material payments and whether these companies fully reported all payments in accordance with the materiality definition (4.1.c; and the IA TOR).	Met	See above	
	The MSG has identified the government entities receiving material revenues and whether these government entities fully reported all receipts in accordance with the materiality definition (4.1.c and the IA TOR).	Met	See above	

USEITI PRE-VALIDATION ASSESSMENT

Revenue Collection				
EITI Provisions	Self-Assessment Questions	Progress	Evidence and Rationale	Action points
	The government fully reported all revenues, including any revenues below the materiality thresholds. (Note: this information can be provided in aggregate.) Where the government has not fully disclosed all revenues, the validator is expected to document the justification provided by the MSG (4.1.d).	Met	This requirement was met in the 2015 and 2016 USEITI Executive Summary Appendices for Reporting and reconciliation found online at: https://useiti.doi.gov/about/report/ The 2015 USEITI Executive Summary Appendix can be found online at: https://useiti.doi.gov/downloads/USEITI_executive-summary_2015-12-22.pdf The 2016 USEITI Executive Summary Appendix can be found online at: https://useiti.doi.gov/downloads/USEITI_executive-summary-combined_2016-11-18.pdf	
	Where companies or government entities paying or receiving material revenues have not submitted reporting templates, or have not fully disclosed all the payments and revenues, the validator is expected to document whether the EITI Report documents these issues and includes an assessment of the impact on the comprehensiveness of the report.	Met	This requirement was met in both the 2015 and 2016 USEITI Executive Summaries and IA Reconciliation Report Appendix to the Executive Summary. The 2015 USEITI Executive Summary and Appendix can be found online at: https://useiti.doi.gov/about/report/ https://useiti.doi.gov/downloads/USEITI_executive-summary_2015-12-22.pdf The 2016 USEITI Executive Summary and Appendix can be found online at: https://useiti.doi.gov/downloads/USEITI_executive-summary_2016-11-18.pdf https://useiti.doi.gov/downloads/USEITI_executive-summary-combined_2016-11-18.pdf	
	In accordance with the IA TOR, the validator is expected to provide a summary of the key findings from the Independent Administrator's assessment with regards to the comprehensiveness of the EITI disclosures and coverage of the reconciliation.	Met	This requirement was met in the 2015 and 2016 USEITI Executive Summaries. The 2015 USEITI Executive Summary and Appendix can be found online at: https://useiti.doi.gov/about/report/ and https://useiti.doi.gov/downloads/USEITI_executive-summary_2015-12-22.pdf The 2016 USEITI Executive Summary and Appendix can be found online at: https://useiti.doi.gov/downloads/USEITI_executive-summary_2016-11-18.pdf	
In-kind revenues EITI provision 4.2	The validator is expected to document and evaluate the MSG's definition of materiality with regards to in-kind revenues. Where in-kind revenues exist and are considered material, the validator is expected to document whether these have been fully disclosed in accordance with provision 4.2.	N/A		
	The validator is expected to comment on whether the EITI Report includes disclosures such as the type of product, price, market and sale volume, and whether the volumes sold and revenues received are reconciled. Such disclosures are encouraged, but not required and should not be considered in assessing compliance with the EITI Standard.		https://useiti.doi.gov/downloads/federal-revenue-by-location/	
Infrastructure provisions and barter arrangements EITI provision 4.3	The validator is expected to document and evaluate the MSG's definition of materiality with regards to infrastructure provisions and barter arrangements. Where infrastructure provisions and barter arrangements exist and are considered material, the validator is expected to document whether these revenue flows or value transfers have been fully disclosed in accordance with provision 4.3	N/A		
Transportation revenues EITI provision 4.4	The validator is expected to document and evaluate the MSG's definition of materiality with regards to transportation revenues. Where transportation revenues exist and are considered material, the validator is expected to document whether these revenue flows have been fully disclosed in accordance with provision 4.4.	N/A		

USEITI PRE-VALIDATION ASSESSMENT

Revenue Collection				
EITI Provisions	Self-Assessment Questions	Progress	Evidence and Rationale	Action points
	Disclosure of material transportation revenues is expected, but not required for compliance with the EITI provisions. Where transportation revenues are material but not disclosed, the validator is expected to evaluate whether the MSG has documented and explained the barriers to provision of this information and any government plans to overcome these barriers. The validator is also expected to comment on whether the EITI Report includes additional disclosures in accordance with provision 4.4.i-v. Such disclosures are encouraged, but not required and should not be considered in assessing compliance with the EITI Standard.	N/A		
Transactions between SOEs and government entities EITI provision 4.5	The validator is expected to verify that the EITI Report describes the role of any SOEs operating in the country. Where SOEs make payments to the government, collect material revenues on behalf of the state, or both, and where financial transfers between government entities and SOEs exist and are material, the validator is expected to document whether they have been fully disclosed in accordance with provision 4.5	N/A		
Subnational direct payments EITI provision 4.6	The validator is expected to document and evaluate the MSG's definition of materiality with regards to direct subnational payments. Where direct subnational payments exist and are considered material, the validator is expected to document whether these revenue flows have been fully reconciled and disclosed in accordance with provision 4.6.	Met	1. At the 19th MSG Meeting in November 2016 the MSG approved the Request for Extending Adapted Implementation. This was transmitted to the International Secretariat and International Board on 12/15/16. The Request for extending Adapted Implementation can be found online at: https://www.doi.gov/sites/doi.gov/files/uploads/request_for_extension_of_adapted_implementation_11172016.pdf 2. The 2015 and 2016 Annual Reports disclose payments from the Federal government to States - https://useiti.doi.gov/explore/#federal-disbursements and https://useiti.doi.gov/downloads/disbursements/ . 3. At the 5th Meeting of the MSG in July 23-24, 2013, the MSG decided to seek adapted implementation for subnational reporting as it relates to states. 4. At the 10th Meeting of the MSG in June 10-11, 2014, the MSG charged the State and Tribal Opt-in Subcommittee with proceeding with its work to incorporate into the contextual narrative the 18 target opt-in states. The Subcommittee had identified the 18 states considering revenues and production and those included constitute almost 80% of extractive mineral value. 5. For the 2016 Report 3 States have agreed to opt-in to USEITI and the data provided varies state-by-state. State narratives are available online at: https://useiti.doi.gov/how-it-works/state-legal-fiscal-info/ ; https://useiti.doi.gov/explore/AK/ ; https://useiti.doi.gov/explore/MT/ ; and https://useiti.doi.gov/explore/WY/	
Level of disaggregation EITI provision 4.7	The financial data disclosed is disaggregated by individual company, government entity and revenue stream. The financial data is disaggregated by project, provided that it is consistent with the United States Securities and Exchange Commission rules and the European Union rules (4.7).	Met		SEC Dodd Frank Section 1504 regulations promulgated and will be effective 2019
Data timeliness EITI provision 4.8	The validator is expected to document whether the implementing country has produced timely EITI Reports in accordance with provision 4.8.	Met		
Data quality EITI provision 4.9 and the IA TOR	The validator is expected to document if and when the MSG endorsed the selection of the Independent Administrator (4.9).	Met	https://www.doi.gov/sites/doi.gov/files/uploads/useiti_msg_-_sept_2014_mtg_summary.pdf	

USEITI PRE-VALIDATION ASSESSMENT

Revenue Collection				
EITI Provisions	Self-Assessment Questions	Progress	Evidence and Rationale	Action points
	<p>The validator is expected to review the TORs agreed by the MSG and the Independent Administrator and document whether the TORs are in accordance with the standard TORs for EITI reports. The validator is expected to highlight any major deviations. (4.9).</p>	Met	<p>Following the creation and the MSG's approval of the Terms of Reference for the Independent Administrator (IA) and a competitive bidding process, the USEITI MSG also secured the services of Deloitte & Touche, LLP, (Deloitte) as the Independent Administrator of the USEITI process. The MSG worked with the IA to make sure that the IA team reflected the capacities and qualifications outlined in the Terms of Reference and endorsed the IA at the September and December 2014 MSG meetings.</p>	
	<p>In accordance with the IA TOR, the validator is expected to document if and when the MSG and the Independent Administrator have:</p> <ul style="list-style-type: none"> - Agreed on reporting templates; - Undertaken a review of the audit and assurance procedures in companies and government entities participating in EITI reporting; - Agreed on the assurances to be provided to the Independent Administrator by the participating companies and government entities to assure the credibility of the data, including the types of assurances to be provided, the options considered and the rationale for the agreed assurances; - Agreed on appropriate provisions for safeguarding confidential information. 	Met	<p>At the February 2015 MSG meeting, the MSG discussed with the IA the following topics related to reconciliation and validation:</p> <ul style="list-style-type: none"> • The content and design of a Reporting Template—and accompanying guidelines—that companies will use to report their payments to the IA • The timeline by which the IA will manage the reporting and reconciliation process • The margin of variance that the IA will use as part of the reconciliation process <p>The Feb 2015 MSG Meeting Summary can be found online at: https://www.doi.gov/sites/doi.gov/files/uploads/useiti_msg_-_feb_2015_mtg_summary_-_msg_approved.pdf https://useiti.doi.gov/how-it-works/audits-and-assurances/</p> <p>The IA documented in the 2016 Online Report the Government's Audit and Assurances which can be found online at: https://useiti.doi.gov/how-it-works/audits-and-assurances/</p>	<p>At the February 2017 MSG Meeting the MSG will decide on mainstreaming which may affect the TOR for the IA in which case the TOR would be revised and re-submitted to the International Secretariat and Board.</p> <p>At the February 2017 Meeting the IA will propose to the MSG for approval that they will do a deeper dive in the audit and assurance processes for the government and companies which supports that US is already mainstreaming.</p>
	<p>In accordance with the IA TOR, the validator is expected to:</p> <ul style="list-style-type: none"> verify that the EITI report documents whether reporting companies and government entities had their financial statements audited in the financial year(s) covered by the EITI report, and whether any gaps have been identified; - provide a summary of the key findings from the Independent Administrator's assessment with regards to the reliability of the data; - verify that any contextual information not collated by the Independent Administrator is clearly sourced; verify that relevant electronic data files have been published together with the EITI Report and that summary data from the EITI Report has been submitted electronically to the International Secretariat according to the standardised reporting format provided by the International Secretariat. 	Met	<p>This requirement was met in the 2015 USEITI Executive Summary The 2015 USEITI Executive Summary and Appendix can be found online at: https://useiti.doi.gov/about/report/</p> <p>The IA documented in the 2016 Online Report the Governments Audit and Assurances which can be found online at: https://useiti.doi.gov/how-it-works/audits-and-assurances/</p>	
		Met	<p>This requirement was met in the 2015 USEITI Executive Summary The 2015 USEITI Executive Summary and Appendix can be found online at: https://useiti.doi.gov/about/report/</p> <p>The IA provided summary data for the 2015 USEITI Report to the International Secretariat on or around September 28, 2016. The IA provided summary data for the 2016 USEITI Report to the International Secretariat on January 3, 2017.</p>	<p>The IA will continue to provide documentation of their transmittal of summary data to the International Secretariat</p>

USEITI PRE-VALIDATION ASSESSMENT

Revenue management and distribution				
EITI Provisions	Self-Assessment Questions	Progress	Evidence and Rationale	Action points
Distribution of revenues EITI provision 5.1.	The validator is expected to document whether the EITI report indicates which extractive industry revenues are recorded in the national budget. Where revenues are not recorded in the budget, the validator is expected to document that the allocation of these revenues has been explained, with links provided to relevant financial reports as applicable (5.1 a).	Met	1. Federal disbursements of revenues were first documented in the 2015 EITI Report at https://useiti.doi.gov/explore/disbursements/ and the data is updated for the 2016 Report for the years 2012 – 2015 at https://useiti.doi.gov/downloads/disbursements/	
	The validator is expected to comment on whether the MSG has referenced any national revenue classification systems or international data standards (3.1.b). Such references are encouraged, but not required and should not be considered in assessing compliance with the EITI Standard.	Met	See above	
Sub-national transfers EITI provision 5.2.	The validator is expected to document constitutional, statutory and other mandatory revenue sharing requirements and the MSG's definition of materiality regarding mandatory subnational transfers. Where mandatory subnational transfers exist and are material, the validator is expected to document whether these have been disclosed in accordance with provision 5.2.a together with any revenue sharing formula.	Met	1. Access to information on subnational transfers on Page 14 of 2015 Reconciliation Report. The Report can be found online at: https://useiti.doi.gov/downloads/USEITI_executive-summary_2015-12-22.pdf 2. https://useiti.doi.gov/how-it-works/federal-laws/	
	The validator is also expected to document if mandatory subnational transfers have been reconciled. Reconciliation is encouraged, but not required and should not be considered in assessing compliance with the EITI Standard.	Met	See above	
	The validator is expected to document whether the MSG has included ad-hoc subnational transfers in the EITI reporting process. Disclosures of ad-hoc subnational transfers are encouraged, but not required and should not be considered in assessing compliance with the EITI Standard (5.2.b).	Met	See above	
Additional information on revenue management and expenditures EITI provision 5.3	The validator is expected to comment on whether the EITI Report includes a description of any extractive revenues earmarked for specific programmes or geographic regions, including a description of the methods for ensuring efficiency and accountability in their use, in accordance with provision 5.3.a. Such disclosures are encouraged, but not required and should not be considered in assessing compliance with the EITI Standard.	Met	https://useiti.doi.gov/explore/#federal-disbursements https://useiti.doi.gov/how-it-works/revenues/	
	The validator is expected to comment on whether the EITI Report includes a description of the country's budget and audit processes and links to publicly available information about budgeting and expenditure (5.3.b). Such disclosures are encouraged, but not required and should not be considered in assessing compliance with the EITI Standard.	Met	1. https://useiti.doi.gov/how-it-works/revenues/ 2. https://useiti.doi.gov/how-it-works/audits-and-assurances/	

USEITI PRE-VALIDATION ASSESSMENT

Revenue management and distribution				
EITI Provisions	Self-Assessment Questions	Progress	Evidence and Rationale	Action points
	The validator is expected to comment on whether the MSG has disclosed any further information related to the budget cycle, production and commodity price assumptionis and revenue sustainability, resource dependence, and revenue forecasting (5.3.c). Such disclosures are encouraged, but not required and should not be considered in assessing compliance with the EITI Standard.	Met	Linked to in the 2015 Executive Summary: https://useiti.doi.gov/downloads/USEITI_executive-summary_2015-12-22.pdf at https://www.doi.gov/sites/doi.gov/files/migrated/pfm/upload/FY-2014-DOI-Citizens-Report.pdf - 2016 relevant data is at: https://www.doi.gov/sites/doi.gov/files/uploads/PFM%20FY%202015%20DOI%20Citizens%20Report.pdf	

USEITI PRE-VALIDATION ASSESSMENT

Social and economic spending				
EITI Provisions	Self-Assessment Questions	Progress	Evidence and Rationale	Action points
Social expenditures EITI provision 6.1	<p>The validator is expected to document the MSG's definition of materiality with regards to mandatory social expenditures. Where mandatory social expenditures exist and are material, the validator is expected to verify whether these have been disclosed and reconciled in accordance with provision 6.1.a, including any gaps.</p> <p>The validator is expected to document whether the MSG has disclosed discretionary social expenditures in accordance with provision 6.1.b. Such disclosures are encouraged, but not required and should not be considered in assessing compliance with the EITI Standard.</p>	N/A		
SOE quasi fiscal expenditures EITI provision 6.2	The validator is expected to document the MSG's definition of materiality with regards to quasi-fiscal expenditures by SOEs, including SOE subsidiaries and joint ventures. Where these exist and are material, the validator is expected to document the reporting process developed by the MSG for disclosure of quasifiscal expenditures and verify that these expenditures have been disclosed accordingly (6.2).	N/A		
Contribution of the extractive sector to the economy EITI provision 6.3	The validator is expected to document whether available information about the contribution of the extractive industries to the economy for the fiscal year covered by the EITI report has been disclosed in accordance with provision 6.3.	Met	<p>1. Federal disbursements of revenues were first documented in the 2015 EITI Report at https://useiti.doi.gov/explore/disbursements/ and the data is updated for the 2016 Report for the years 2012 – 2015 at https://useiti.doi.gov/downloads/disbursements/.</p> <p>2. Economic impact - https://useiti.doi.gov/explore/#economic-impact</p>	

USEITI PRE-VALIDATION ASSESSMENT

Outcomes and impact of EITI implementation				
EITI Provisions	Self-Assessment Questions	Progress	Evidence and Rationale	Action points
Public debate EITI provision 7.1	The validator is expected to document and evaluate whether the EITI disclosures, including the EITI Report, are comprehensible, have been actively promoted, are publicly accessible and have contributed to public debate (7.1). This should include publication of the EITI report virtually and in hard copies; availability in appropriate languages; and the accessibility of dissemination activities. The validator should also document if the MSG has agreed a policy on the access, release and reuse of EITI data.	Met	<ol style="list-style-type: none"> 1. The 2015 USEITI Report is publically available online at: https://useiti.doi.gov/ 2. As part of the 2016 Communications strategy, formal public outreach opportunities began on May 3, 2016, when the USEITI Multi-Stakeholder Group hosted a Public Outreach Webinar on the first Annual USEITI Report and the Online Data Portal. This webinar was attended in-person at the U.S. Department of the Interior and remotely. The government issued a media advisory a week prior to the webinar and posted the webinar video on the MSG website at https://www.doi.gov/eiti/public-engagement following the webinar. Subsequent outreach sessions are scheduled for Congress on September 15; in Montana on October 5-6; and Louisiana on October 19. 3. The USEITI Secretariat printed and distributed 200 hard copies of the 2015 Executive Summary, as well purchased and distributed approximately 1300 flash drives that contained the 2015 Executive Summary. 4. The MSG has agreed that all unilateral disclosure data shall be made publically accessible and can be downloaded and resused by any member of the public. Data can be found online at: https://useiti.doi.gov/explore/ 	
Data accessibility EITI provision 7.2	The validator is expected to comment on any efforts by the MSG to make EITI Reports machine readable, and to code or tag EITI Reports and data files so as to enable EITI data to be compared with other publicly available data (7.2). This could for example include cases where the MSG has decided to reference national revenue classification systems, and international standards such as the IMF Government Finance Statistics Manual; produced summary reports or other types of analysis aimed at improving public understanding of the data and information from the reports; or enabled automated EITI disclosures. Such efforts are encouraged, but not required and should not be considered in assessing compliance with the EITI Standard.	Met	The MSG has agreed that all unilateral disclosure data shall be made publically accessible and can be downloaded and resused by any member of the public. Data can be found online at: https://useiti.doi.gov/explore/	
Lessons learned and follow up on recommendations EITI provision 7.3	The validator is expected to document the government and MSG's progress in taking steps to act upon lessons learned, identifying, investigating and addressing the causes of any discrepancies in EITI reporting, and progress in responding to the recommendations made by the Independent Administrator (7.3).	Met	<ol style="list-style-type: none"> 1. The ONRR staff work closely with both the IA and companies to identify discrepancies. 2. The USEITI Independent Administrator issues to ONRR a final debrief report which captures a number of lessons learned for program implementation, including areas to improve, gaps to fill, and successes to build on. Lessons learned for the reporting and reconciliation process are based on the IA experience as well as feedback received from companies. 3. Key points from this final debrief is shared with the co-chairs and the MSG at the subsequent public meeting. 4. Key points for the debrief for the 2015 Report were shared with the MSG at the March 2016 MSG Meeting. 5. The March 2016 Meeting Summary can be found online at: https://www.doi.gov/sites/doi.gov/files/uploads/useiti_msg_-_mar_2016_mtg_summary_v5_160426.pdf 	

USEITI PRE-VALIDATION ASSESSMENT

Outcomes and impact of EITI implementation				
EITI Provisions	Self-Assessment Questions	Progress	Evidence and Rationale	Action points
Outcomes and impact of EITI implementation on natural resource governance EITI provision 7.4.	The validator is expected to document the MSG's efforts to review outcomes and impact of EITI implementation on natural resource governance, including whether annual activity reports have been produced and contain the information set out in provision 7.4 a. The validator is also expected to comment on any consultations undertaken by the MSG toward giving all stakeholders an opportunity to provide feedback on the EITI process and the impact of the EITI, and have their view reflected in the annual activity report (7.4.b).	Met	<ol style="list-style-type: none"> 1. The Consensus Building Institute issues an Annual Activity Report and the Report is approved by the MSG. The Report can be found online at: https://www.doi.gov/eiti/faca 2. Stakeholders have the opportunity to provide feedback during the public comment period at all MSG Meetings. 3. Stakeholders may provide feedback on the data portal. The online form is available at: https://docs.google.com/forms/d/e/1FAIpQLSefIXdmEhGujpchFPzDKGgBk8GNt1UbpGf15955fgOdh6NkFA/viewform 4. Stakeholders may provide feedback directly to the USEITI Secretariat by email: USEITI@ios.doi.gov 5. Stakeholders have the opportunity to provide feedback at any of the public outreach sessions that have been scheduled in May, Sept and Oct of 2016. 	

The Honorable Raúl M. Grijalva
Ranking Member
Committee on Natural Resources
House of Representatives
Washington, DC 20515

Dear Mr. Grijalva:

The Secretary asked me to respond to your letter dated June 6, 2017, regarding your interest in the Department of the Interior's efforts to implement the Extractive Industries Transparency Initiative (EITI) Standard. Implementing the EITI Standard domestically moved the global conversation about extractive transparency forward. It advanced the mainstreaming of EITI principles and encouraged additional Organisation for Economic Co-operation and Development countries to implement the EITI Standard. Implementing the Standard domestically also demonstrated that a strong commitment to transparency and accountability principles applies equally to developed and developing countries.

In 2012, the U.S. began implementing EITI in the U.S. (USEITI). Key successes include publishing the 2015 and 2016 USEITI Annual Reports on an open source, open code, interactive, web-based data portal (<https://useiti.doi.gov>). On this portal, the Department of the Interior unilaterally discloses 2013, 2014, 2015, and 2016 revenues by company, commodity, and revenue type as well as production data across all commodities. The Annual Reports provide clarity and transparency of the revenues generated by energy development on public lands and waters—a significant source of financial support for local communities, States, Tribes, and the Federal Government. In the spring of 2016, three states (Montana, Wyoming, and Alaska) opted-in to USEITI, allowing for expanded State reporting of extractive revenues. The portal is the new global standard in revenue governance transparency.

The U.S. is scheduled to produce its third Annual Report in December 2017 and undergo validation April 1, 2018. Validation is an independent, external and impartial process that serves to assess performance and promote dialogue and learning at the country level. It also safeguards the integrity of the EITI by holding all EITI implementing countries to the same global Standard. As confirmed in the May 15, 2017, Department of the Interior, Office of the Inspector General Field Inspection Final Report Number 2016 EAU 041, the U.S. has only partially met the revenue collection requirement (Requirement 4) because it has been unable to obtain full disclosure of extractive resource payments from companies, thus preventing the required reconciliation to Government receipts. In addition, the U.S. has encountered challenges as part of its participation

in EITI that could prevent it from reaching the goal of compliant status. Should the U.S. not achieve compliant status and the Board finds inadequate progress implementing the Standard, the standing of the U.S. in EITI would be diminished. Nonetheless, the Department of the Interior is committed to the principles of open government and accountability. As such, the Office of Natural Resources Revenue will begin mainstreaming DOI revenue reporting requirements of the Standard and institutionalizing EITI processes.

As previous Administrations have done in the past, the Department of the Interior is currently conducting a standard review of the charters and charges of Federal Advisory Committee Act (FACA) Advisory Commissions in an effort to maximize feedback from these boards and to ensure their compliance with both FACA and the President's recent executive orders. The review process is meant to identify committees that merit improvement in order to fully support their missions, serve the local communities, and ensure the Department is getting local feedback to the maximum extent possible. This review process necessitates the temporary postponement of advisory committee meetings, including those of the USEITI. As the review proceeds, many committees will resume their regularly scheduled meetings, and the Department fully expects the majority of committees to resume by September.

If you have any comments or questions, please don't hesitate to contact Ms. Judy Wilson at Judith.wilson@onrr.gov or (202) 208-4410.

Sincerely,

Gregory J. Gould
Director, Office Natural Resources Revenue

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Committee on Natural Resources
Washington, DC 20515

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The U.S. government committed to implementing EITI in the U.S. (USEITI) in 2011 and in the spring of 2012 designated the Department of the Interior the lead Agency for implementing USEITI. Implementing USEITI provides additional oversight of the collection and disbursement of the Nation's mineral resources revenues. USEITI successfully completed the initial requirements to join EITI as a candidate country when accepted by the International EITI Board in March 2014. Key successes include publishing the 2015 and 2016 USEITI Annual Reports on an open source, open code, interactive, web-based data portal (<https://useiti.doi.gov>). On this portal, the Department of the Interior unilaterally discloses 2013, 2014, 2015, and 2016 revenues by company, commodity, and revenue type as well as production data across all commodities. The portal is the new global standard in revenue governance transparency.

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Scott Cameron
Principal Deputy Assistant Secretary for
Policy, Management and Budget

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Ranking Member
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Committee on Natural Resources
Washington, DC 20515

Dear Ranking Member Grijalva:

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If you have any comments or questions, please don't hesitate to contact Ms. Judy Wilson at Judith.wilson@onrr.gov or (202) 208-4410.

Sincerely,

Scott Cameron
Principal Deputy Assistant Secretary for
Policy, Management and Budget

Hi Judith,

At our call on 30 March we discussed your pre-validation assessment and the development of an options paper addressing next steps for US EITI implementation. Here are some questions and observations on some the key aspects. I'd be happy to elaborate further if useful.

1. Validation scenarios

We broadly agree with your self-assessment. We have some questions about some technical aspects (e.g., some issues regarding scoping (4.1) and adherence to the standard ToRs for Independent Administrators (4.9). As you have identified, industry participation, the coverage of reconciliation and the coverage of income tax is problematic. In some other respects - such as coverage of the Abandoned Mine Land Reclamation Program and the work on the open data portal - US EITI implementation is exemplary.

Sam I would like to get a better understanding of the issues / questions regarding scoping (4.1) and adherence to the Standard ToRs for Independent Administrators (4.9)?

As you know, the EITI has changed its approach to Validation. We have moved away from a binary "pass/fail", "candidate/compliant" system. Validation now provides both an "overall assessment" and scorecard addressing adherence to various aspects of the EITI Standard. The most likely scenario is an overall assessment of "meaningful progress". As you can see here, this is a relatively common outcome. No country has so far achieved an overall assessment of "satisfactory progress". Most countries have a rather long list of corrective actions.

As you know, Validation in the United States is currently scheduled to commence on 1 April 2018. This implies completion of Validation circa September 2018. We of course don't know what will happen with 1504 until then. Note that the MSG is entitled to seek an extension if it considers that there have been "exceptional circumstances". If a new 1504 Rule has been released, the MSG might consider requesting an extension. Alternatively, if Validation goes ahead as scheduled, progress based on implementation of 1504 could be considered at the second Validation as late as March 2020.

2. The Royalty Policy Committee acting as the MSG.

There is nothing in the EITI Standard that prevents an implementing country from changing the form and composition of the MSG. It is, however, essential that "each stakeholder group must have the right to appoint its own representatives" (Requirement 1.4.a.ii). The documents that you have provided stipulate that the appointments will be approved by the Secretary. Could you provide some additional detail on how the members will be selected? Is it feasible for the industry and CSO constituencies to appoint their own representatives, even if they are ultimately approved by the Secretary?

The EITI Standard also requires that the MSG agrees clear public terms of reference for its work, approves its own work plans, and its agrees its internal governance rules and procedures. It would be good to consider how this would be done, at least in terms of the Committee's work relating to EITI implementation. I guess one option is that the MSG is formed as a subcommittees of the Royalty Policy Committee.

3. Industry participation and coverage of tax payments

It would be good to get some clarity on the plans for covering income tax in the next report. Specifically: will any companies be invited to report? If not, is there any work planned to collate information from other publically available sources? Will the IRS continue to provide an estimate?

Even if the SEC presented a new rule in the coming months, we assume that this will not come into force for until 2019 or later. It would therefore be good to explore what additional work could be done with existing data. As we have discussed previously, the publically listed firms typically disclose quite a lot of information in their 10-K Reports to the SEC. These include quite detailed reporting on revenues, expenses, production, profitability, depreciation, etc. Most have a line item on segment income taxes. See the latest 10-K from Chevron showing a tax benefit for upstream US of \$1.172 billion, and how this is offset by income tax in other segments:

We know that these figures cannot be reconciled with government data. For a start, Chevron's statement is done on an accrual basis (taking into account various adjustments and provisions) not on a cash flow basis (i.e., actual payments made to the government). I assume Chevron makes its income tax payments on a group basis, and that the IRS doesn't account for the business segments separately. This makes reconciliation impossible, even if 1504 was in place.

Setting reconciliation aside, this is a reliable (audited) statement from Chevron on their US tax liabilities. And, from a user perspective, it is useful to see these numbers presented in their wider financial context. Specifically, by consulting the 10-K Report, you can see how and why the figure is \$1.172 billion. Can we not do more to collate these existing disclosures? Even a simple list of in-scope companies with links to the public filings may help offset the criticism that "industry is not participating".

[I have asked the Secretariat staff to identify the in-scope companies with 10-K Reports and provide a list of direct links to those reports for incorporation in the data portal.](#)

4. Project level reporting

Another issue we should consider is the EITI's requirement on project-level reporting, originally agreed in 2013. It would be good to discuss how the DOI plans to address this. This may help keep civil society engaged.

At the Board meeting in Bogota the EITI Board reaffirmed that project-level reporting is required. EITI countries will be required to:

Publish EITI data disaggregated by individual project, company, government entity and revenue stream. The national multi-stakeholder group should devise and apply a definition of the term project that is consistent with relevant national laws and systems as well as international norms. For example, the EU defines a project as operational activities that are governed by a single contract, license, lease, concession, or similar legal agreement, which form the basis for payment liabilities with a government. Payments that are levied at a company level can be continued to be reported by company.

Project-level reporting will be required for all reports covering fiscal years ending on or after 31 December 2018. Given the EITI's "two-year rule" (requirement 4.8), this would effectively require project-level reporting by all countries by 31 December 2020 at the latest.

The EITI Board will develop further guidance on the implementation of the requirement and issue a schedule for how and when this requirement will be validated.

Following this decision, the EITI International Secretariat is conducting some research on existing practices. Our preliminary assessment of the level of disaggregation in your latest EITI Report is as follows:

Table 2 of the 2015 EITI Report includes a list of the relevant companies included in the scope of reconciliation, but it was not possible to retrieve corresponding licenses or permits for each of the companies, when accessing the online registries. Therefore the level of disaggregation is per government entity, revenue stream and per company, but we were unable to determine whether any of these company-disclosures were on a project level.

[The Table reflects Parent Companies and the data is not disaggregated on a project level.](#)

It would be appreciated if you could help us revise this summary, addressing plans for project-level reporting in the years to come.

Regards,

Sam

Section 1504 of the Dodd-Frank Act added Section 13(q) to the Securities Exchange Act of 1934, which directs the Commission to issue rules requiring resource extraction issuers to include in an annual report information relating to any payment made by the issuer, a subsidiary of the issuer, or an entity under the control of the issuer, to a foreign government or the Federal Government for the purpose of the commercial development of oil, natural gas, or minerals.

Section 13(q) requires a resource extraction issuer to provide information about the type and total amount of such payments made for each project related to the commercial development of oil, natural gas, or minerals, and the type and total amount of payments made to each government. In addition, Section 13(q) requires a resource extraction issuer to provide information about those payments in an interactive data format.

It is important to note that Section 13(q) of the Exchange Act (Section 1504 of the Dodd-Frank Wall Street Reform Act), which requires resource extraction companies to report annually on their payments to foreign governments, remains United States law.

The Administration supported the passage of House Joint Resolution 41 in order to increase American competitiveness in the energy sector.

We cannot predict the future of any rulemaking around Section 1504. The process for finalizing a rule to implement Section 1504 has been ongoing for seven years. I refer you to the SEC for further information.



United States Department of the Interior

OFFICE OF NATURAL RESOURCES REVENUE

P.O. Box 25165
Denver, Colorado 80225-0165

NOV 02 2017

Mr. Fredrik Reinfeldt
Chair, Extractive Industries Transparency Initiative Board
Ruseløkkveien 26
0251 Oslo
Norway

Dear Chair Reinfeldt:

The United States has made significant progress meeting individual requirements of the Extractive Industries Transparency Initiative (EITI) since the fall of 2011 when the U.S. announced that it would begin the multi-year process of becoming an EITI compliant country. The Department of the Interior established a multi-stakeholder group in December 2012 and achieved Candidate Country status in March 2014. Perhaps our most significant accomplishment is the creation of an open source, open code interactive web-based data portal (<https://useiti.doi.gov>) on which the agency has unilaterally disclosed 2013, 2014, and 2015 revenues by company, commodity, and revenue type, as well as production data across all commodities. This portal is the new global standard in revenue governance transparency. We are happy to report that use by state, local and tribal governments is increasing as well. While the U.S. government remains committed to fighting corruption in the extractive industries sector, and the ideals of transparency enshrined in the EITI Principles and the EITI Standard, it is clear that domestic implementation of EITI does not fully account for the U.S. legal framework. Effective immediately, therefore, the United States must withdraw as an EITI Implementing Country.

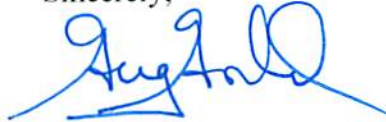
The Office of Natural Resources Revenue (ONRR), which maintains the primary role in the U.S. Government for the collection and disbursement of revenue related to energy and non-energy mineral resources, remains fully committed to institutionalizing the EITI principles of transparency and accountability consistent with U.S. law. ONRR intends to mainstream government reporting of energy production and the associated revenue collection and disbursement. ONRR is also committed to continue its efforts to promote public awareness and engage stakeholders in a public conversation of the potential impacts of proposed policies and regulations related to revenue collection from such development. We will continue to unilaterally disclose revenue payments received for extractive operations on federal land through our open data portal, and we will continue to improve our reporting through the inclusion of additional states and tribes.

Please know that the U.S. Department of State will continue to lead the United States' commitment to the EITI as a Supporting Country, a role that the United States has played since the beginning of the initiative. The U.S. political and financial support of the EITI over many

years has been second to none. In conjunction with the U.S. Agency for International Development, the State Department will continue to promote transparency, fight corruption and ensure good governance, as well as to support country-level EITI implementation. We continue to value the EITI as a critical tool to promote transparency, increase competitiveness, and combat corruption around the world.

Despite the fact that the U. S. laws prevent us from meeting specific provisions of the EITI Standard, we look forward to working together to promote transparency, fight corruption and ensure good governance.

Sincerely,

A handwritten signature in blue ink, appearing to read "Gregory J. Gould", with a stylized flourish extending from the end.

Gregory J. Gould
Director

Draft
Summary of Conclusions
Extractive Industry Transparency Initiative (EITI) Sub-PCC
Wednesday, August 30, 2017, 3:00 p.m. to 4:00 p.m.
EEOB 176

Participants:

Interior

Greg Gould
Judy Wilson

State

Micah Watson
Chanan Weissman

USAID

Erik Pacific
Jennifer Lewis

OMB

Ben Burnett

NSC

James Mazzaella
Tess McEnery
Robert Palladino
Nicholas Coleman

Discussion:

- The Department of the Interior (DOI) informed the interagency that it was impossible for USEITI to meet all eight of the requirements needed for compliance with ~~EITI's the EITI International standards~~. Withdrawal from domestic implementation of EITI, therefore, should happen as soon as feasible.
- The alternative approach (continue an appeal process which would take at least 18 months) would end up, according to DOI, at the same point of failure and therefore is not viable.
- The EITI's ~~transparency international secretariat's~~ rules ~~make require any country that fails failing to meet~~ any one of the eight tests ~~to take corrective actions, and failure to complete those corrective actions within the prescribed timeline will lead to grounds for suspension~~.
- On February 14, 2017, House Joint Resolution 41, enacted in accordance with the Congressional Review Act, repealed the SEC's final rule-regulations that implemented Sec. 1504 of the Dodd Frank Act. These regulations would have forced public disclosure by natural resource extractors of their payments to governments tax liabilities, a condition of certification for EITI. That type of disclosure is required under the EITI Standard.
 - DOI reports that without ~~these regulations~~ a strong final rule that implements Section 1504 EITI's international secretariat EITI will not ~~certify-validate~~ the United States as being in compliance with the EITI Standard. Other U.S. laws and practices which provide for the desired transparency will not meet the ~~secretariat's EITI~~ requirements.

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- The Interagency consensus was that, even if the USG appeals the predicted failed grade ~~from that the United States is likely to receive from the EITI Board following our April 2018 validation, EITI, and even if we and asserts the right of to mainstream USEITI's existing implementation effortsing,~~ an alternative approach that highlights ~~the U.S. other~~ transparency laws and practices, the U.S. will still be found out of compliance ~~and fail in 18 months.~~
- Additionally, to be in compliance, a multi-stakeholder (MSG) group would have to reconstituted and at the current time, according to DOI, no path for a constructive dialogue with an MSG exists.
- ~~Validation deadline for~~ USEITI is scheduled to begin validation by the international secretariat on April 6th. If withdrawal does not occur before this date, the US ~~will could be on an irreversible path wherein withdrawal may not be possible until the EITI renders a verdictbe suspended and join countries such as Azerbaijan and Ethiopia.~~
- Despite extremely transparent US domestic federal, state and tribal institutions and laws, withdrawal from USEITI will have serious consequences for the USG push for transparency and anti-corruption overseas and could, if not handled properly, damage our efforts to achieve important foreign policy goals.
- There are also implications for withdrawing from EITI for the USG self-reporting process of the Open Government Partnership. Compliance with EITI has been part of the OGP plan for a number of years and timing on the withdrawal should take into account those deadlines. The report will be finalized in October.
- Given that a) the Department of the Interior would like to relinquish responsibility for EITI compliance and b) EITI is an international body, there was discussion on whether a different agency, such as the Department of State, would be a more appropriate interlocutor with the international secretariat ~~in Norway.~~
 - A withdrawal letter from State could, for example, more clearly express the USG support for international efforts on transparency.
 - The United States would, like many countries, remain a supporting country of the EITI, and perhaps even continue to serve on the EITI International Board in that capacity ~~member of the international body in a supportive role~~ even if domestic reporting was discontinued.
 - USAID made note of the fact it was considering a small grant to the international secretariat to help its efforts. This fact could be represented in the withdrawal letter to reinforce the USG respect for and continuing commitment to the mission of the international efforts.

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It was agreed that:

- Withdrawal from USEITI implementation not later than April 6th (and earlier if feasible) would be in the best interests of the United States.
- The international equities, including reporting for the Open Government Partnership, and ~~messaging to U.S. embassy~~ messaging to relevant host governments ~~ies~~ are significant. Handled incorrectly, there could be severe consequences to the United States' reputation, internationally and domestically, as committed to the ideals of transparency and fighting corruption.
- Agencies will consult internally and revert back with a position on who should send the withdrawal letter (letter attached).

- State will brief relevant Posts and provide talking points, as appropriate. (attached).
- The DOI press office would be synced with the NSC and WH press office to handle questions based on agreed upon talking points that addressed the international ramifications of this situation.
- NSC DOI and State congressional teams should consider proactive outreach prior to USEITI withdrawal.
- USAID would research if/when it could announce funding to support the EITI-in-Norway international secretariat.
- This would be elevated to a PCC if warranted before action is taken.
- State and USAID would research how many countries had been suspended and how many have withdrawn from the validation process, and which those are. (attached) USAID will report on USG efforts to support EITI member countries' efforts to comply with EITI goals.

Mr. Fredrik Reinfeldt
Chair, EITI Board
Ruseløkkveien 26
0251 Oslo
Norway

Chair Reinfeldt,

~~As you know~~ the United States has made significant progress meeting individual requirements of the Extractive Industries Transparency Initiative (EITI) Standard since the ~~F~~fall of 2011, when the U.S. announced that it would begin the multi-year process of becoming an EITI ~~compliant~~ implementing country. The U.S. Department of the Interior (DOI) established ~~a the USEITI M~~ multi-stakeholder Group (MSG) in December 2012, and the United States achieved Candidate Country status in March 2014. Since its first meeting in 2013, the USEITI MSG has worked collaboratively to reach consensus on how to implement EITI in the United States. Perhaps USEITI's ~~our~~ most significant accomplishment ~~has been~~ the creation of an open source, open code interactive web-based data portal (<https://useiti.doi.gov>) on which ~~the agency~~ DOI has unilaterally disclosed 2013, 2014, and 2015 revenues by company, commodity, and revenue type, as well as production data across all commodities. This portal has truly set a new global standard in revenue governance transparency serving as a model in open data for the EITI Secretariat and other EITI countries. ~~We are~~ DOI is happy to report that use of this portal by state, local and tribal governments throughout the United States is increasing as well. The U. S. government remains committed to fighting corruption in the extractive industries sector, and the ideals of transparency enshrined in the EITI Principles and the EITI Standard. ~~It is clear that~~ Unfortunately, and despite the significant progress made by USEITI, implementation of the EITI Standard does not fully account in the United States is not feasibly for the U.S. due to the realities and requirements of our domestic legal framework. Effective immediately, therefore, the United States ~~must has decided to~~ withdraw as an EITI Implementing Country. ~~The U.S. Department of the Interior~~ DOI which maintains the primary role in the U.S. Government for the governance of energy and non-energy mineral resources, remains fully committed to institutionalizing the EITI principles of transparency and accountability consistent with U.S. law. ~~The Department of the Interior~~ DOI intends to mainstream government reporting of energy production and the associated revenue collection and disbursement. -The Department is also committed to continuing its efforts to promote public awareness and engage stakeholders in a public conversation of the potential impacts of proposed policies and regulations related to revenue collection from such development. ~~We~~ DOI will continue to unilaterally disclose revenue payments received for extractive operations on federal land through ~~our~~ the open data portal, and ~~we will~~ continue to improve ~~our~~ reporting through the inclusion of additional states and tribes.

As an EITI Supporting Country, the United States will continue to ~~work together to~~ promote transparency, fight corruption and ensure good governance as well as to support country-level EITI implementation.

Respectfully,

Greg Gould
Director, Office of Natural Resources Revenue and
USEITI Government Sector Co-Chair

DRAFT
August 2017 USEITI Talking Points
For Transmittal to Posts from Main State

- The United States has notified the EITI International Secretariat of our intention to withdraw as an implementing country.
- The United States is a strong supporter of good governance and transparency, which is why we have implemented the EITI Standard domestically. We have taken a leading role in EITI since its founding in 2003, and continue to support the EITI initiative and the principles it represents.
- Implementing the EITI Standard in the United States was a proactive step in the mainstreaming of EITI principles. It demonstrated that a strong commitment to transparency and accountability principles applies equally to developed and developing countries, providing an example for other OECD economies
- The multi-stakeholder group (MSG) known as “USEITI” will be dechartered as a Federal Advisory Committee. The Department of the Interior intends to continue to advise the Secretary on extractives transparency through the Royalty Policy Committee, which will hold its first meeting on October 4,.
- USEITI has made significant progress on domestic revenue transparency. The Department of the Interior intends to institutionalize transparency measures and mainstream government reporting of energy production and the associated revenue collection and disbursement.
- The Department of the Interior will continue to promote public awareness and engage stakeholders in a public conversation of the potential impacts of proposed policies and regulations related to revenue collection from such development.
- We will continue to unilaterally disclose revenue payments received for extractive operations on federal land through our open data portal, and we will continue to improve our reporting through the inclusion of additional states and tribes.
- Through the data portal, the Department of the Interior will continue to give the public more meaningful access to information about revenues received by the United States for the Nation’s natural resources.

TITLE SLIDE

Good morning. I am Judy Wilson. I work for the Office of Natural Resources Revenue, which is in the Secretary's Office of Policy Management and Budget.

The Department of the Interior has administered the mineral leasing program for Federal and American Indian lands for over a century.

ONRR collects, accounts for, and verifies natural resource and energy revenues due to States, American Indians, and the U.S. Treasury.

Between FY 1982 and 2016, ONRR has disbursed \$287 billion in revenue to the Nation, states, and American Indians

This morning, beginning with the Open Government Partnership as a backdrop, I would like to provide you a few highlights of our extractives industries data portal.

In 2011, the U.S. and seven other governments launched the global Open Government Partnership, a commitment to improve governance and increase citizen participation.

Countries around the world, including the U.S., develop country action plans identifying commitments that promote those principles. In the 1st, 2nd, and 3rd U.S. National Action Plans, the U.S. committed to:

Ensure that taxpayers receive every dollar due for extraction of our natural resources, building on reforms in the management of our natural resources; and

Work in partnership with industry and citizens to develop a plan to disclose relevant information, creating additional "sunshine" for the process of collecting revenues from natural resource extraction and enhancing the accountability and transparency of our revenue collection efforts.

The data portal I am about to show you was developed as a pilot in 2014 and has been enhanced every year since then in response to these commitments. We think it will prove to be a valuable resource for you and your ensuing discussions.

SITE NAVIGATION SLIDE

This data Portal is an official government website. The content is restricted to government (federal, state and local) information and data. A multi-stakeholder advisory committee comprised of industry, federal, state and Tribal government and public / civil society

representatives approved by consensus all content that appears on this site. The address for the site is useiti.doi.gov.

Navigating the site is relatively simple. You can either use a series of quick launch bars or select one of several modular blocks on the home page.

GOVERNANCE OF U.S. RESOURCE EXTRACTION SLIDE

The “HOW IT WORKS” quick launch takes you to the information that focuses on the governance and processes associated with energy and non-energy mineral resources.

For example, you can quickly access the Federal, State and Tribal laws and regulations.

WHO IS RESPONSIBLE AT THE FEDERAL LEVEL SLIDE

On the ABOUT Page provides high-level information regarding energy and minerals governance responsibilities, divided among the Department entities:

- Bureau of Indian Affairs (BIA)
- Bureau of Land Management (BLM)
- Bureau of Ocean Energy Management (BOEM)
- Bureau of Safety and Environmental Enforcement (BSEE)
- Office of Natural Resources Revenue (ONRR)

HOW RESOURCES ON FEDERAL LANDS RESULT IN REVENUE SLIDE

There are modules on the home page that take you to our archived Executive Summaries. The 2015 Executive is perhaps the most encompassing and helpful for depicting for the first time how Natural Resources on Federal Lands Result in DOI Revenue (PG 39) in a visual format.

ENERGY AND MINERAL RESOURCES REVENUE STREAMS SLIDE

Another very useful graphic (PG 46) in this Executive Summary visually depicts for the first time, the Federal Revenue Streams and the Statutory and Regulatory Rates by Resource Commodity.

HOW NATURAL RESOURCES RESULT IN FEDERAL REVENUES SLIDE

Still accessible by means of the “How it Works Quick Launch” one can learn about the governance processes, responsible Bureaus, opportunities for Public Engagement, and the associated Revenue Streams collected for Oil and Gas, Coal, Non-Energy Minerals, and Renewables.

FEDERAL PRODUCTION SLIDE

Now, I would like to draw your attention on the HOME PAGE to the “EXPLORE DATA” quick Launch Bar. Everything here, the information and the data has a geographic component.

On this part of the Data Portal you will find data related to Production, Revenue, Disbursements, and Economic Impact both Nation-wide and with-in State and County boundaries for all commodities.

The Nation-Wide data is presented for a ten-year span, by commodity to provide a quick trending visual.

FEDERAL REVENUES SLIDE

When visualizing the Revenues on Federal Lands, you will see the most recent complete year (2016) total revenues received by commodity and production phase when using the Federal Revenue by Phase Tab OR

When using the Revenue Details by Phase Tab, you will see the revenues by phase and the associated statutory rates.

FEDERAL REVENUE BY COMMODITY SLIDE

Every visualization on the data portal has an associated link to the data and documentation for that visual.

Also note that when viewing the Federal Revenues by Commodity you are again seeing a ten-year span to provide a quick trending visual.

NATIONAL AND LOCAL DATA SLIDE

When exploring data with a geographic reference, at the State level (for example Wyoming) the data we used comes from the Energy Information Administration and it includes data about all energy-related natural resources produced on federal, state, and privately owned land.

Once you drill down to Federal lands within the State you are able to visualize the federal production data at the County level of granularity.

FEDERAL REVENUE BY COMPANY SLIDE

While you can visualize the relative contribution of revenue streams by commodity using the EXPLORE DATA Quick Launch Bar; for the first time in 2015 ONRR began making available to the public an even more interesting data set which you can access using the HOW-IT-WORKS Quick Launch bar, and select Revenues under Resources to Revenues on the right side navigator.

You can filter this data aggregated at the Company level, by year (2013-2016), commodity, or revenue stream.

DOWNLOAD DATA SLIDE

There are two different ways to access the actual DOI/ONRR data sets associated with revenues and production.

One is to click on the “DATA AND DOCUMENTATION LINK” associated with each visual.

The other way is to go back to the home page and at the top of any page select the “DOWNLOADS” quick launch tab. This is where we provide you the direct link to the data that powers the many interactive visualizations on the page.

COMING SOON SLIDE

On last note, we will continue to roll out and update revenue and production data on this data portal in a dynamic fashion, as complete fiscal year and calendar year data sets become available. Also new this year, will be an addition to the Federal Revenue Aggregated by Company. We are providing additional geographic information for revenue streams onshore within a state boundary or if offshore in a particular area.

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July 2017 USEITI Talking Points

- The United States has notified the EITI International Secretariat of our intention to withdraw as an implementing country.
- ~~The multi-stakeholder group (MSG) known as "USEITI" will be dechartered as a Federal Advisory Committee. The Department of the Interior intends to continue to advise the Secretary on extractives transparency through an alternative mechanism to be announced at a later date.~~
- The United States is a strong supporter of good governance and transparency, which is why we have implemented the EITI Standard domestically. We have taken a leading role in EITI since its founding in 2003 and remain fully engaged in promoting the global initiative.
- Implementing the EITI Standard in the United States was a proactive step in the mainstreaming of EITI principles. It demonstrated that a strong commitment to transparency and accountability principles applies equally to developed and developing countries, providing an example for other OECD economies
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- ~~We~~DOI will continue to unilaterally disclose revenue payments received for extractive operations on federal land through our open data portal, and ~~we~~DOI will continue to improve our reporting through the inclusion of additional states and tribes.

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Approved: ENR –

Drafted: ENR/EGA/PAPD – Micah Watson, 7-7959

Cleared: ENR/FO –
DOI/ONRR –
NSC –
USAID –

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Approved: ENR –

Drafted: ENR/EGA/PAPD – Micah Watson, 7-7959

Cleared: ENR/FO –
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Approved: ENR –

Drafted: ENR/EGA/PAPD – Micah Watson, 7-7959

Cleared: ENR/FO –
DOI/ONRR –
NSC –
USAID –

March 2017 USEITI Talking Points for use with Civil Society Organizations

- The United States remains a strong supporter of EITI and continues to implement the EITI Standard domestically. We have supported and played a leadership role in EITI since its founding almost 14 years ago.
- Implementing the EITI Standard domestically moved the global conversation about extractive transparency forward. It advanced the mainstreaming of EITI principles and encouraged additional OECD economies to implement the EITI Standard. Implementing the Standard domestically also demonstrated that a strong commitment to transparency and accountability principles applies equally to developed and developing countries.
- The multi-stakeholder group (MSG) known as “USEITI” remains chartered as a Federal Advisory Committee with responsibility to advise on the domestic implementation of the Standard. ~~and continues to oversee domestic implementation of USEITI. The USEITI MSG is no longer scheduled to meet during the remainder of 2017.~~
- It is important to note the significant progress that USEITI has made over the past four years. The Department of the Interior intends to institutionalize EITI and mainstream government reporting of energy production and the associated revenue collection and disbursement.
- In addition, the Department of the Interior will continue to promote public awareness and engage stakeholders in a public conversation of the potential impacts of proposed policies and regulations related to revenue collection from such development.
- No decision has been made by the U.S. government on future implementation of EITI. Any future change in our implementation will be announced publicly.

March 2017 USEITI Talking Points for use with EITI and Foreign Governments

- The United States remains a strong supporter of EITI and continues to implement the EITI Standard domestically. We have supported and played a leadership role in EITI since its founding almost 14 years ago. Promotion and support of EITI is a key component of U.S. efforts to advance transparency in the extractive industries worldwide.
- Implementing the EITI Standard domestically moved the global conversation about extractive transparency forward. It advanced the mainstreaming of EITI principles and encouraged additional OECD economies to implement the EITI Standard. Implementing the Standard domestically also demonstrated that a strong commitment to transparency and accountability principles applies equally to developed and developing countries.
- The multi-stakeholder group (MSG) known as “USEITI” remains chartered and has responsibility to advise on the ~~continues to oversee~~ domestic implementation of the Standard ~~USEITI.~~

- Unfortunately the Department of the Interior's decision to cancel the remaining ~~final~~ two MSG meetings scheduled for 2017 has led to confusion and speculation.
- It is important to note the significant progress that USEITI has made over the past four years. The Department of the Interior intends to institutionalize EITI and mainstream government reporting of energy production and the associated revenue collection and disbursement.
- In addition, the Department of the Interior will continue to promote public awareness and engage stakeholders in a public conversation of the potential impacts of proposed policies and regulations related to revenue collection from such development.
- No decision has been made by the U.S. government on future implementation of EITI. As with any transition of Administrations, we are currently reviewing our approach to many public initiatives.
- Any future change in our EITI implementation will be announced publicly.

Terminating the USEITI Federal Advisory Committee

The USEITI Federal Advisory Committee was established in August 2012. The Committee's purpose was to serve as the initial EITI Multistakeholder Group (MSG) and its duties included consideration and fulfillment of the tasks required to achieve candidate and compliant status in the EITI. The Committee's Charter was renewed in 2014, and again in 2016. The MSG each year developed and recommended to the Secretary a fully-costed work plan, containing measurable targets and a timetable for implementation, and an assessment of capacity constraints. Each year the MSG developed and recommended to the Secretary an Annual Activity Report documenting the decisions and accomplishment, and progress in meeting the EITI Standard. The MSG advised the Secretary on long-term oversight and other activities necessary to achieve EITI candidate and compliant status.

On December 11, 2013, the MSG approved the U.S. EITI Candidacy Application. On December 19, 2013, the Secretary of the Interior submitted the Application to the EITI International Board who formally accepted the Application on March 19, 2014. The U.S. became the first G7 country to achieve Candidate Country status.

Key successes include publishing the 2015 and 2016 USEITI Annual Reports on an open source, open code interactive web-based data portal (<https://useiti.doi.gov>). On this portal, the Department of the Interior unilaterally discloses 2013, 2014, 2015, 2016 revenues by company, commodity, and revenue type as well as production data across all commodities. The portal is the new global standard in revenue governance transparency. The Annual Reports provide clarity and transparency of the revenues generated by energy development on public lands and waters—a significant source of financial support for local communities, States, Tribes, and the Federal Government. To date, four states (Montana, Wyoming, Alaska, and Colorado) opted-in to USEITI, allowing for expanded State reporting of extractive revenues.

The U.S. is scheduled to produce its third Annual Report in December 2017 and undergo independent, third party validation April 1, 2018. In May 2017, the DOI Office of the Inspector General released a final inspection report on the U.S. implementation of the EITI. The report included observations and no recommendations. Their review found the U.S. has met 8 of the 9 elements of the standard but will not be found in compliance with the EITI standard because of low level disclosure of revenues by Companies (particularly tax payments) thus impeding independent reconciliation of payments and receipts. The EITI Board is likely to find USEITI to have made inadequate progress or be suspended.

The Department, through ONRR will continue to mainstream (publicly disclose) DOI revenue reporting in lieu of redundant company reporting and Independent Administrator reconciliation. The Department, as managed by ONRR, has robust audit and assurances practices in place to demonstrate accountability for the revenues paid and received for our country's oil, gas, and mineral resources.

The USEIT MSG has therefore fulfilled its responsibilities to the Secretary as documented in the Charter and will now be terminated in the fall of 2017.

Memorandum

To: Amy Holley
Acting Assistant Secretary for Policy, Management and Budget

Through: Greg Gould
Director, Office of Natural Resources Revenue

From: Judith Wilson
Program Manager, U.S. Extractive Industries Transparency Initiative Secretariat

Subject: Response to the Honorable the Honorable Raúl M. Grijalva, Ranking Member, House
Natural Resources Committee

Attached for your review and signature is the response to the Honorable Raúl M. Grijalva, Ranking Member, House Natural Resources Committee, for his letter regarding the status of Department of the Interior's implementation of the Extractive Industries Transparency Initiative Standard.

I recommend that you sign the attached letter.

Attachment

OFFICE: Office of Natural Resources Revenue (ONRR)
MEMBER: General Interest
ISSUE: U.S. Extractive Industries Transparency Initiative

Key Points: The U.S. government committed to implementing EITI in the U.S. (USEITI) in 2011 and in the spring of 2012 designated the Department of the Interior the lead Agency for implementing USEITI. Implementing USEITI provides additional oversight of the collection and disbursement of the Nation's mineral resources revenues. USEITI successfully completed the initial requirements to join EITI as a candidate country when accepted by the International EITI Board in March 2014. Key successes include publishing the 2015 and 2016 USEITI Annual Reports on an open source, open code interactive web-based data portal (<https://useiti.doi.gov>). On this portal, the Department of the Interior unilaterally discloses 2013, 2014, and 2015 revenues by company, commodity, and revenue type as well as production data across all commodities. The portal is the new global standard in revenue governance transparency.

Background: The Extractive Industries Transparency Initiative, or EITI, is a voluntary, global effort designed to strengthen accountability and public trust for the revenues paid and received for a country's oil, gas, and mineral resources. Beyond identifying opportunities for reform, a major outcome of implementing the standard is to engage the public and increase public dialogue on the issues surrounding governance of extractive industry revenues and activities. EITI brings together a coalition of government, companies, and civil society (the Multistakeholder Group or MSG), to oversee the domestic implementation of the voluntary framework in which governments disclose revenues received from oil, gas, and mining assets, in with parallel disclosure by companies of what they have paid to the government in royalties, rents, bonuses, taxes, and other payments. In March 2014, the U.S. became the first G7 country to achieve Candidate Country status. Both the United Kingdom and Germany have followed the U.S. lead and have both become Candidate countries. The Annual Reports provide clarity and transparency of the revenues generated by energy development on public lands and waters—a significant source of financial support for local communities, States, Tribes, and the Federal Government. In the spring of 2016, three states (Montana, Wyoming, and Alaska) opted-in to USEITI, allowing for expanded State reporting of extractive revenues.

Current: The U.S. is scheduled to produce its third Annual Report in December 2017 and undergo validation April 1, 2018. Validation is an independent, external and impartial process that serves to assess performance and promote dialogue and learning at the country level. It also safeguards the integrity of the EITI by holding all EITI implementing countries to the same global Standard. USEITI has met 8 of the 9 elements of the standard but will not be found in compliance with the EITI standard until companies timely and comprehensively report tax revenues, project-level non-tax revenues, and beneficial owners. The EITI Board is likely to find USEITI to have made inadequate progress or be suspended. ONRR will begin mainstreaming DOI revenue reporting and institutionalizing EITI processes. ONRR will no longer support an Independent Administrator to reconcile government revenue disclosures with company disclosed payments and can reduce the funding needed for this effort.

Prepared by: Greg Gould, ONRR Director, (303) 231-XXXX
Date: May 5, 2017

UNITED STATES EXTRACTIVE INDUSTRIES TRANSPARENCY INITIATIVE
MULTI-STAKEHOLDER GROUP CO-CHAIRS MEETING
MAY 11, 2017

MEETING SUMMARY

Background

The USEITI MSG co-chairs, along with a colleague from each other their sectors, met with representatives from the EITI International Secretariat and the US Department of State to discuss possible future directions for USEITI. This meeting took place on May 11, 2017 in Washington DC.

This summary provides a high-level synthesis of the key options with regards to the future direction of USEITI explored during the meeting. No decisions about USEITI's future were made at this meeting. Rather, each sector will discuss internally and the co-chairs are planning to reconvene on June 22 for an anticipated decision on that date.

Options Considered for USEITI's Future

Meeting participants considered the following four options for the future of USEITI:

- 1) Request a temporary, voluntary suspension from EITI
- 2) The International EITI Board could create a new path for USEITI to continue under different requirements / protocols
- 3) Mainstreaming of USEITI reporting into US government reporting
- 4) Withdrawal of the United States from EITI

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In this option, the US government would formally write to the International EITI board for a two-year "pause" on implementation of EITI in the United States. The following activities would take place during this two-year pause:

- Congress and the SEC will have time to move forward around the Dodd-Frank Act, and specifically rule making under Section 1504 of the Dodd-Frank Act, which will clarify publicly traded USEITI-participating companies' requirements for corporate income tax disclosure.
- ONRR will continue to update the online data portal (the USEITI website) on a regular basis with unilateral disclosure of non-tax revenues from the US government. ONRR will also proceed with a pilot rollout of one state's revenue information. The USEITI name would be removed from the website for the duration of the pause.
- There would *not* be any USEITI MSG meetings held.
- Ambassador Warlick will continue participating on the EITI International Board.

- There is an opportunity to see if the EITI Standard evolves in a way to allow greater flexibility for countries like the United States that have very robust transparency and reporting procedures already in place.
- The CSO and industry sectors can explore whether to pursue outreach and advocacy efforts to the government to create a true multistakeholder forum for the USEITI MSG that is not constrained by FACA.

Considerations around this option:

- The provision in the EITI Standard outlining the conditions in which an implementing country can request a “pause” generally is envisioned for situations of civil conflict in the form of a coup or civil war.
- Inherent in the concept of a “pause” is that there exists a clear pathway and timeframe for USEITI to restart its work in compliance with the EITI Standard and have a strong case for validation.
 - Outstanding questions about the prospects for corporate income tax reporting in quantities that would meet the requirements of the EITI Standard in the United States raise questions about USEITI’s future pathway to validation under the EITI Standard.
 - Standing up the USEITI MSG as a FACA subcommittee within the Department of the Interior may need to be revisited. FACA committees are advisory to the US Government, whereas EITI MSGs are intended to be independent decision-making bodies.

Option 2: The International EITI Board could create a new path for USEITI to continue under different requirements / protocols

In this option, USEITI would send a letter to the EITI International Board explaining its context and situation. The letter would detail what steps USEITI is able to take and in what ways it anticipates being able to meet or exceed elements of the EITI Standard. The letter would also detail challenges that USEITI is facing and which elements of the Standard it does not anticipate being able to comply with. The EITI International Board, as the creator of the Standard and as the ultimate decision-making body for EITI, would then decide how to handle USEITI’s situation and could create a new pathway for countries in a similar situation to continue participating or sign up to EITI.

Considerations around this option:

- It is unknown how the EITI International Board will approach the US’ case. Given the ongoing uncertainty about corporate income tax reporting as part of USEITI, risk exists that USEITI and the US government are not looked upon favorably by members of the International Board and that the reputations of the United States and of USEITI are degraded.

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USEITI ACCOMPLISHMENTS

Talking Points

- In September 2011, as part of the U.S. Open Government Partnership, the Office of Natural Resources Revenue (ONRR) began collaborating with other government Agencies, Departmental Bureaus and offices, and industry and civil society stakeholders, to implement the United States Extractive Industries Transparency Initiative (USEITI). Since its first public meeting in 2013, through to its 20th meeting in 2017, the USEITI Multistakeholder Group worked collaboratively to successfully reach consensus on how to implement USEITI. This initiative highlights the U.S.'s commitment to transparency and good governance of domestic extractive sector revenues.
- In March 2014, the U.S. became the first G7 and second OECD country to achieve Candidate Country status and become an EITI implementing country.
- In December 2015 the first online Report and Executive Summary were published on the DOI data portal and in November 2016 the second online Report and Executive Summary were published. ONRR will complete a third online report in December 2017.
- Through the 2015 and 2016 Reports, the DOI was able to demonstrate, due to our robust audit and assurance practices, zero unresolved discrepancies between federal government disclosed revenues received from oil, gas, and mining companies, with parallel disclosure by companies of what they have paid to the government in royalties, rents, bonuses, taxes, and other payments.
- The DOI data portal was built with modern, open-source technologies so that techniques and tools can be shared and replicated throughout the U.S. and in other EITI countries around the world. The public can access and interact with the portal on a desktop, lap top, tablet or smart phone. The website's data sets and visualizations can also be reused for strategic reporting and reposted and sent through social media, thus further informing the public and open debate on the extractives industry in the U.S.
- The DOI launched online data portal allows for easy access to data about the extractive industries in the U.S. (<https://useiti.doi.gov/>). Our approach represents a paradigm shift from the government deciding what information is important and relevant to the public and how to convey that information to partnering with the public to understand what is important and asking the public how they can best receive information.
- In 2014, for the first time, the DOI unilaterally disclosed production data and calendar year revenue data by company, revenue type, and commodity. DOI unilaterally disclosed for calendar years 2013-2015, \$33.1 billion in revenues paid by companies for extraction on federal lands and waters.

- In the spring of 2016, three states (Montana, Wyoming, and Alaska) opted-in to USEITI, allowing for expanded State reporting of extractive revenues. This collaboration with states expands public access to local-level natural resource data on revenues, distribution of those revenues, and legal and fiscal governance of the extractive industries, as well as the economic impact of extraction in their states.
- The interactive data portal also is a proven demonstration of mainstreaming revenue collection and energy related data across all Interior Bureaus and provides Department of the Interior company-level revenue data by revenue stream and commodity. Not only does this report makes us more accountable to the American people, but on a on a global scale our user-centered design approach and commitment to open data and open source code internationally recognized as exemplary best practice in reporting revenue data.
- Publishing two Reports combined with diligent outreach efforts has led to increased citizen participation, enhanced access to data to inform public debate, improved management of public resources, and increased government collaboration and overall transparency.
- In the long term, extractive industry transparency should not be confined to EITI reporting, but become an integral part of how government manages. Therefore, at DOI we have initiated steps to move towards institutionalizing innovation in digital services and mainstreaming government extractives revenue data pipelines and end-user needs.
- EITI fits within ONRR's guiding principles of Accountability, Professionalism, Integrity, Partnerships and Innovation and guiding vision to be recognized as a world-class natural resources revenue management program, setting the standard for accountability and transparency.

OFFICE: Office of Natural Resources Revenue (ONRR)
MEMBER: General Interest
ISSUE: U.S. Extractive Industries Transparency Initiative (USEITI)

Key Points:

- Under the leadership of the Director, Office of Natural Resources Revenue and the Program Manager of the U.S. Extractive Industries Transparency Initiative (USEITI), the Department of the Interior is leading the implementation of the 2016 EITI Standard.
- In March 2014, the U.S. became the first G7 country to achieve Candidate Country status and become an EITI implementing country.
- Interior achieved an important milestone in December 2015, when it raised the bar on transparency of natural resource revenue governance with the release of the first annual USEITI Report.
- This innovative and interactive, web-based report offers a wealth of information to the public in a comprehensive and accessible fashion and is another step in efforts to reform and modernize natural resource revenue management by the Department.

Background:

- EITI is a global voluntary partnership to strengthen the accountability of natural resource revenue reporting and build public trust for the governance of these vital activities.
- EITI offers a voluntary framework for governments to disclose revenues received from oil, gas, and mining assets belonging to the state, with parallel disclosure by companies of what they have paid the government in royalties, rents, bonuses, taxes and other payments.
- The USEITI Report provides clarity and transparency on the revenues generated by energy development on public lands and waters—a significant source of financial support for local communities, States, Tribes, and the Nation.
- The design of each EITI framework is country-specific, and is developed through a collaborative process by a Multi-Stakeholder Group (MSG) comprised of government, industry, and civil society representatives. The MSG ensures opportunities for collaboration and consultation among stakeholders so that every decision reflects each of the stakeholder sectors.
- The EITI principles align with the administration's pledge of a more transparent, participatory, and collaborative government and USEITI implementation supports the International Open Government Partnership.

Prepared by: Gregory J. Gould, ONRR Director, (202) 513-0600

Date: January 22, 2016

USEITI notables for 1/24/2017/ ASPMB Meeting

1) USEITI MSG Meeting: ONRR will host the first USEITI MSG meeting of 2017 on February 1 (10 am – 3:30 pm and 2 (9 am – 1 pm) in the MIB, South Penthouse. The public meeting agenda and supporting materials are posted on the MSG website at <https://www.doi.gov/eiti/faca/meetings>. The MSG will: approve the November Meeting Minutes; receive an update from the Independent Administrator on the Mainstreaming Feasibility Report; receive updates from the three Subcommittees (Implementation, Communications and Outreach and State and Tribal Opt-in; discuss potential improvements to revenue and USEITI reconciliation procedures; and approve the three new additions to the contextual narrative for the 2017 USEITI Annual Report.

2) EITI Board Meeting No. 36: The 36th Board meeting will be held March 8-9, 2017 in Bogota, Colombia. Some likely items of significance include the Implementation Committee considerations of the validation safeguards and possible recommendation to the Board; compliance and instances of non-compliance with the beneficial ownership roadmaps; further action on supporting mainstreaming by adapting and refining existing support to implementing countries; and pending validations and Candidacy applications. USEITI submitted to the Board in December 2016, the MSG approved USEITI 2017 Annual Work, the Beneficial Ownership Roadmap, and the USEITI Request to Extend Partial Adapted Implementation for USEITI Subnational Revenues. We expect feedback / approvals from the Board on our submissions. In addition, the USEITI Secretariat submitted to the EITI Secretariat in November 2016, an informal validation self-assessment. We expect discussion and feedback from the Secretariat at the Board meeting.

INFORMATION MEMORANDUM FOR THE ASSISTANT SECRETARY

FROM: Greg Gould, Director, Office of Natural Resources Revenue Management

SUBJECT: USEITI – Options for Implementing the 2016 Extractive Industries Transparency Initiative (EITI) Standard

DATE: May 11, 2017

ISSUE

The Department of the Interior, which leads U.S. implementation of the EITI Standard, began in the fall of 2011 an aggressive timeline to establish a multi-stakeholder group (MSG); achieve Candidate Country status in March 2014; and ultimately begin the validation process by April 1, 2018. However, despite having met or exceeded 22 of 26 individual elements of the Standard (8 of the 9 requirements), at the conclusion of the validation process, the USEITI will not be found in compliance with the EITI Standard and is thus likely to be suspended from the initiative. This paper presents options for avoiding such an outcome, improving our management of the USEITI process, and maintaining DOI's commitment to transparent, collaborative and participatory government.

BACKGROUND

Prior to DOI taking the lead in 2011 to implement EITI in the United States, the Department of State (State) strongly supported EITI and coordinated U.S. participation in the global effort as a supporting country. Since EITI's inception in 2002, State has played a key role in shaping the EITI into the global standard for revenue transparency. Through its representation of the United State as a supporting country on the EITI Board and participation in the Finance and Governance and Oversight Committees, State works to clarify, interpret, and promote the rules of the EITI Standard, including by helping to draft guidance documents on how to assess country compliance. U.S. leadership has played a crucial role in the endorsement of the EITI by the G-7, the G-20, and the United Nations Security Council.

The United States Agency for International Development (USAID) has provided significant support to EITI both at the multilateral level and through direct bilateral support for implementation through USAID Missions around the world. USAID has provided over \$30 million in assistance for EITI implementation, peer exchange, and research.

Domestic implementation of EITI is subject to existing laws and regulations. For example, the Trade Secrets Act and the Federal Oil and Gas Royalty Management Act (FOGRMA) of 1982, prohibit the Federal government from releasing company pricing information and Federal employees are subject to criminal penalties if they violate these laws. Section 6103 of the Internal Revenue Code (IRC) provides that tax returns and tax return information are confidential and prohibited from disclosure, unless an exception identified in the IRC is

applicable. The IRC imposes civil and criminal penalties for violations of the disclosure prohibitions.

INTRODUCTION

The Extractive Industries Transparency Initiative, or EITI, is a voluntary, global effort designed to strengthen accountability and public trust for the revenues paid and received for a country's oil, gas, and mineral resources. EITI brings together a coalition of government, companies, and civil society, or Multi-stakeholder Groups (MSG's), to strengthen government and company systems, inform public debate, and promote understanding.

The U.S. government successfully completed the initial requirements to join EITI as a candidate country when the EITI International Board accepted our candidacy application in March 2014. Key successes to date include publishing the 2015 and 2016 USEITI Annual Reports on an open source, open code interactive web-based data portal (<https://useiti.doi.gov>). On this portal, the Department of the Interior unilaterally disclosed 2013, 2014, and 2015 revenues by company, commodity, and revenue type as well as production data across all commodities. The portal is the new global standard in revenue governance transparency.

In 2016, the Department of the Interior (the lead federal agency) entered a new phase in implementing EITI. The EITI International Board revised the EITI Standard in February 2016, to include requirements for disclosure of beneficial owners of extractive companies and to provide the opportunity to "mainstream" revenue data by governments and companies in lieu of an independent reconciliation of reported revenues. The work of the USEITI MSG (39 members and alternates from federal, state, and tribal governments, civil society and industry) is to ensure that the USEITI framework is tailored to U.S. laws, regulations, and culture, and that it is implementable by government and industry.

The USEITI primary challenges for compliance are: corporate income tax reporting; project-level reporting and beneficial owner disclosure of the corporate entity(ies) that bid for, operate or invest in extractive assets. Unlike other implementing countries, company reporting in the United States is entirely voluntary. Despite current setbacks there is a path forward for U.S. commitment to EITI -- implementing with the expectation of achieving compliance and sustaining our role in the global Open Government Partnership. The path forward parallels the Department's commitment to reforming revenue management and royalty collections. This memorandum addresses considerations of this phase of USEITI implementation and provides options to resolve implementing challenges in successfully achieving compliance with the EITI standard.

I. AREAS FOR CONSIDERATION

Implementing EITI will continue to improve government revenue transparency in the United States and continue to serve as an example internationally. The primary areas of consideration for 2017 and leading to the validation on April 1, 2018, are multi-agency involvement, governance of the USEITI multi-stakeholder group, institutionalizing the principles of EITI in

the Department of the Interior and mainstreaming government data. In order to recommend appropriate options for a government position, this paper takes into account the U.S. legal context, legal constraints, feasibility, and the international EITI requirements.

MULTI-AGENCY INVOLVEMENT

In July 2012, the Department of the Interior established the USEITI Sub-Interagency Policy Committee (Sub-IPC) to discuss the status of implementation of the EITI Standard and make decisions requiring interagency input. The Sub-IPC consisted of the following agencies: Office of Management and Budget (OMB); National Security Council (NSC); and Office of Science and Technology Policy (OSTP); as well as the Departments of State, Treasury, and Energy. The Sub-IPC was led by the National Security Council. The National Security Council, Securities Exchange Commission, Treasury Department and Department of the Interior are all critical to the ultimate success of the U.S. implementation of the EITI Standard.

On June 27, 2016 the Securities and Exchange Commission (SEC) issued a final rule, Disclosure of Payments by Resource Extraction Issuers, implementing section 1504 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Pub. L. No. 111-203, July 21, 2010), which required certain companies to report to the SEC their payments related to extractive industries activities. The payments that issuers were to report under the rule included taxes, royalties, fees, production entitlements, bonuses, social responsibility payments (if required by law or contract), dividends, payments for infrastructure improvements. In July 2016, the SEC issued an order recognizing the resource extraction payment disclosure requirements of the European Union, Canada and the U.S. Extractive Industries Transparency Initiative as substantially similar to the requirements of Rule 13q-1 under the Securities Exchange Act of 1934. The SEC requirements were both broader and narrower than EITI requirements. EITI does not require reporting of payments for social responsibility, infrastructure improvements or dividends, but does require reporting of fines or payments, which are not within in the scope of Dodd-Frank or the SEC rule. Congress disapproved the SEC regulations in February 2017; however, the Act still requires the SEC to promulgate regulations to implement section 1504 of the Act.

The Internal Revenue Service (IRS) is the primary Government body in charge of managing all tax payments, including payment of corporate income tax, which falls under the purview of USEITI. In the United States there are two key sources of publicly available information about federal income taxes for the extractive industries: the government and the filings of companies that are publicly listed. As mandated by the Revenue Act of 1916, the IRS publishes statistics related to “the operations of the internal revenue laws” as they affect individuals, corporations, and various other entities. The IRS Statistics of Income (SOI) program is responsible for executing this function by collecting, processing, and presenting this data, and then sharing information about how the tax system works with other government agencies and the general public.

The Department of the Treasury, in May 2016, issued a customer due diligence rule (CDD Rule), which streamlines and clarifies several components of customer due diligence under the Bank Secrecy Act to promote consistency and added a key new requirement for U.S. financial institutions to know the real people who own, control, and profit from companies (the “beneficial

owners”)—and verify their identities. U.S. law requires all legal entities that open a U.S. bank account or have a Federal or State tax filing requirement obtain an EIN for tax administration purposes. Further, an entity is required to obtain an EIN if it has employees, or is required to file any documents including tax returns, with the IRS. An EIN (also known as a taxpayer identification number) is also required, under the Banking Secrecy Act, to open a bank account. Section 13(d) of the Securities Exchange Act of 1934 requires any person or group that acquires more than five percent “beneficial ownership” of public company equity securities to disclose its position within 10 days of crossing the threshold. There is no institutional framework for public disclosure of beneficial ownership disclosure information in the United States as required by the EITI Standard. There is, however, a substantial and growing framework for the collection of beneficial ownership information from both public and private companies operating in the U.S.

The Department of the Interior maintains the primary role in the U.S. Government for the governance of energy and non-energy mineral resources. Several different Bureaus within the Department of the Interior collect non-tax payments depending on the type of payment, the location of exploration and production, and the type of resource being extracted. These include: Interior’s Office of Natural Resources Revenue, the Bureau of Land Management, and the Office of Surface Mining Reclamation and Enforcement. The Office of Natural Resources Revenue manages and ensures full payment of revenues owed for the development of the nation’s energy and natural resources on the Outer Continental Shelf and onshore Federal and Indian lands.

MULTISTAKEHOLDER COMMITTEE MANAGEMENT

In 2012, the Department of the Interior conducted a series of stakeholder engagements to ascertain the optimal course for USEITI multi-stakeholder committee management. The options included a Federal Operating Committee, an existing FACA Committee, Non-Federal Entity and a New FACA Committee.

Federal Operating Committees are established by Congress through legislation. An operating committee is established to perform primarily ‘operational as opposed to ‘advisory’ functions. While providing legitimacy and decision-making authority, this legislative option does not allow for expediency. An Existing FACA Committee would require the Charter to address the scope and the Secretary to appoint new members. A Non-Federal Entity, a non-governmental organization, such as a 501(c)(3) allows the two non-governmental sectors (industry and civil society) to come together to create a committee or group, and then seek participation by the federal government in that entity; or the federal government could use a contract, grant, or cooperative agreement to ask a separate, “third-party” entity to convene and/or operate the MSG as a non-Federal entity. In this case, there does not appear to be enough certainty around the mechanism and the authority for creation, thus drawing into question the legitimacy of such a group. Additionally, creating a 501(c)(3) would require an investment of time and money that does not support expediency and sustainability. A non-federal entity would require recognition by the Federal government to bestow decision-making authority and most likely, any changes in federal rules or regulations proposed by the MSG would trigger FACA requirements. Finally, a new FACA Committee could be convened by either the Department of the Interior or the Office of President. Because a FACA Committee only provides advice to the federal government, and the federal government appoints its members, there is concern that a FACA might not meet the

EITI expectation of collaboration, sector self-selection, and responsibility for implementing EITI.

After careful consideration of input from the public at large and stakeholders, the FACA committee option provides the legitimacy, expediency, and sustainability required to ensure the successful implementation of USEITI. In 2012, with assurances from the government, the FACA committee should be able to fulfill the initial functions of an MSG, to develop a fully-costed work plan to design and implement the USEITI framework and obtain EITI compliance, within the spirit and framework of the EITI requirements. The Government noted at the time, that making a decision to set-up the initial U.S. MSG as a FACA did not mean the U.S. MSG would remain so as USEITI implementation moved forward. The MSG, as part of its deliberations, could decide to seek legislation or another option to reform the USEITI MSG.

2017 CHALLENGES TO IMPLEMENTING EITI REQUIREMENTS

The USEITI primary challenges for 2017 are: corporate income tax reporting (Congressionally disapproved Dodd-Frank §1504 regulations required a resource extraction issuer to disclose taxes); project-level reporting (Congressionally disapproved Dodd-Frank §1504 regulations defined project as operational activities that are governed by a single contract, license, lease, concession, or similar legal agreement, which form the basis for payment liabilities with a government); mainstreaming reporting requirements; and beneficial owner disclosure (of the corporate entity(ies) that bid for, operate or invest in extractive assets). Unlike other implementing countries, company reporting in the U.S. is entirely voluntary.

The EITI Standard requires reporting on “profits taxes,” or taxes on income, where material. Section 6103 of the Internal Revenue Code (IRC) provides that tax returns and tax return information are confidential and prohibited from disclosure, unless an exception identified in the IRC is applicable. The MSG requested companies to voluntarily report the sum of all federal corporate income tax payments and encouraged reconciliation. For the 2015 USEITI Report, 12 out of 41 applicable companies reported \$190 million in corporate income taxes and in the 2016 USEITI Report, 12 out of 38 applicable companies reported -\$308 million in corporate income taxes.

The EITI Standard states that the MSG is required to agree on the level of disaggregation for publishing data, that EITI data must be presented by individual company, government entity, and revenue stream, and requires that reporting at project level. The standard does not provide a specific definition of “project,” but states it should be consistent with the SEC rules and European Union laws. Section 1504 of the Dodd-Frank Act requires extractive industries companies registered with the SEC to separately disclose information about payments to governments around the world in an interactive data format.

Options for Implementing the 2016 EITI Standard:

1) In 2017, the United States seeks adapted implementation of the company reporting requirements required under the 2010 Dodd Frank Act until such time as the Securities Exchange Commission promulgates regulations under the Act. The request for adapted implementation,

made to the EITI International Board, acknowledges the Congressional disapproval of the Dodd Frank §1504 SEC Regulations. The Board will consider this option in light of MSG support and decide whether to approve adapted implementation. This option requires USEITI MSG support and there is no change to the USEITI MSG Federal Advisory Committee structure or the governance of domestic implementation. The Department of State continues to coordinate U.S. participation in the global effort as a supporting country.

2) The United States requests the EITI International Board to approve an implementation ‘pause’ for one year combined with a one-year extension to the April 1, 2018, timeframe for initiating validation. We would argue that the “pause” and extension would allow the new Administration time to place senior leadership critical to decision making in all the key Agencies (i.e., DOI, State, Treasury). This option requires the USEITI MSG support and there is no change to the USEITI MSG Federal Advisory Committee or the governance of domestic implementation. The Department of State continues to coordinate U.S. participation in the global effort as a supporting country.

3) The USEITI MSG is reformulated in a streamlined fashion. The MSG remains a FACA committee that advises the Secretary of the Interior and also remains consistent with the EITI principles of governance. Having demonstrated significant accomplishments over the past five years and relying on the willingness of many dedicated members of the MSG to continue to volunteer their time, this option would reduce the burden of participation on all sectors. This option requires USEITI MSG support. The Department of State continues to coordinate U.S. participation in the global effort as a supporting country.

4) The lead for domestic implementation of the EITI Standard shifts to the White House, National Security Council, with Interior, Treasury and the SEC partnering in implementation. The USEITI MSG is reformulated in a streamlined fashion, incorporating option 3 above. The Department of State continues to coordinate U.S. participation in the global effort as a supporting country.

5) The U.S. government unilaterally decides to no longer participate and withdraws as an implementing country. The Department of State continues to coordinate U.S. participation in the global effort as a supporting country.

RECOMMENDATION:

Despite current setbacks there is a path forward for: U.S. commitment to EITI; implementing EITI with the expectation of achieving compliance; and sustaining our role in the global Open Government Partnership.

We recommend Option 4 as the most feasible path forward to achieve compliance with the Standard. It will be necessary to have full support from State, Treasury, SEC and the National Security Council to implement this option. Interior has lead domestic implementation to date yet only has jurisdiction with respect to governance associated with natural resource extraction on federal and Indian Lands and associated non-tax revenue management. In light of the April 3, 2017, Federal Register notice of the Secretary of the Interior establishing and seeking

nominations for the Royalty Policy Committee (RPC or Committee) there may be a path forward for the streamlined MSG approach. The Committee will advise on current and emerging issues related to the determination of fair market value, and the collection of revenue from energy and mineral resources on Federal and Indian lands. The Committee also will advise on the potential impacts of proposed policies and regulations related to revenue collection from such development, including whether a need exists for regulatory reform. We believe the purpose of the Committee aligns with principles of EITI that address the valuable role of stakeholders in seeking solutions to issues in the area of natural resource extraction and revenue management. A streamlined USEITI MSG can be a significant source of support to the RPC in their discussions and deliberations

In addition to Option 4 above, we also recommend institutionalizing appropriate EITI requirements within the Office of Natural Resources Revenue. The path forward parallels the Department's commitment to reforming revenue management and royalty collections. We recognize that public understanding of government revenues and expenditures over time informs public debate and informs choice of appropriate and realistic options for sustainable energy development. Maintaining the USEITI data portal and integrating even more government revenue data and information is vital to support public policy and is fundamental to the Royalty Policy Committee discussions and deliberations. We also remain committed to encouraging high standards of transparency and accountability to the public for our mission and in our everyday operations.

We also welcome the idea of mainstreamed EITI non-tax revenue disclosures in lieu of company reporting and Independent Administrator reconciliation. The rationale for the 2016 refinement to the Standard is that extractive industry transparency should not be confined to EITI reports and expensive reconciliation exercises, but become an integral part of how governments manage their sector. Rather than simply relying on the EITI reporting mechanism to bring about transparency, governments implementing the EITI could to a greater extent make the information required by the EITI Standard available through government and corporate reporting systems such as databases, websites, annual reports, portals etc. The Department, as managed by ONRR, has robust audit and assurances practices in place to demonstrate accountability for the revenues paid and received for our country's oil, gas, and mineral resources. ONRR is now further integrating how we manage data and the EITI Standard by disclosing for the first time project-level reporting. In the 2017 USEITI Annual Report, ONRR will disclose in addition to the unilateral disclosure of revenues by revenue stream, commodity and company the ONRR and Office of Surface Mining revenue streams by parent company and by State. USEITI has already demonstrated global leadership and through the data portal, an effective means of providing transparency around the governance of extractive industries revenue management and ensuring improved public awareness. Mainstreaming government data will continue to demonstrate leadership in transparency.

INFORMATION MEMORANDUM FOR THE ASSISTANT SECRETARY

FROM: Greg Gould, Director, Office of Natural Resources Revenue Management

SUBJECT: USEITI – Options for Implementing the 2016 Extractive Industries Transparency Initiative (EITI) Standard

DATE: April 4, 2017

ISSUE

The Department of the Interior, leading U.S. implementation of the EITI Standard, began in the fall of 2011, an aggressive timeline to establish a multistakeholder group (MSG); achieve Candidate Country status in March 2014; and ultimately begin the validation process April 1, 2018. In spite of having met or exceed 22 of 26 individual elements of the Standard (or 8 of the 9 requirements) the USEITI will not be found in compliance with the EITI standard and is likely to be suspended. This paper will present options for improving the process to manage for USEITI compliance and ensuring DOI maintains its commitment to transparent, collaborative and participatory government.

BACKGROUND

Prior to DOI taking the lead in 2011 to implement EITI in the U.S., the U.S. State Department (State) strongly supported EITI. Since EITI's inception in 2002, State has played a key role in shaping the EITI into the global standard it is today. State participated and continues to participate as a supporting country. Through its representation on the EITI Board and the Finance and Governance and Oversight Committees, State works to clarify, interpret, and promote the rules of the EITI Standard, including by helping to draft guidance documents on how to assess country compliance. U.S. leadership has played a crucial role in the endorsement of the EITI by the G-7, the G-20, and the United Nations Security Council.

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Domestic implementation of EITI is subject to existing laws and regulations. For example, the Trade Secrets Act and the Federal Oil and Gas Royalty Management Act (FOGRMA) of 1982, prohibit the Federal government from releasing company pricing information and Federal employees are subject to criminal penalties if they violate these laws. Section 6103 of the Internal Revenue Code (IRC) provides that tax returns and tax return information are confidential and prohibited from disclosure, unless an exception identified in the IRC is applicable. The IRC imposes civil and criminal penalties for violations of the disclosure prohibitions.

INTRODUCTION

The Extractive Industries Transparency Initiative, or EITI, is a voluntary, global effort designed to strengthen accountability and public trust for the revenues paid and received for a country's oil, gas, and mineral resources. EITI brings together a coalition of government, companies, and civil society, or Multistakeholder Group (MSG), to strengthen government and company systems, inform public debate, and promote understanding.

The U.S. government successfully completed the initial requirements to join EITI as a candidate country when the International EITI Board accepted our candidacy application in March 2014. Key successes to date include publishing the 2015 and 2016 USEITI Annual Reports on an open source, open code interactive web-based data portal (<https://useiti.doi.gov>). On this portal, the Department of the Interior unilaterally disclosed 2013, 2014, and 2015 revenues by company, commodity, and revenue type as well as production data across all commodities. The portal is the new global standard in revenue governance transparency.

In 2016, the Department of the Interior (the lead federal agency) entered a new phase in implementing EITI. The EITI International Board revised the EITI Standard in February 2016, to include requirements for disclosure of beneficial owners of extractive companies and to provide opportunity to “mainstream” revenue data by governments and companies in lieu of an independent reconciliation of reported revenues. The work of the USEITI MSG (39 members and alternates from federal, state, and tribal governments, civil society and industry) is to ensure that the USEITI framework is tailored to U.S. laws, regulations, and culture, and that it is implementable by government and industry.

The USEITI primary challenges for compliance are: corporate income tax reporting; project-level reporting and beneficial owner disclosure of the corporate entity(ies) that bid for, operate or invest in extractive assets. Unlike other implementing countries, company reporting in the U.S. is entirely voluntary. Despite current setbacks there is a path forward for U.S. commitment to EITI; implementing with the expectation of achieving compliance and sustaining our role in the global Open Government Partnership. The path forward parallels the Department's commitment to reforming revenue management and royalty collections. This memorandum addresses considerations of this phase of USEITI implementation and provides options to resolve implementing challenges in successfully achieving compliance with the EITI standard.

I. AREAS FOR CONSIDERATION

Implementing EITI will continue to improve government revenue transparency in the U.S. and continue to serve as an example internationally. The primary areas of consideration for 2017 and leading to the validation on April 1, 2018, are multi-agency involvement, governance of the USEITI multistakeholder group, institutionalizing the principles of EITI in the U.S. Department of the Interior and mainstreaming government data. In order to recommend appropriate options for a government position, this paper takes into account the U.S. legal context, legal constraints, feasibility, and the international EITI requirements.

MULTI-AGENCY INVOLVEMENT

In July 2012, the Department of the Interior established the USEITI-Sub-Interagency Policy Committee (Sub-IPC) to discuss the status of implementation of the EITI Standard and make decisions requiring interagency input. The Sub-IPC consisted of the following agencies: Office of Management and Budget (OMB); National Security Council (NSC); and Office of Science and Technology Policy (OSTP); as well as the Departments of State, Treasury, and Energy. The Sub-IPC was led by the National Security Council. The National Security Council, Securities Exchange Commission; Treasury Department and Department of the Interior are all critical to the ultimate success of the U.S. implementation of the EITI Standard.

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The Department of the Interior maintains the primary role in the U.S. Government for the governance of energy and non-energy mineral resources. Several different Bureaus within the Department of the Interior collect non-tax payments depending on the type of payment, the location of exploration and production, and the type of resource being extracted. These include: Interior’s Office of Natural Resources Revenue, the Bureau of Land Management, and the Office of Surface Mining Reclamation and Enforcement. The Office of Natural Resources Revenue manages and ensures full payment of revenues owed for the development of the nation’s energy and natural resources on the Outer Continental Shelf and onshore Federal and Indian lands.

MULTISTAKEHOLDER COMMITTEE MANAGEMENT

In 2012, The Department of the Interior conducted a series of stakeholder engagements to ascertain the optimal course for USEITI multistakeholder committee management. The options included a Federal Operating Committee, an existing FACA Committee, Non-Federal Entity and a New FACA Committee.

Federal Operating Committees are established by Congress through legislation. An operating committee is established to perform primarily ‘operational as opposed to ‘advisory’ functions. While providing legitimacy and decision-making authority, this legislative option does not allow for expediency. An Existing FACA Committee would require the Charter to address the scope and the Secretary to appoint new members. A Non-Federal Entity, a non-governmental organization, such as a 501(c)(3) allows the two non-governmental sectors (industry and civil society) to come together to create a committee or group, and then seek participation by the federal government in that entity; or the federal government could use a contract, grant, or cooperative agreement to ask a separate, “third-party” entity to convene and/or operate the MSG as a non-Federal entity. In this case, there does not appear to be enough certainty around the mechanism and the authority for creation, thus drawing into question the legitimacy of such a group. Additionally, creating a 501(c)(3) would require an investment of time and money that does not support expediency and sustainability. A non-federal entity would require recognition by the Federal government to bestow decision-making authority and most likely, any changes in federal rules or regulations proposed by the MSG would trigger FACA requirements. Finally, a new FACA Committee could be convened by either the Department of the Interior or the Office of President. Because a FACA Committee only provides advice to the federal government, and the federal government appoints its members, there is concern that a FACA might not meet the EITI expectation of collaboration, sector self-selection, and responsibility for implementing EITI.

After careful consideration of input from the public at large and stakeholders, the FACA committee option provides the legitimacy, expediency, and sustainability required to ensure the

successful implementation of USEITI. In 2012, with assurances from the government, the FACA committee should be able to fulfill the initial functions of an MSG, to develop a fully-costed work plan to design and implement the USEITI framework and obtain EITI compliance, within the spirit and framework of the EITI requirements. The Government noted at the time, that making a decision to set-up the initial U.S. MSG as a FACA did not mean the U.S. MSG would remain so as US EITI implementation moved forward. The MSG, as part of its deliberations, could decide to seek legislation or another option to reform the USEITI MSG.

2017 CHALLENGES TO IMPLEMENTING EITI REQUIREMENTS

The USEITI primary challenges for 2017 are: corporate income tax reporting (Congressionally disapproved Dodd-Frank §1504 regulations required a resource extraction issuer to disclose taxes); project-level reporting (Congressionally disapproved Dodd-Frank §1504 regulations defined project as operational activities that are governed by a single contract, license, lease, concession, or similar legal agreement, which form the basis for payment liabilities with a government); mainstreaming reporting requirements; and beneficial owner disclosure (of the corporate entity(ies) that bid for, operate or invest in extractive assets). Unlike other implementing countries, company reporting in the U.S. is entirely voluntary.

The EITI Standard requires reporting on “profits taxes,” or taxes on income, where material. Section 6103 of the Internal Revenue Code (IRC) provides that tax returns and tax return information are confidential and prohibited from disclosure, unless an exception identified in the IRC is applicable. The MSG requested companies to voluntarily report the sum of all federal corporate income tax payments and encouraged reconciliation. For the 2015 USEITI Report, 12 out of 41 applicable companies reported \$190 million in corporate income taxes and in the 2016 USEITI Report, 12 out of 38 applicable companies reported -\$308 million in corporate income taxes.

The EITI Standard states that the MSG is required to agree on the level of disaggregation for publishing data, that EITI data must be presented by individual company, government entity, and revenue stream, and requires that reporting at project level. The standard does not provide a specific definition of “project,” but states it should be consistent with the SEC rules and European Union laws. Section 1504 of the Dodd-Frank Act requires extractive industries companies registered with the SEC to separately disclose information about payments to governments around the world in an interactive data format.

Options for Implementing the 2016 EITI Standard:

1) In 2017, the U.S. seeks adapted implementation of the company reporting requirements required under the 2010 Dodd Frank Act until such time that the Securities Exchange Commission promulgates regulations under the Act. The request for adapted implementation acknowledges the Congressional disapproval of the Dodd Frank §1504 SEC Regulations. This option requires the USEITI MSG support and there is no change to the USEITI MSG Federal Advisory Committee or governance of domestic implementation.

- 2) The U.S. seeks an extension to the April 1, 2018, timeframe for initiating validation. This option requires the USEITI MSG support and there is no change to the USEITI MSG Federal Advisory Committee or governance of domestic implementation.
- 3) The USEITI MSG is reformulated in a streamlined fashion and yet still consistent with the EITI principles of governance. This option requires the USEITI MSG support.
- 4) The lead for domestic implementation of the EITI Standard shifts to the White House, National Security Council with Interior, Treasury and the SEC all partnering in implementation and that the USEITI MSG is reformulated in a streamlined fashion, incorporating option 3 above.

RECOMMENDATION:

Despite current setbacks there is a path forward for: U.S. commitment to EITI; implementing EITI with the expectation of achieving compliance; and sustaining our role in the global Open Government Partnership.

We recommend Option 4 as the most feasible path forward to achieve compliance with the Standard. It will be necessary to have full support from State, Treasury, SEC and the National Security Council to implement this option. Interior has lead domestic implementation to date yet only has jurisdiction with respect to governance associated with natural resource extraction on federal and Indian Lands and associated non-tax revenue management.

In addition to Option 4 above, we recommend institutionalizing appropriate EITI requirements within the Office of Natural Resources Revenue. The path forward parallels the Department's commitment to reforming revenue management and royalty collections. We recognize that public understanding of government revenues and expenditures over time informs public debate and informs choice of appropriate and realistic options for sustainable energy development. We also remain committed to encouraging high standards of transparency and accountability to the public for our mission and in our everyday operations.

We also welcome the idea of mainstreamed EITI non-tax revenue disclosures in lieu of company reporting and Independent Administrator reconciliation. The rationale for the 2016 refinement to the Standard is that extractive industry transparency should not be confined to EITI reports and expensive reconciliation exercises, but become an integral part of how governments manage their sector. Rather than simply relying on the EITI reporting mechanism to bring about transparency, governments implementing the EITI could to a greater extent make the information required by the EITI Standard available through government and corporate reporting systems such as databases, websites, annual reports, portals etc. The Department, as managed by ONRR, has robust audit and assurances practices in place to demonstrate accountability for the revenues paid and received for our country's oil, gas, and mineral resources. USEITI has also demonstrated global leadership and through the data portal, an effective means of providing transparency around the governance of extractive industries revenue management and ensuring improved public awareness.

INFORMATION MEMORANDUM FOR THE ASSISTANT SECRETARY

FROM: Greg Gould, Director, Office of Natural Resources Revenue Management

SUBJECT: USEITI – Options for Implementing the 2016 Extractive Industries Transparency Initiative (EITI) Standard

DATE: April 4, 2017

ISSUE

The Department of the Interior, leading U.S. implementation of the EITI Standard, began in the fall of 2011, an aggressive timeline to establish a multistakeholder group (MSG); achieve Candidate Country status in March 2014; and ultimately begin the validation process April 1, 2018. In spite of having met or exceed 22 of 26 individual elements of the Standard (or 8 of the 9 requirements) the USEITI will not be found in compliance with the EITI standard and is likely to be suspended. This paper will present options for improving the process to manage for USEITI compliance and ensuring DOI maintains its commitment to transparent, collaborative and participatory government.

BACKGROUND

Prior to DOI taking the lead in 2011 to implement EITI in the U.S., the U.S. State Department (State) strongly supported EITI. Since EITI's inception in 2002, State has played a key role in shaping the EITI into the global standard it is today. State participated and continues to participate as a supporting country. Through its representation on the EITI Board and the Finance and Governance and Oversight Committees, State works to clarify, interpret, and promote the rules of the EITI Standard, including by helping to draft guidance documents on how to assess country compliance. U.S. leadership has played a crucial role in the endorsement of the EITI by the G-7, the G-20, and the United Nations Security Council.

The United States Agency for International Development (USAID) has provided significant support to EITI both at the multilateral level and through direct bilateral support for implementation through USAID Missions around the world. Specifically USAID has provided over \$30 million in assistance for EITI implementation, peer exchange, and research.

Domestic implementation of EITI is subject to existing laws and regulations. For example, the Trade Secrets Act and the Federal Oil and Gas Royalty Management Act (FOGRMA) of 1982, prohibit the Federal government from releasing company pricing information and Federal employees are subject to criminal penalties if they violate these laws. Section 6103 of the Internal Revenue Code (IRC) provides that tax returns and tax return information are confidential and prohibited from disclosure, unless an exception identified in the IRC is applicable. The IRC imposes civil and criminal penalties for violations of the disclosure prohibitions.

INTRODUCTION

The Extractive Industries Transparency Initiative, or EITI, is a voluntary, global effort designed to strengthen accountability and public trust for the revenues paid and received for a country's oil, gas, and mineral resources. EITI brings together a coalition of government, companies, and civil society, or Multistakeholder Group (MSG), to strengthen government and company systems, inform public debate, and promote understanding.

The U.S. government successfully completed the initial requirements to join EITI as a candidate country when the International EITI Board accepted our candidacy application in March 2014. Key successes to date include publishing the 2015 and 2016 USEITI Annual Reports on an open source, open code interactive web-based data portal (<https://useiti.doi.gov>). On this portal, the Department of the Interior unilaterally disclosed 2013, 2014, and 2015 revenues by company, commodity, and revenue type as well as production data across all commodities. The portal is the new global standard in revenue governance transparency.

In 2016, the Department of the Interior (the lead federal agency) entered a new phase in implementing EITI. The EITI International Board revised the EITI Standard in February 2016, to include requirements for disclosure of beneficial owners of extractive companies and to provide opportunity to “mainstream” revenue data by governments and companies in lieu of an independent reconciliation of reported revenues. The work of the USEITI MSG (39 members and alternates from federal, state, and tribal governments, civil society and industry) is to ensure that the USEITI framework is tailored to U.S. laws, regulations, and culture, and that it is implementable by government and industry.

The USEITI primary challenges for compliance are: corporate income tax reporting; project-level reporting and beneficial owner disclosure of the corporate entity(ies) that bid for, operate or invest in extractive assets. Unlike other implementing countries, company reporting in the U.S. is entirely voluntary. Despite current setbacks there is a path forward for U.S. commitment to EITI; implementing with the expectation of achieving compliance and sustaining our role in the global Open Government Partnership. The path forward parallels the Department's commitment to reforming revenue management and royalty collections. This memorandum addresses considerations of this phase of USEITI implementation and provides options to resolve implementing challenges in successfully achieving compliance with the EITI standard.

I. AREAS FOR CONSIDERATION

Implementing EITI will continue to improve government revenue transparency in the U.S. and continue to serve as an example internationally. The primary areas of consideration for 2017 and leading to the validation on April 1, 2018, are multi-agency involvement, governance of the USEITI multistakeholder group, institutionalizing the principles of EITI in the U.S. Department of the Interior and mainstreaming government data. In order to recommend appropriate options for a government position, this paper takes into account the U.S. legal context, legal constraints, feasibility, and the international EITI requirements.

MULTI-AGENCY INVOLVEMENT

In July 2012, the Department of the Interior established the USEITI-Sub-Interagency Policy Committee (Sub-IPC) to discuss the status of implementation of the EITI Standard and make decisions requiring interagency input. The Sub-IPC consisted of the following agencies: Office of Management and Budget (OMB); National Security Council (NSC); and Office of Science and Technology Policy (OSTP); as well as the Departments of State, Treasury, and Energy. The Sub-IPC was led by the National Security Council. The National Security Council, Securities Exchange Commission; Treasury Department and Department of the Interior are all critical to the ultimate success of the U.S. implementation of the EITI Standard.

On June 27, 2016 the Securities and Exchange Commission (SEC) issued a final rule, Disclosure of Payments by Resource Extraction Issuers, implementing section 1504 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Pub. L. No. 111-203, July 21, 2010), which required certain companies to report to the SEC their payments related to extractive industries activities. The payments that issuers were to report under the rule included taxes, royalties, fees, production entitlements, bonuses, social responsibility payments (if required by law or contract), dividends, payments for infrastructure improvements. In July 2016, the SEC issued an order recognizing the resource extraction payment disclosure requirements of the European Union, Canada and the U.S. Extractive Industries Transparency Initiative as substantially similar to the requirements of Rule 13q-1 under the Securities Exchange Act of 1934. The SEC requirements were both broader and narrower than EITI requirements. EITI does not require reporting of payments for social responsibility, infrastructure improvements or dividends, but does require reporting of fines or payments, which are not within in the scope of Dodd-Frank or the SEC rule. Congress disapproved the SEC regulations in February 2017 however, the Act still requires the SEC to promulgate regulations to implement section 1504 of the Act.

The Internal Revenue Service (IRS) is the primary Government body in charge of managing all tax payments, including payment of corporate income tax, which falls under the purview of USEITI. In the U.S. there are two key sources of publicly available information about federal income taxes for the extractive industries: the government and the filings of companies that are publicly listed. As mandated by the Revenue Act of 1916, the IRS publishes statistics related to “the operations of the internal revenue laws” as they affect individuals, corporations, and various other entities. The IRS Statistics of Income (SOI) program is responsible for executing this function by collecting, processing, and presenting this data, and then sharing information about how the tax system works with other government agencies and the general public.

The Department of the Treasury, in May 2016, issued a customer due diligence rule (CDD Rule), which streamlines and clarifies several components of customer due diligence under the Bank Secrecy Act to promote consistency and added a key new requirement for U.S. financial institutions to know the real people who own, control, and profit from companies (the “beneficial owners”)—and verify their identities. U.S. law requires all legal entities that open a U.S. bank account or have a Federal or State tax filing requirement obtain an EIN for tax administration purposes. Further, an entity is required to obtain an EIN if it has employees, or is required to file any documents including tax returns, with the IRS. An EIN (also known as a taxpayer identification number) is also required, under the Banking Secrecy Act, to open a bank account.

Section 13(d) of the Securities Exchange Act of 1934 requires any person or group that acquires more than five percent “beneficial ownership” of public company equity securities to disclose its position within 10 days of crossing the threshold. There is no institutional framework for public disclosure of beneficial ownership disclosure information in the U.S. as required by the EITI Standard. There is, however, a substantial and growing framework for the collection of beneficial ownership information from both public and private companies operating in the U.S.

The Department of the Interior maintains the primary role in the U.S. Government for the governance of energy and non-energy mineral resources. Several different Bureaus within the Department of the Interior collect non-tax payments depending on the type of payment, the location of exploration and production, and the type of resource being extracted. These include: Interior’s Office of Natural Resources Revenue, the Bureau of Land Management, and the Office of Surface Mining Reclamation and Enforcement. The Office of Natural Resources Revenue manages and ensures full payment of revenues owed for the development of the nation’s energy and natural resources on the Outer Continental Shelf and onshore Federal and Indian lands.

MULTISTAKEHOLDER COMMITTEE MANAGEMENT

In 2012, The Department of the Interior conducted a series of stakeholder engagements to ascertain the optimal course for USEITI multistakeholder committee management. The options included a Federal Operating Committee, an existing FACA Committee, Non-Federal Entity and a New FACA Committee.

Federal Operating Committees are established by Congress through legislation. An operating committee is established to perform primarily ‘operational as opposed to ‘advisory’ functions. While providing legitimacy and decision-making authority, this legislative option does not allow for expediency. An Existing FACA Committee would require the Charter to address the scope and the Secretary to appoint new members. A Non-Federal Entity, a non-governmental organization, such as a 501(c)(3) allows the two non-governmental sectors (industry and civil society) to come together to create a committee or group, and then seek participation by the federal government in that entity; or the federal government could use a contract, grant, or cooperative agreement to ask a separate, “third-party” entity to convene and/or operate the MSG as a non-Federal entity. In this case, there does not appear to be enough certainty around the mechanism and the authority for creation, thus drawing into question the legitimacy of such a group. Additionally, creating a 501(c)(3) would require an investment of time and money that does not support expediency and sustainability. A non-federal entity would require recognition by the Federal government to bestow decision-making authority and most likely, any changes in federal rules or regulations proposed by the MSG would trigger FACA requirements. Finally, a new FACA Committee could be convened by either the Department of the Interior or the Office of President. Because a FACA Committee only provides advice to the federal government, and the federal government appoints its members, there is concern that a FACA might not meet the EITI expectation of collaboration, sector self-selection, and responsibility for implementing EITI.

After careful consideration of input from the public at large and stakeholders, the FACA committee option provides the legitimacy, expediency, and sustainability required to ensure the

successful implementation of USEITI. In 2012, with assurances from the government, the FACA committee should be able to fulfill the initial functions of an MSG, to develop a fully-costed work plan to design and implement the USEITI framework and obtain EITI compliance, within the spirit and framework of the EITI requirements. The Government noted at the time, that making a decision to set-up the initial U.S. MSG as a FACA did not mean the U.S. MSG would remain so as US EITI implementation moved forward. The MSG, as part of its deliberations, could decide to seek legislation or another option to reform the USEITI MSG.

2017 CHALLENGES TO IMPLEMENTING EITI REQUIREMENTS

The USEITI primary challenges for 2017 are: corporate income tax reporting (Congressionally disapproved Dodd-Frank §1504 regulations required a resource extraction issuer to disclose taxes); project-level reporting (Congressionally disapproved Dodd-Frank §1504 regulations defined project as operational activities that are governed by a single contract, license, lease, concession, or similar legal agreement, which form the basis for payment liabilities with a government); mainstreaming reporting requirements; and beneficial owner disclosure (of the corporate entity(ies) that bid for, operate or invest in extractive assets). Unlike other implementing countries, company reporting in the U.S. is entirely voluntary.

The EITI Standard requires reporting on “profits taxes,” or taxes on income, where material. Section 6103 of the Internal Revenue Code (IRC) provides that tax returns and tax return information are confidential and prohibited from disclosure, unless an exception identified in the IRC is applicable. The MSG requested companies to voluntarily report the sum of all federal corporate income tax payments and encouraged reconciliation. For the 2015 USEITI Report, 12 out of 41 applicable companies reported \$190 million in corporate income taxes and in the 2016 USEITI Report, 12 out of 38 applicable companies reported -\$308 million in corporate income taxes.

The EITI Standard states that the MSG is required to agree on the level of disaggregation for publishing data, that EITI data must be presented by individual company, government entity, and revenue stream, and requires that reporting at project level. The standard does not provide a specific definition of “project,” but states it should be consistent with the SEC rules and European Union laws. Section 1504 of the Dodd-Frank Act requires extractive industries companies registered with the SEC to separately disclose information about payments to governments around the world in an interactive data format.

Options for Implementing the 2016 EITI Standard:

1) In 2017, the U.S. seeks adapted implementation of the company reporting requirements required under the 2010 Dodd Frank Act until such time that the Securities Exchange Commission promulgates regulations under the Act. The request for adapted implementation acknowledges the Congressional disapproval of the Dodd Frank §1504 SEC Regulations. The Board will consider this option in light of MSG support and decide whether to approve adapted implementation. This option requires the USEITI MSG support and there is no change to the USEITI MSG Federal Advisory Committee structure or the governance of domestic implementation.

- 2) The U.S. requests the Board to approve a ‘pause’ for one year seeks a 1-year extension to the April 1, 2018, timeframe for initiating validation. The reason for the “pause” and extension is to allow the new Administration time to place senior leadership, critical to decision making, in all the key Agencies (i.e., DOI, State, Treasury). This option requires the USEITI MSG support and there is no change to the USEITI MSG Federal Advisory Committee or the governance of domestic implementation.
- 3) The USEITI MSG is reformulated in a streamlined fashion, it remains a FACA committee that advises the Secretary of the Interior and also remains consistent with the EITI principles of governance. Having demonstrated significant accomplishments over the past 5 years and relying on the willingness of many dedicated members of the MSG to continue to volunteer their time, it may be time to reduce the burden on all sectors. This option requires the USEITI MSG support.
- 4) The lead for domestic implementation of the EITI Standard shifts to the White House, National Security Council with Interior, Treasury and the SEC all partnering in implementation and that the USEITI MSG is reformulated in a streamlined fashion, incorporating option 3 above.
- 5) The U.S. government unilaterally decided to no longer participate and withdraws as an implementing country. State Department will remain in the Supporting Country role.

RECOMMENDATION:

Despite current setbacks there is a path forward for: U.S. commitment to EITI; implementing EITI with the expectation of achieving compliance; and sustaining our role in the global Open Government Partnership.

We recommend Option 4 as the most feasible path forward to achieve compliance with the Standard. It will be necessary to have full support from State, Treasury, SEC and the National Security Council to implement this option. Interior has lead domestic implementation to date yet only has jurisdiction with respect to governance associated with natural resource extraction on federal and Indian Lands and associated non-tax revenue management. In light of the April 3, 2017, Federal Register notice of the Secretary of the Interior establishing and seeking nominations for the Royalty Policy Committee (RPC or Committee) there may be a path forward for the streamlined MSG approach. The Committee will advise on current and emerging issues related to the determination of fair market value, and the collection of revenue from energy and mineral resources on Federal and Indian lands. The Committee also will advise on the potential impacts of proposed policies and regulations related to revenue collection from such development, including whether a need exists for regulatory reform. We believe the purpose of the Committee aligns with principles of EITI that address the valuable role of stakeholders in seeking solutions to issues in the area of natural resource extraction and revenue management. A streamlined USEITI MSG can be a significant source of support to the RPC in their discussions and deliberations.

In addition to Option 4 above, we also recommend institutionalizing appropriate EITI requirements within the Office of Natural Resources Revenue. The path forward parallels the

Department's commitment to reforming revenue management and royalty collections. We recognize that public understanding of government revenues and expenditures over time informs public debate and informs choice of appropriate and realistic options for sustainable energy development. Maintaining the USEITI data portal and integrating even more government revenue data and information is vital to support public policy and is fundamental to the Royalty Policy Committee discussions and deliberations. We also remain committed to encouraging high standards of transparency and accountability to the public for our mission and in our everyday operations.

We also welcome the idea of mainstreamed EITI non-tax revenue disclosures in lieu of company reporting and Independent Administrator reconciliation. The rationale for the 2016 refinement to the Standard is that extractive industry transparency should not be confined to EITI reports and expensive reconciliation exercises, but become an integral part of how governments manage their sector. Rather than simply relying on the EITI reporting mechanism to bring about transparency, governments implementing the EITI could to a greater extent make the information required by the EITI Standard available through government and corporate reporting systems such as databases, websites, annual reports, portals etc. The Department, as managed by ONRR, has robust audit and assurances practices in place to demonstrate accountability for the revenues paid and received for our country's oil, gas, and mineral resources. ONRR is now further integrating how we manage data and the EITI Standard by disclosing for the first time project-level reporting. In the 2017 USEITI Annual Report, ONRR will disclose in addition to the unilateral disclosure of revenues by revenue stream, commodity and company the ONRR and Office of Surface Mining revenue streams by parent company and by State. USEITI has already demonstrated global leadership and through the data portal, an effective means of providing transparency around the governance of extractive industries revenue management and ensuring improved public awareness. Mainstreaming government data will continue to demonstrate leadership in transparency.

INFORMATION MEMORANDUM FOR THE ASSISTANT SECRETARY

FROM: Greg Gould, Director, Office of Natural Resources Revenue Management

SUBJECT: USEITI – Options for Implementing the 2016 Extractive Industries Transparency Initiative (EITI) Standard

DATE: April 4, 2017

ISSUE

The Department of the Interior, which leads U.S. implementation of the EITI Standard, began in the fall of 2011 an aggressive timeline to establish a multi-stakeholder group (MSG); achieve Candidate Country status in March 2014; and ultimately begin the validation process by April 1, 2018. However, despite having met or exceeded 22 of 26 individual elements of the Standard (8 of the 9 requirements), at the conclusion of the validation process, the USEITI will not be found in compliance with the EITI Standard and is thus likely to be suspended from the initiative. This paper presents options for avoiding such an outcome, improving our management of the USEITI process, and maintaining DOI's commitment to transparent, collaborative and participatory government.

BACKGROUND

Prior to DOI taking the lead in 2011 to implement EITI in the United States, the Department of State (State) strongly supported EITI and coordinated U.S. participation in the global effort as a supporting country. Since EITI's inception in 2002, State has played a key role in shaping the EITI into the global standard for revenue transparency. Through its representation of the United State as a supporting country on the EITI Board and participation in the Finance and Governance and Oversight Committees, State works to clarify, interpret, and promote the rules of the EITI Standard, including by helping to draft guidance documents on how to assess country compliance. U.S. leadership has played a crucial role in the endorsement of the EITI by the G-7, the G-20, and the United Nations Security Council.

The United States Agency for International Development (USAID) has provided significant support to EITI both at the multilateral level and through direct bilateral support for implementation through USAID Missions around the world. USAID has provided over \$30 million in assistance for EITI implementation, peer exchange, and research.

Domestic implementation of EITI is subject to existing laws and regulations. For example, the Trade Secrets Act and the Federal Oil and Gas Royalty Management Act (FOGRMA) of 1982, prohibit the Federal government from releasing company pricing information and Federal employees are subject to criminal penalties if they violate these laws. Section 6103 of the Internal Revenue Code (IRC) provides that tax returns and tax return information are confidential and prohibited from disclosure, unless an exception identified in the IRC is

applicable. The IRC imposes civil and criminal penalties for violations of the disclosure prohibitions.

INTRODUCTION

The Extractive Industries Transparency Initiative, or EITI, is a voluntary, global effort designed to strengthen accountability and public trust for the revenues paid and received for a country's oil, gas, and mineral resources. EITI brings together a coalition of government, companies, and civil society, or Multi-stakeholder Groups (MSG's), to strengthen government and company systems, inform public debate, and promote understanding.

The U.S. government successfully completed the initial requirements to join EITI as a candidate country when the EITI International Board accepted our candidacy application in March 2014. Key successes to date include publishing the 2015 and 2016 USEITI Annual Reports on an open source, open code interactive web-based data portal (<https://useiti.doi.gov>). On this portal, the Department of the Interior unilaterally disclosed 2013, 2014, and 2015 revenues by company, commodity, and revenue type as well as production data across all commodities. The portal is the new global standard in revenue governance transparency.

In 2016, the Department of the Interior (the lead federal agency) entered a new phase in implementing EITI. The EITI International Board revised the EITI Standard in February 2016, to include requirements for disclosure of beneficial owners of extractive companies and to provide the opportunity to "mainstream" revenue data by governments and companies in lieu of an independent reconciliation of reported revenues. The work of the USEITI MSG (39 members and alternates from federal, state, and tribal governments, civil society and industry) is to ensure that the USEITI framework is tailored to U.S. laws, regulations, and culture, and that it is implementable by government and industry.

The USEITI primary challenges for compliance are: corporate income tax reporting; project-level reporting and beneficial owner disclosure of the corporate entity(ies) that bid for, operate or invest in extractive assets. Unlike other implementing countries, company reporting in the United States is entirely voluntary. Despite current setbacks there is a path forward for U.S. commitment to EITI -- implementing with the expectation of achieving compliance and sustaining our role in the global Open Government Partnership. The path forward parallels the Department's commitment to reforming revenue management and royalty collections. This memorandum addresses considerations of this phase of USEITI implementation and provides options to resolve implementing challenges in successfully achieving compliance with the EITI standard.

I. AREAS FOR CONSIDERATION

Implementing EITI will continue to improve government revenue transparency in the United States and continue to serve as an example internationally. The primary areas of consideration for 2017 and leading to the validation on April 1, 2018, are multi-agency involvement, governance of the USEITI multi-stakeholder group, institutionalizing the principles of EITI in

the Department of the Interior and mainstreaming government data. In order to recommend appropriate options for a government position, this paper takes into account the U.S. legal context, legal constraints, feasibility, and the international EITI requirements.

MULTI-AGENCY INVOLVEMENT

In July 2012, the Department of the Interior established the USEITI Sub-Interagency Policy Committee (Sub-IPC) to discuss the status of implementation of the EITI Standard and make decisions requiring interagency input. The Sub-IPC consisted of the following agencies: Office of Management and Budget (OMB); National Security Council (NSC); and Office of Science and Technology Policy (OSTP); as well as the Departments of State, Treasury, and Energy. The Sub-IPC was led by the National Security Council. The National Security Council, Securities Exchange Commission, Treasury Department and Department of the Interior are all critical to the ultimate success of the U.S. implementation of the EITI Standard.

On June 27, 2016 the Securities and Exchange Commission (SEC) issued a final rule, Disclosure of Payments by Resource Extraction Issuers, implementing section 1504 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Pub. L. No. 111-203, July 21, 2010), which required certain companies to report to the SEC their payments related to extractive industries activities. The payments that issuers were to report under the rule included taxes, royalties, fees, production entitlements, bonuses, social responsibility payments (if required by law or contract), dividends, payments for infrastructure improvements. In July 2016, the SEC issued an order recognizing the resource extraction payment disclosure requirements of the European Union, Canada and the U.S. Extractive Industries Transparency Initiative as substantially similar to the requirements of Rule 13q-1 under the Securities Exchange Act of 1934. The SEC requirements were both broader and narrower than EITI requirements. EITI does not require reporting of payments for social responsibility, infrastructure improvements or dividends, but does require reporting of fines or payments, which are not within in the scope of Dodd-Frank or the SEC rule. Congress disapproved the SEC regulations in February 2017; however, the Act still requires the SEC to promulgate regulations to implement section 1504 of the Act.

The Internal Revenue Service (IRS) is the primary Government body in charge of managing all tax payments, including payment of corporate income tax, which falls under the purview of USEITI. In the United States there are two key sources of publicly available information about federal income taxes for the extractive industries: the government and the filings of companies that are publicly listed. As mandated by the Revenue Act of 1916, the IRS publishes statistics related to “the operations of the internal revenue laws” as they affect individuals, corporations, and various other entities. The IRS Statistics of Income (SOI) program is responsible for executing this function by collecting, processing, and presenting this data, and then sharing information about how the tax system works with other government agencies and the general public.

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owners”)—and verify their identities. U.S. law requires all legal entities that open a U.S. bank account or have a Federal or State tax filing requirement obtain an EIN for tax administration purposes. Further, an entity is required to obtain an EIN if it has employees, or is required to file any documents including tax returns, with the IRS. An EIN (also known as a taxpayer identification number) is also required, under the Banking Secrecy Act, to open a bank account. Section 13(d) of the Securities Exchange Act of 1934 requires any person or group that acquires more than five percent “beneficial ownership” of public company equity securities to disclose its position within 10 days of crossing the threshold. There is no institutional framework for public disclosure of beneficial ownership disclosure information in the United States as required by the EITI Standard. There is, however, a substantial and growing framework for the collection of beneficial ownership information from both public and private companies operating in the U.S.

The Department of the Interior maintains the primary role in the U.S. Government for the governance of energy and non-energy mineral resources. Several different Bureaus within the Department of the Interior collect non-tax payments depending on the type of payment, the location of exploration and production, and the type of resource being extracted. These include: Interior’s Office of Natural Resources Revenue, the Bureau of Land Management, and the Office of Surface Mining Reclamation and Enforcement. The Office of Natural Resources Revenue manages and ensures full payment of revenues owed for the development of the nation’s energy and natural resources on the Outer Continental Shelf and onshore Federal and Indian lands.

MULTISTAKEHOLDER COMMITTEE MANAGEMENT

In 2012, the Department of the Interior conducted a series of stakeholder engagements to ascertain the optimal course for USEITI multi-stakeholder committee management. The options included a Federal Operating Committee, an existing FACA Committee, Non-Federal Entity and a New FACA Committee.

Federal Operating Committees are established by Congress through legislation. An operating committee is established to perform primarily ‘operational as opposed to ‘advisory’ functions. While providing legitimacy and decision-making authority, this legislative option does not allow for expediency. An Existing FACA Committee would require the Charter to address the scope and the Secretary to appoint new members. A Non-Federal Entity, a non-governmental organization, such as a 501(c)(3) allows the two non-governmental sectors (industry and civil society) to come together to create a committee or group, and then seek participation by the federal government in that entity; or the federal government could use a contract, grant, or cooperative agreement to ask a separate, “third-party” entity to convene and/or operate the MSG as a non-Federal entity. In this case, there does not appear to be enough certainty around the mechanism and the authority for creation, thus drawing into question the legitimacy of such a group. Additionally, creating a 501(c)(3) would require an investment of time and money that does not support expediency and sustainability. A non-federal entity would require recognition by the Federal government to bestow decision-making authority and most likely, any changes in federal rules or regulations proposed by the MSG would trigger FACA requirements. Finally, a new FACA Committee could be convened by either the Department of the Interior or the Office of President. Because a FACA Committee only provides advice to the federal government, and the federal government appoints its members, there is concern that a FACA might not meet the

EITI expectation of collaboration, sector self-selection, and responsibility for implementing EITI.

After careful consideration of input from the public at large and stakeholders, the FACA committee option provides the legitimacy, expediency, and sustainability required to ensure the successful implementation of USEITI. In 2012, with assurances from the government, the FACA committee should be able to fulfill the initial functions of an MSG, to develop a fully-costed work plan to design and implement the USEITI framework and obtain EITI compliance, within the spirit and framework of the EITI requirements. The Government noted at the time, that making a decision to set-up the initial U.S. MSG as a FACA did not mean the U.S. MSG would remain so as USEITI implementation moved forward. The MSG, as part of its deliberations, could decide to seek legislation or another option to reform the USEITI MSG.

2017 CHALLENGES TO IMPLEMENTING EITI REQUIREMENTS

The USEITI primary challenges for 2017 are: corporate income tax reporting (Congressionally disapproved Dodd-Frank §1504 regulations required a resource extraction issuer to disclose taxes); project-level reporting (Congressionally disapproved Dodd-Frank §1504 regulations defined project as operational activities that are governed by a single contract, license, lease, concession, or similar legal agreement, which form the basis for payment liabilities with a government); mainstreaming reporting requirements; and beneficial owner disclosure (of the corporate entity(ies) that bid for, operate or invest in extractive assets). Unlike other implementing countries, company reporting in the U.S. is entirely voluntary.

The EITI Standard requires reporting on “profits taxes,” or taxes on income, where material. Section 6103 of the Internal Revenue Code (IRC) provides that tax returns and tax return information are confidential and prohibited from disclosure, unless an exception identified in the IRC is applicable. The MSG requested companies to voluntarily report the sum of all federal corporate income tax payments and encouraged reconciliation. For the 2015 USEITI Report, 12 out of 41 applicable companies reported \$190 million in corporate income taxes and in the 2016 USEITI Report, 12 out of 38 applicable companies reported -\$308 million in corporate income taxes.

The EITI Standard states that the MSG is required to agree on the level of disaggregation for publishing data, that EITI data must be presented by individual company, government entity, and revenue stream, and requires that reporting at project level. The standard does not provide a specific definition of “project,” but states it should be consistent with the SEC rules and European Union laws. Section 1504 of the Dodd-Frank Act requires extractive industries companies registered with the SEC to separately disclose information about payments to governments around the world in an interactive data format.

Options for Implementing the 2016 EITI Standard:

1) In 2017, the United States seeks adapted implementation of the company reporting requirements required under the 2010 Dodd Frank Act until such time as the Securities Exchange Commission promulgates regulations under the Act. The request for adapted implementation,

made to the EITI International Board, acknowledges the Congressional disapproval of the Dodd Frank §1504 SEC Regulations. The Board will consider this option in light of MSG support and decide whether to approve adapted implementation. This option requires USEITI MSG support and there is no change to the USEITI MSG Federal Advisory Committee structure or the governance of domestic implementation. The Department of State continues to coordinate U.S. participation in the global effort as a supporting country.

2) The United States requests the EITI International Board to approve an implementation ‘pause’ for one year combined with a one-year extension to the April 1, 2018, timeframe for initiating validation. We would argue that the “pause” and extension would allow the new Administration time to place senior leadership critical to decision making in all the key Agencies (i.e., DOI, State, Treasury). This option requires the USEITI MSG support and there is no change to the USEITI MSG Federal Advisory Committee or the governance of domestic implementation. The Department of State continues to coordinate U.S. participation in the global effort as a supporting country.

3) The USEITI MSG is reformulated in a streamlined fashion. The MSG remains a FACA committee that advises the Secretary of the Interior and also remains consistent with the EITI principles of governance. Having demonstrated significant accomplishments over the past five years and relying on the willingness of many dedicated members of the MSG to continue to volunteer their time, this option would reduce the burden of participation on all sectors. This option requires USEITI MSG support. The Department of State continues to coordinate U.S. participation in the global effort as a supporting country.

Commented [W1]: (b) (5)

4) The lead for domestic implementation of the EITI Standard shifts to the White House, National Security Council, with Interior, Treasury and the SEC partnering in implementation. The USEITI MSG is reformulated in a streamlined fashion, incorporating option 3 above. The Department of State continues to coordinate U.S. participation in the global effort as a supporting country.

Commented [W2]: (b) (5)

5) The U.S. government unilaterally decides to no longer participate and withdraws as an implementing country. The Department of State continues to coordinate U.S. participation in the global effort as a supporting country.

RECOMMENDATION:

Despite current setbacks there is a path forward for: U.S. commitment to EITI; implementing EITI with the expectation of achieving compliance; and sustaining our role in the global Open Government Partnership.

We recommend Option 4 as the most feasible path forward to achieve compliance with the Standard. It will be necessary to have full support from State, Treasury, SEC and the National Security Council to implement this option. Interior has lead domestic implementation to date yet only has jurisdiction with respect to governance associated with natural resource extraction on federal and Indian Lands and associated non-tax revenue management. In light of the April 3, 2017, Federal Register notice of the Secretary of the Interior establishing and seeking

nominations for the Royalty Policy Committee (RPC or Committee) there may be a path forward for the streamlined MSG approach. The Committee will advise on current and emerging issues related to the determination of fair market value, and the collection of revenue from energy and mineral resources on Federal and Indian lands. The Committee also will advise on the potential impacts of proposed policies and regulations related to revenue collection from such development, including whether a need exists for regulatory reform. We believe the purpose of the Committee aligns with principles of EITI that address the valuable role of stakeholders in seeking solutions to issues in the area of natural resource extraction and revenue management. A streamlined USEITI MSG can be a significant source of support to the RPC in their discussions and deliberations

In addition to Option 4 above, we also recommend institutionalizing appropriate EITI requirements within the Office of Natural Resources Revenue. The path forward parallels the Department's commitment to reforming revenue management and royalty collections. We recognize that public understanding of government revenues and expenditures over time informs public debate and informs choice of appropriate and realistic options for sustainable energy development. Maintaining the USEITI data portal and integrating even more government revenue data and information is vital to support public policy and is fundamental to the Royalty Policy Committee discussions and deliberations. We also remain committed to encouraging high standards of transparency and accountability to the public for our mission and in our everyday operations.

We also welcome the idea of mainstreamed EITI non-tax revenue disclosures in lieu of company reporting and Independent Administrator reconciliation. The rationale for the 2016 refinement to the Standard is that extractive industry transparency should not be confined to EITI reports and expensive reconciliation exercises, but become an integral part of how governments manage their sector. Rather than simply relying on the EITI reporting mechanism to bring about transparency, governments implementing the EITI could to a greater extent make the information required by the EITI Standard available through government and corporate reporting systems such as databases, websites, annual reports, portals etc. The Department, as managed by ONRR, has robust audit and assurances practices in place to demonstrate accountability for the revenues paid and received for our country's oil, gas, and mineral resources. ONRR is now further integrating how we manage data and the EITI Standard by disclosing for the first time project-level reporting. In the 2017 USEITI Annual Report, ONRR will disclose in addition to the unilateral disclosure of revenues by revenue stream, commodity and company the ONRR and Office of Surface Mining revenue streams by parent company and by State. USEITI has already demonstrated global leadership and through the data portal, an effective means of providing transparency around the governance of extractive industries revenue management and ensuring improved public awareness. Mainstreaming government data will continue to demonstrate leadership in transparency.

INFORMATION MEMORANDUM FOR THE ASSISTANT SECRETARY

FROM: Greg Gould, Director, Office of Natural Resources Revenue Management

SUBJECT: USEITI – Options for Implementing the 2016 Extractive Industries Transparency Initiative (EITI) Standard

DATE: April 4, 2017

ISSUE

The Department of the Interior, which leads U.S. implementation of the EITI Standard, began in the fall of 2011 an aggressive timeline to establish a multi-stakeholder group (MSG); achieve Candidate Country status in March 2014; and ultimately begin the validation process by April 1, 2018. However, despite having met or exceeded 22 of 26 individual elements of the Standard (8 of the 9 requirements), at the conclusion of the validation process, the USEITI will not be found in compliance with the EITI Standard and is thus likely to be suspended from the initiative. This paper presents options for avoiding such an outcome, improving our management of the USEITI process, and maintaining DOI's commitment to transparent, collaborative and participatory government.

BACKGROUND

Prior to DOI taking the lead in 2011 to implement EITI in the United States, the Department of State (State) strongly supported EITI and coordinated U.S. participation in the global effort as a supporting country. Since EITI's inception in 2002, State has played a key role in shaping the EITI into the global standard for revenue transparency. Through its representation of the United States as a supporting country on the EITI Board and participation in the Finance and Governance and Oversight Committees, State works to clarify, interpret, and promote the rules of the EITI Standard, including by helping to draft guidance documents on how to assess country compliance. U.S. leadership has played a crucial role in the endorsement of the EITI by the G-7, the G-20, and the United Nations Security Council.

The United States Agency for International Development (USAID) has provided significant support to EITI both at the multilateral level and through direct bilateral support for implementation through USAID Missions around the world. USAID has provided over \$30 million in assistance for EITI implementation, peer exchange, and research.

Domestic implementation of EITI is subject to existing laws and regulations. For example, the Trade Secrets Act and the Federal Oil and Gas Royalty Management Act (FOGRMA) of 1982, prohibit the Federal government from releasing company pricing information and Federal employees are subject to criminal penalties if they violate these laws. Section 6103 of the Internal Revenue Code (IRC) provides that tax returns and tax return information are confidential and prohibited from disclosure, unless an exception identified in the IRC is

applicable. The IRC imposes civil and criminal penalties for violations of the disclosure prohibitions.

INTRODUCTION

The Extractive Industries Transparency Initiative, or EITI, is a voluntary, global effort designed to strengthen accountability and public trust for the revenues paid and received for a country's oil, gas, and mineral resources. EITI brings together a coalition of government, companies, and civil society, or Multi-stakeholder Groups (MSG's), to strengthen government and company systems, inform public debate, and promote understanding.

The U.S. government successfully completed the initial requirements to join EITI as a candidate country when the EITI International Board accepted our candidacy application in March 2014. Key successes to date include publishing the 2015 and 2016 USEITI Annual Reports on an open source, open code interactive web-based data portal (<https://useiti.doi.gov>). On this portal, the Department of the Interior unilaterally disclosed 2013, 2014, and 2015 revenues by company, commodity, and revenue type as well as production data across all commodities. The portal is the new global standard in revenue governance transparency.

In 2016, the Department of the Interior (the lead federal agency) entered a new phase in implementing EITI. The EITI International Board revised the EITI Standard in February 2016, to include requirements for disclosure of beneficial owners of extractive companies and to provide the opportunity to "mainstream" revenue data by governments and companies in lieu of an independent reconciliation of reported revenues. The work of the USEITI MSG (39 members and alternates from federal, state, and tribal governments, civil society and industry) is to ensure that the USEITI framework is tailored to U.S. laws, regulations, and culture, and that it is implementable by government and industry.

The USEITI primary challenges for compliance are: corporate income tax reporting; project-level reporting and beneficial owner disclosure of the corporate entity(ies) that bid for, operate or invest in extractive assets. Unlike other implementing countries, company reporting in the United States is entirely voluntary. Despite current setbacks there is a path forward for U.S. commitment to EITI -- implementing with the expectation of achieving compliance and sustaining our role in the global Open Government Partnership. The path forward parallels the Department's commitment to reforming revenue management and royalty collections. This memorandum addresses considerations of this phase of USEITI implementation and provides options to resolve implementing challenges in successfully achieving compliance with the EITI standard.

I. AREAS FOR CONSIDERATION

Implementing EITI will continue to improve government revenue transparency in the United States and continue to serve as an example internationally. The primary areas of consideration for 2017 and leading to the validation on April 1, 2018, are multi-agency involvement, governance of the USEITI multi-stakeholder group, institutionalizing the principles of EITI in

the Department of the Interior and mainstreaming government data. In order to recommend appropriate options for a government position, this paper takes into account the U.S. legal context, legal constraints, feasibility, and the international EITI requirements.

MULTI-AGENCY INVOLVEMENT

In July 2012, the Department of the Interior established the USEITI Sub-Interagency Policy Committee (Sub-IPC) to discuss the status of implementation of the EITI Standard and make decisions requiring interagency input. The Sub-IPC consisted of the following agencies: Office of Management and Budget (OMB); National Security Council (NSC); and Office of Science and Technology Policy (OSTP); as well as the Departments of State, Treasury, and Energy. The Sub-IPC was led by the National Security Council. The National Security Council, Securities Exchange Commission, Treasury Department and Department of the Interior are all critical to the ultimate success of the U.S. implementation of the EITI Standard.

On June 27, 2016 the Securities and Exchange Commission (SEC) issued a final rule, Disclosure of Payments by Resource Extraction Issuers, implementing section 1504 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Pub. L. No. 111-203, July 21, 2010), which required certain companies to report to the SEC their payments related to extractive industries activities. The payments that issuers were to report under the rule included taxes, royalties, fees, production entitlements, bonuses, social responsibility payments (if required by law or contract), dividends, payments for infrastructure improvements. In July 2016, the SEC issued an order recognizing the resource extraction payment disclosure requirements of the European Union, Canada and the U.S. Extractive Industries Transparency Initiative as substantially similar to the requirements of Rule 13q-1 under the Securities Exchange Act of 1934. The SEC requirements were both broader and narrower than EITI requirements. EITI does not require reporting of payments for social responsibility, infrastructure improvements or dividends, but does require reporting of fines or payments, which are not within in the scope of Dodd-Frank or the SEC rule. Congress disapproved the SEC regulations in February 2017; however, the Act still requires the SEC to promulgate regulations to implement section 1504 of the Act.

The Internal Revenue Service (IRS) is the primary Government body in charge of managing all tax payments, including payment of corporate income tax, which falls under the purview of USEITI. In the United States there are two key sources of publicly available information about federal income taxes for the extractive industries: the government and the filings of companies that are publicly listed. As mandated by the Revenue Act of 1916, the IRS publishes statistics related to “the operations of the internal revenue laws” as they affect individuals, corporations, and various other entities. The IRS Statistics of Income (SOI) program is responsible for executing this function by collecting, processing, and presenting this data, and then sharing information about how the tax system works with other government agencies and the general public.

The Department of the Treasury, in May 2016, issued a customer due diligence rule (CDD Rule), which streamlines and clarifies several components of customer due diligence under the Bank Secrecy Act to promote consistency and added a key new requirement for U.S. financial institutions to know the real people who own, control, and profit from companies (the “beneficial

owners”)—and verify their identities. U.S. law requires all legal entities that open a U.S. bank account or have a Federal or State tax filing requirement obtain an EIN for tax administration purposes. Further, an entity is required to obtain an EIN if it has employees, or is required to file any documents including tax returns, with the IRS. An EIN (also known as a taxpayer identification number) is also required, under the Banking Secrecy Act, to open a bank account. Section 13(d) of the Securities Exchange Act of 1934 requires any person or group that acquires more than five percent “beneficial ownership” of public company equity securities to disclose its position within 10 days of crossing the threshold. There is no institutional framework for public disclosure of beneficial ownership disclosure information in the United States as required by the EITI Standard. There is, however, a substantial and growing framework for the collection of beneficial ownership information from both public and private companies operating in the U.S.

The Department of the Interior maintains the primary role in the U.S. Government for the governance of energy and non-energy mineral resources. Several different Bureaus within the Department of the Interior collect non-tax payments depending on the type of payment, the location of exploration and production, and the type of resource being extracted. These include: Interior’s Office of Natural Resources Revenue, the Bureau of Land Management, and the Office of Surface Mining Reclamation and Enforcement. The Office of Natural Resources Revenue manages and ensures full payment of revenues owed for the development of the nation’s energy and natural resources on the Outer Continental Shelf and onshore Federal and Indian lands.

MULTISTAKEHOLDER COMMITTEE MANAGEMENT

In 2012, the Department of the Interior conducted a series of stakeholder engagements to ascertain the optimal course for USEITI multi-stakeholder committee management. The options included a Federal Operating Committee, an existing FACA Committee, Non-Federal Entity and a New FACA Committee.

Federal Operating Committees are established by Congress through legislation. An operating committee is established to perform primarily ‘operational as opposed to ‘advisory’ functions. While providing legitimacy and decision-making authority, this legislative option does not allow for expediency. An Existing FACA Committee would require the Charter to address the scope and the Secretary to appoint new members. A Non-Federal Entity, a non-governmental organization, such as a 501(c)(3) allows the two non-governmental sectors (industry and civil society) to come together to create a committee or group, and then seek participation by the federal government in that entity; or the federal government could use a contract, grant, or cooperative agreement to ask a separate, “third-party” entity to convene and/or operate the MSG as a non-Federal entity. In this case, there does not appear to be enough certainty around the mechanism and the authority for creation, thus drawing into question the legitimacy of such a group. Additionally, creating a 501(c)(3) would require an investment of time and money that does not support expediency and sustainability. A non-federal entity would require recognition by the Federal government to bestow decision-making authority and most likely, any changes in federal rules or regulations proposed by the MSG would trigger FACA requirements. Finally, a new FACA Committee could be convened by either the Department of the Interior or the Office of President. Because a FACA Committee only provides advice to the federal government, and the federal government appoints its members, there is concern that a FACA might not meet the

EITI expectation of collaboration, sector self-selection, and responsibility for implementing EITI.

After careful consideration of input from the public at large and stakeholders, the FACA committee option provides the legitimacy, expediency, and sustainability required to ensure the successful implementation of USEITI. In 2012, with assurances from the government, the FACA committee should be able to fulfill the initial functions of an MSG, to develop a fully-costed work plan to design and implement the USEITI framework and obtain EITI compliance, within the spirit and framework of the EITI requirements. The Government noted at the time, that making a decision to set-up the initial U.S. MSG as a FACA did not mean the U.S. MSG would remain so as USEITI implementation moved forward. The MSG, as part of its deliberations, could decide to seek legislation or another option to reform the USEITI MSG.

2017 CHALLENGES TO IMPLEMENTING EITI REQUIREMENTS

The USEITI primary challenges for 2017 are: corporate income tax reporting (Congressionally disapproved Dodd-Frank §1504 regulations required a resource extraction issuer to disclose taxes); project-level reporting (Congressionally disapproved Dodd-Frank §1504 regulations defined project as operational activities that are governed by a single contract, license, lease, concession, or similar legal agreement, which form the basis for payment liabilities with a government); mainstreaming reporting requirements; and beneficial owner disclosure (of the corporate entity(ies) that bid for, operate or invest in extractive assets). Unlike other implementing countries, company reporting in the U.S. is entirely voluntary.

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Options for Implementing the 2016 EITI Standard:

1) In 2017, the United States seeks adapted implementation of the company reporting requirements required under the 2010 Dodd Frank Act until such time as the Securities Exchange Commission promulgates regulations under the Act. The request for adapted implementation,

made to the EITI International Board, acknowledges the Congressional disapproval of the Dodd Frank §1504 SEC Regulations. The Board will consider this option in light of MSG support and decide whether to approve adapted implementation. This option requires USEITI MSG support and there is no change to the USEITI MSG Federal Advisory Committee structure or the governance of domestic implementation. The Department of State continues to coordinate U.S. participation in the global effort as a supporting country.

2) The United States requests the EITI International Board to approve an implementation ‘pause’ for one year combined with a one-year extension to the April 1, 2018, timeframe for initiating validation. We would argue that the “pause” and extension would allow the new Administration time to place senior leadership critical to decision making in all the key Agencies (i.e., DOI, State, Treasury). This option requires the USEITI MSG support and there is no change to the USEITI MSG Federal Advisory Committee or the governance of domestic implementation. The Department of State continues to coordinate U.S. participation in the global effort as a supporting country.

3) The USEITI MSG is reformulated in a streamlined fashion. The MSG remains a FACA committee that advises the Secretary of the Interior and also remains consistent with the EITI principles of governance. Having demonstrated significant accomplishments over the past five years and relying on the willingness of many dedicated members of the MSG to continue to volunteer their time, this option would reduce the burden of participation on all sectors. This option requires USEITI MSG support. The Department of State continues to coordinate U.S. participation in the global effort as a supporting country.

4) The lead for domestic implementation of the EITI Standard shifts to the White House, National Security Council, with Interior, Treasury and the SEC partnering in implementation. The USEITI MSG is reformulated in a streamlined fashion, incorporating option 3 above. The Department of State continues to coordinate U.S. participation in the global effort as a supporting country.

5) The U.S. government unilaterally decides to no longer participate and withdraws as an implementing country. The Department of State continues to coordinate U.S. participation in the global effort as a supporting country.

RECOMMENDATION:

Despite current setbacks there is a path forward for: U.S. commitment to EITI; implementing EITI with the expectation of achieving compliance; and sustaining our role in the global Open Government Partnership.

We recommend Option 4 as the most feasible path forward to achieve compliance with the Standard. It will be necessary to have full support from State, Treasury, SEC and the National Security Council to implement this option. Interior has lead domestic implementation to date yet only has jurisdiction with respect to governance associated with natural resource extraction on federal and Indian Lands and associated non-tax revenue management. In light of the April 3, 2017, Federal Register notice of the Secretary of the Interior establishing and seeking

nominations for the Royalty Policy Committee (RPC or Committee) there may be a path forward for the streamlined MSG approach. The Committee will advise on current and emerging issues related to the determination of fair market value, and the collection of revenue from energy and mineral resources on Federal and Indian lands. The Committee also will advise on the potential impacts of proposed policies and regulations related to revenue collection from such development, including whether a need exists for regulatory reform. We believe the purpose of the Committee aligns with principles of EITI that address the valuable role of stakeholders in seeking solutions to issues in the area of natural resource extraction and revenue management. A streamlined USEITI MSG can be a significant source of support to the RPC in their discussions and deliberations

In addition to Option 4 above, we also recommend institutionalizing appropriate EITI requirements within the Office of Natural Resources Revenue. The path forward parallels the Department's commitment to reforming revenue management and royalty collections. We recognize that public understanding of government revenues and expenditures over time informs public debate and informs choice of appropriate and realistic options for sustainable energy development. Maintaining the USEITI data portal and integrating even more government revenue data and information is vital to support public policy and is fundamental to the Royalty Policy Committee discussions and deliberations. We also remain committed to encouraging high standards of transparency and accountability to the public for our mission and in our everyday operations.

We also welcome the idea of mainstreamed EITI non-tax revenue disclosures in lieu of company reporting and Independent Administrator reconciliation. The rationale for the 2016 refinement to the Standard is that extractive industry transparency should not be confined to EITI reports and expensive reconciliation exercises, but become an integral part of how governments manage their sector. Rather than simply relying on the EITI reporting mechanism to bring about transparency, governments implementing the EITI could to a greater extent make the information required by the EITI Standard available through government and corporate reporting systems such as databases, websites, annual reports, portals etc. The Department, as managed by ONRR, has robust audit and assurances practices in place to demonstrate accountability for the revenues paid and received for our country's oil, gas, and mineral resources. ONRR is now further integrating how we manage data and the EITI Standard by disclosing for the first time project-level reporting. In the 2017 USEITI Annual Report, ONRR will disclose in addition to the unilateral disclosure of revenues by revenue stream, commodity and company the ONRR and Office of Surface Mining revenue streams by parent company and by State. USEITI has already demonstrated global leadership and through the data portal, an effective means of providing transparency around the governance of extractive industries revenue management and ensuring improved public awareness. Mainstreaming government data will continue to demonstrate leadership in transparency.

Mr. Fredrik Reinfeldt
Chair, EITI Board
Ruseløkkveien 26
0251 Oslo
Norway

Chair Reinfeldt,

The United States has made significant progress meeting individual requirements of the Extractive Industries Transparency Initiative (EITI) since the Department of the Interior, which leads U.S. implementation of the EITI Standard, began in the fall of 2011 the fall of 2011 when the U.S. Department of the Interior an aggressive timeline to established a multi-stakeholder group (MSG); achieved Candidate Country status in March 2014; and ultimately begin the EITI the validation process. process by April 1, 2018. The U.S. has made significant progress meeting individual requirements of the Extractive Industries Transparency Initiative (EITI). Key successes to date Perhaps most significant milestone has been the creation of include publishing the 2015 and 2016 USEITI Annual Reports on an open source, open code interactive web-based data portal (<https://useiti.doi.gov>). On this portal, the Department of the Interior on which the agency has unilaterally disclosed 2013, 2014, and 2015 revenues by company, commodity, and revenue type, as well as production data across all commodities. This e-portal is the new global standard in revenue governance transparency. We are happy to report that use by state, local and tribal governments are to increase transparency is increasing as well.

While the United States government remains committed to fighting corruption in the extractive industries sector, and the ideals of transparency enshrined in your charter, it is clear that Domestic implementation of EITI does not must fully account for the U.S. legal framework. context, legal constraints and feasibility. Effective immediately, therefore, the USEITI must withdraws as an EITI Implementing Country from the EITI.

Despite this, tThe U.S. Department of the Interior, which maintains the primary role in the U.S. Government for the governance of energy and non-energy mineral resources, remains fully committed to institutionalizing the principles of EITI that are allowed under U.S. law. The Department of the Interior intends to institutionalize transparency measures and mainstream government reporting of energy production and the associated revenue collection and reimbursement. The Office of Natural Resources Revenue within the Department of the Interior ensures full payment, disbursement and verification of non tax revenues owed for the development of the nation's energy and natural resources on the Outer Continental Shelf and onshore Federal and Indian lands. Despite current setbacks there is a path forward for the Department of the Interior institutionalizing fundamental principles of EITI that parallel the Department's commitment to reforming revenue management and royalty collections.

The Department is also committed to continue its efforts to promote public awareness and engage stakeholders in a public conversation of the potential impacts of proposed policies and regulations related to revenue collection from such development. We will continue to unilaterally disclose revenue payments received for extractive operations on federal land through our open data portal, and we will continue to improve our reporting through the inclusion of additional states and tribes.

We hope that despite the fact that the United States laws prevent us from meeting one of the eight EITI standards, we will continue to work together to promote transparency, fight corruption and ensure good governance.

Respectfully,

Greg Gould
Director, Office of Natural Resources Revenue and
USEITI Government Sector Co-Chair

Drafted by _____ DOI ONRR: Greg Gould/Judith Wilson

Reviewed by _____

Cleared by _____ NSC ITID: _____
_____ State
_____ USAID

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Chair, EITI Board
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The Department of the Interior, which leads U.S. implementation of the EITI Standard, began in the fall of 2011 an aggressive timeline to establish a multi-stakeholder group (MSG); achieve Candidate Country status in March 2014; and ultimately begin the validation process by April 1, 2018. The U.S. has made significant progress meeting individual requirements of the Extractive Industries Transparency Initiative (EITI). Key successes to date include publishing the 2015 and 2016 USEITI Annual Reports on an open source, open code interactive web-based data portal (<https://useiti.doi.gov>). On this portal, the Department of the Interior unilaterally disclosed 2013, 2014, and 2015 revenues by company, commodity, and revenue type as well as production data across all commodities. The portal is the new global standard in revenue governance transparency.

Domestic implementation of EITI must account for the U.S. legal context, legal constraints and feasibility. Effective immediately the USEITI withdraws as an Implementing Country from the EITI. The Department of the Interior maintains the primary role in the U.S. Government for the governance of energy and non-energy mineral resources. The Office of Natural Resources Revenue within the Department of the Interior ensures full payment, disbursement and verification of non-tax revenues owed for the development of the nation's energy and natural resources on the Outer Continental Shelf and onshore Federal and Indian lands. Despite current setbacks there is a path forward for the Department of the Interior institutionalizing fundamental principles of EITI that parallel the Department's commitment to reforming revenue management and royalty collections.

Respectfully,

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Respectfully,

Greg Gould
Director, Office of Natural Resources Revenue and
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Drafted by _____ DOI ONRR: Greg Gould/Judith Wilson

Reviewed by _____

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The Department of the Interior, which maintains the primary role in the U.S. Government for the governance of energy and non-energy mineral resources, remains fully committed to institutionalizing the EITI principles of transparency and accountability consistent with U.S. law. The Department of the Interior intends to mainstream government reporting of energy production and the associated revenue collection and disbursement. The Department is also committed to continue its efforts to promote public awareness and engage stakeholders in a public conversation of the potential impacts of proposed policies and regulations related to revenue collection from such development. We will continue to unilaterally disclose revenue payments received for extractive operations on federal land through our open data portal, and we will continue to improve our reporting through the inclusion of additional states and tribes.

Please know that the U.S. Department of State will continue to lead the United States' commitment to the EITI as a Supporting Country, a role that the United States has played since the beginning of the initiative. The U.S. political and financial support of the EITI over many years has been second to none. In conjunction with the U.S. Agency for International Development, the State Department will continue to promote transparency, fight corruption and ensure good governance, as well as to support country-level EITI implementation. We continue to value the EITI as a critical tool to promote transparency, increase competitiveness, and combat corruption around the world.

Despite the fact that the U. S. laws prevent us from meeting specific provisions of the EITI Standard, we look forward to working together to promote transparency, fight corruption and ensure good governance.

Respectfully,

Greg Gould
Director, Office of Natural Resources Revenue and
USEITI Government Sector Co-Chair

Drafted by DOI ONRR: Greg Gould/Judith Wilson

Reviewed by

Cleared by NSC ITID:
State
USAID

Mr. Fredrik Reinfeldt
Chair, Extractive Industries Transparency Initiative Board
Ruseløkkveien 26
0251 Oslo
Norway

Dear Chair Reinfeldt:

The United States has made significant progress meeting individual requirements of the Extractive Industries Transparency Initiative (EITI) since the fall of 2011 when the U.S. announced that it would begin the multi-year process of becoming an EITI compliant country. The Department of the Interior established a multi-stakeholder group in December 2012 and achieved Candidate Country status in March 2014. Perhaps our most significant accomplishment is the creation of an open source, open code interactive web-based data portal (<https://useiti.doi.gov>) on which the agency has unilaterally disclosed 2013, 2014, and 2015 revenues by company, commodity, and revenue type, as well as production data across all commodities. This portal is the new global standard in revenue governance transparency. We are happy to report that use by state, local and tribal governments is increasing as well. While the U.S. government remains committed to fighting corruption in the extractive industries sector, and the ideals of transparency enshrined in the EITI Principles and the EITI Standard, it is clear that domestic implementation of EITI does not fully account for the U.S. legal framework. Effective immediately, therefore, the United States must withdraw as an EITI Implementing Country.

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Despite the fact that the U. S. laws prevent us from meeting specific provisions of the EITI Standard, we look forward to working together to promote transparency, fight corruption and ensure good governance.

Sincerely,

Gregory J. Gould

Director ~~and USEITI Government Sector Co-Chair~~

**UNITED STATES EXTRACTIVE INDUSTRIES TRANSPARENCY INITIATIVE
MULTI-STAKEHOLDER GROUP ADVISORY COMMITTEE MEETING
JUNE 27-28, 2016**

SUMMARY OF PROCEEDINGS

**U.S. DEPARTMENT OF THE INTERIOR
PREPARED: JULY 2016**

I. Introduction

The U.S. Department of the Interior (DOI), with Kris Sarri presiding as Designated Federal Official (DFO) and Paul Mussenden and Judy Wilson presiding as acting DFO, convened the eighteenth meeting of the U.S. Extractive Industries Transparency Initiative (USEITI) Multi-Stakeholder Group Advisory Committee (MSG) on June 27-28, 2016, in Washington, DC. The purpose of the meeting was to receive updates from the Independent Administrator on various aspects of developing the online report and executive summary for the 2016 USEITI Report and how to move forward with these; discuss communications and state and tribal opt-in efforts; and discuss the prospects for proceeding with mainstreaming of USEITI reporting into US government processes, the inclusion of beneficial ownership information, and validation of US EITI Reports.

Please note that, throughout this meeting summary, comments made by presenters, Independent Administrator team members, other non-MSG members, and those directly pertaining to an MSG decision are attributed to specific speakers. Other comments are provided without attribution in order to foster open discussion among MSG members excepting final deliberations prior to specific MSG decisions.

Interested parties are asked to contact USEITI at useiti@ios.doi.gov or 202-208-0272 with any questions, comments, or concerns regarding the content of this meeting summary.

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II. Summary of Endorsements, Decisions, Approvals, and Action Items

A. Endorsements

- No endorsements were made by the MSG at the June 2016 MSG meeting.

B. Decisions

- The MSG forwarded the content created by the IA about the Abandoned Mine Land (AML) Reclamation Program to 18F. *(see page 8)*
- The MSG approved the Montana template as a general template for state and tribal reporting, subject to tailoring by each entity participating. *(see page 9)*
- The MSG forwarded the US budget, audit, and assurance processes content created by the IA to 18F while the IA works with the Online Advisory Work Group and MSG subject matter experts to further revise any content that needs further work. *(see page 13)*
- The MSG forwarded the coal excise tax contextual information to 18F for inclusion in the 2016 USEITI Report, with additional review and comment to be provided by industry sector coal industry representatives, as needed. *(see page 14)*
- The MSG approved the Executive Summary Outline with revisions suggested by MSG members: inclusion of background on USEITI, guidance about how to navigate the online report, and year-to-year comparative information. *(see page 15)*

C. Approvals

- The MSG approved the March 2016 MSG meeting summary. *(see page 5)*
- The MSG approved the updated Terms of Reference. *(see page 5)*
- The MSG approved the 2015 USEITI Annual Activity Report for submission to the International EITI Secretariat. *(see page 6)*
- The MSG approved the renaming and reconstitution of the Reporting and Reconciliation Work Group as the “Beneficial Ownership Work Group.” *(see page 21)*
- The MSG approved the undertaking of a pre-feasibility exercise for mainstreaming of USEITI. *(see page 23)*

D. Confirmations

- No confirmations were made by the MSG at the June 2016 MSG meeting.

E. Action Items

- **Co-Chairs:**
 - Review and distribute meeting summary from June 2016 MSG meeting to MSG members.
 - Develop agenda for November 2016 MSG meeting.
- **USEITI Secretariat:**

- Find usage information about non-service government websites to compare to usage of the USEITI site. *(see page 6)*
- Work with the International EITI Secretariat and the IA to conduct a pre-feasibility exercise for mainstreaming of USEITI. Report on results at November MSG meeting. *(see page 23)*
- Consider the role and participation of the US State Department in the USEITI process. *(see page 26)*
- Work with the International Secretariat and the IA to explore the prospects and risks for USEITI validation and provide a recommendation to the MSG at the November 2016 MSG meeting. *(see page 27)*
- MSG decisions will be recorded in an updated MSG Decision Matrix by the Secretariat. *(see page 28)*
- **State and Tribal Opt-in Subcommittee**
 - Consider how the North Slope Borough case study should be revised to reflect Alaska's unique circumstances. *(see page 8)*
 - State and Tribal Opt-in Subcommittee and the IA ask state-level contacts about additional data sources for county write-ups. *(see page 14)*
 - Prepare an amendment/extension application for adapted implementation. *(see page 26)*
- **CSO Sector**
 - Search for additional County-level data sources and provide them to the IA for consideration to be included in future years of USEITI reporting. *(see page 14)*
- **Beneficial Ownership Work Group**
 - Meet with technical experts, as needed, and provide a report and proposal of a draft roadmap for compliance with the EITI beneficial ownership disclosure requirement to the MSG at the November 2016 MSG meeting. *(see page 21)*
- **Independent Administrator (Deloitte)**
 - Articulate a formal process for the development and final approval of content for USEITI reports. *(see page 7)*
 - Clearly articulate the distinction between reconciled federal data and un-reconciled state and tribal data in the report. *(see page 8)*
 - State and Tribal Opt-in Subcommittee and the IA ask state-level contacts about additional data sources for county write-ups. *(see page 14)*
 - Include year-to-year comparison information between the 2015 and 2016 USEITI reports in the 2016 Report. *(see page 15)*
- **USEITI Process Facilitator (Consensus Building Institute)**
 - Create a meeting summary for the June 2016 MSG meeting.

III. Presentations and Key Discussions

Kris Sarri, Principle Deputy Assistant Secretary, Policy Management and Budget at the U.S. Department of the Interior (DOI) and Designated Federal Officer (DFO) for the

USEITI MSG, opened the meeting and welcomed participants. All individuals in attendance introduced themselves. A full attendance list can be found in Section VI – Meeting Participants, page 28.

A. Opening Remarks

Ms. Sarri provided opening remarks by stating that USEITI will be working towards launching the 2016 USEITI Report. She recognized the hard work of the subcommittees and work groups between MSG meetings and the importance of open dialogue and discussion between the sectors.

B. USEITI MSG Business

The MSG conducted the following items of business during the course of the MSG meeting.

1. Terminology and USEITI December 2015 Meeting Summary

Judy Wilson, USEITI Secretariat, reminded meeting participants that the MSG has agreed to employ three terms to differentiate between different types of actions that the MSG takes:

- “Decisions” will indicate significant actions and agreements by the MSG key to meeting EITI international standards.
- “Approvals” will indicate lower-level decisions by the MSG, such as approving work plans, meeting summaries, process changes or additions, etc.
- “Confirmations” will confirm decisions that the MSG has previously made.

The MSG approved the meeting summary of the March 2016 MSG Meeting. A copy of the final, approved meeting summary is available online at:

https://www.doi.gov/sites/doi.gov/files/uploads/useiti_msg_mar_2016_mtg_summary_v5_160426.pdf.

- **Approval: The MSG approved the meeting summary from the March 2016 USEITI MSG meeting.**

2. MSG Terms of Reference

Judy Wilson noted that she had provided an overview of updated Terms of Reference (TOR) at the March 2016 MSG meeting and that a final draft version of the TOR was posted to the USEITI website two weeks before the June MSG meeting.

Danielle Brian, Project on Government Oversight and CSO sector co-chair, suggested that some language be included in the TOR articulating the prerogative of each sector to put forward members for inclusion on the MSG, i.e., the principle of self-selection of sector representatives without interference. With the inclusion of language to this effect, the MSG approved the updated Terms of Reference. The final, approved version of the TOR is available online at:

https://www.doi.gov/sites/doi.gov/files/uploads/msg_updated_useiti_terms_of_reference_06282016.pdf

- **Approval: The MSG approved the updated Terms of Reference.**

3. Update on USEITI Website User Analytics

Judy Wilson gave a brief presentation to the MSG about the nature of user visits to the USEITI Report website (available online at: <https://useiti.doi.gov/>). Ms. Wilson described the trends in user visits, the length of time that visitors spent on the website, and the breakdown between new and repeat users. More information is available in Ms. Wilson's presentation slides, available online at: https://www.doi.gov/sites/doi.gov/files/uploads/google_analytics_2016.pdf.

In response to Ms. Wilson's comments, MSG members asked the following questions; *responses from Ms. Wilson are provided in italics:*

- Is 4,000 users during the first half of 2016 a lot of users? How does this compare to other popular government websites? *Ms. Wilson: The most visited government websites tend to be service-oriented websites that users visit to access a specific service that the government provides to people. So it does not make much sense to compare the usage of an informational website like the USEITI site to service websites.*
- Would it be possible to find usage information about non-service government websites so that we can make an appropriate comparison? *Ms. Wilson: Yes, the Secretariat will find that information.*

4. 2015 Annual Activity Report

Chris Mentasti, USEITI Secretariat, introduced the 2015 USEITI Annual Activity Report as a product created by the USEITI facilitator, the Consensus Building Institute. Tushar Kansal, Consensus Building Institute, added that the Annual Activity Report summarized activities undertaken by USEITI during 2015 and also speaks to concepts included in the 2016 EITI Standard, such as mainstreaming.

- **Approval: The MSG approved the 2015 USEITI Annual Activity Report for submission to the International EITI Secretariat.**

5. Subcommittee and Work Group Organization

The Reporting and Reconciliation Work Group was renamed and reconstituted as the "Beneficial Ownership Work Group."

C. Independent Administrator's Updates

Members of the Independent Administrator (IA) team from Deloitte provided updates on their progress towards preparation of the 2016 USEITI Report. IA team members provided updates on components of the online component of the 2016 report, the executive summary, and the reporting and reconciliation process. These updates and accompanying MSG discussions are summarized below.

1. Updates to Online Report Revisions/Additions

Sarah Platts, Independent Administrator team member from Deloitte, presented an overview of the IA's project plan for creating the USEITI 2016 Report. She explained that, among other work to update online report contents for 2016, the IA team is creating the content for three new visualizations: 1) Abandoned Mine Lands (AML) Fund; 2) State & Tribal Additions; and Budget; and, 3) Audit, and Assurance Process. The IA is also updating information in the twelve county case studies from the 2015 report and updating contextual information about the coal excise tax. Ms. Platts clarified that, although the IA team creates the content for visualizations, 18F designs the visualizations that will appear in the online report. She also noted that the pdf/printed report for 2016 is intended to be an Executive Summary that will be significantly shorter than the 2015 pdf/printed report, as discussed at the completion of the lengthy 2015 report. Additional information is available in Ms. Platt's presentation slides, available online at:

https://www.doi.gov/sites/doi.gov/files/uploads/20160717_ia_project_plan_v_send.pdf.

MSG members made the following comments and asked the following questions following Ms. Platts' presentation; *direct responses to questions and comments are indicated in italics, with the speaker indicated, as relevant:*

- What will the process be moving forward with decision-making and finalization of the content that the IA is creating? *Members of the IA team: The IA has already worked with the relevant work groups, subcommittees, and with the Online Advisory Work Group to vet the content that is being presented to the MSG at this meeting. Once the MSG approves these items, the IA will send the content that it has created to 18F, which will then turn the content into visualizations and other material that will be incorporated into the online report website. 18F will also continue to work with the Online Advisory Work Group to make sure that the final formatting and presentation that 18F is creating remains true to the MSG's intent. Last year, having a full-day session with the Co-Chairs to make final decisions on outstanding sector comments worked well and it could be productive to have a similar process this year. Additional information about the content and visualization development process is available online in the following slide:*
https://www.doi.gov/sites/doi.gov/files/uploads/20160628_18f_visualization_process.pdf.
- Is it correct that the USEITI contract with 18F only runs until September? *Director of ONRR: Yes, that is correct. However, ONRR will be bringing "in-house" the 18F process by hiring three Innovation Fellows to join the USEITI Secretariat team. This will give us more flexibility in the future about how to build out the report website without having the constraints of a contracted approach.*
- Which states and tribes are being included in the "State and Tribal Additions" visualization material? *Chair of the State and Tribal Opt-In Subcommittee: The*

visualization will be focused on those states and tribes that have expressed an interest in opting into USEITI.

- When I do a Google search for “USEITI,” the online report website does not come up within the first five search results. Could this be fixed? *Representative from the USEITI Secretariat: The online report website is being revamped such that it should better catch the Google crawlers and fix this issue.*
- The content that is being shown to the MSG at this meeting has not been previously reviewed by the sectors as a whole. Should another work group be tasked with working with the IA on new content? Will the sectors still be able to provide additional comments and edits before this material is finalized?
 - *Ms. Platts: Minor edits and suggestions are welcome.*
 - *Chair of the Implementation Subcommittee: Although the content has not been reviewed by all of the MSG members or the sectors as a whole prior to this meeting, the three additional visualization topics were approved by the MSG towards the end of 2015 and the IA has been vetting the content with MSG work groups and subcommittees.*
- There is a distinction between including Federal data, which has been reconciled, and state data, which USEITI will be including in its report without vetting or verification. This distinction should be clearly stated in the report.
- It is the MSG’s responsibility to approve all of the content that is included in the USEITI report but the industry sector has been very resource-constrained this year and has had little opportunity to review the new content. The industry sector has been very clear this year that the MSG should remain focused on its top priorities, which the MSG previously identified as income tax reporting, reconciliation, and state and tribal opt-in.
- Similarly to the industry sector, I am also resource constrained since I work without an organization supporting me. I provided extensive edits to the North Slope Borough case study and, while many of my edits were incorporated, I also provided context and background around governance in Alaska that was not included. Why was this material not included?
 - *Member of the IA team: The IA cannot automatically incorporate all of the edits provided by a representative of one sector. The IA must work with all three sectors to secure consensus around revisions.*
 - *The Chair of the State and Tribal Opt-in Subcommittee recognized that the context for Alaska is substantively different from other states (and county case studies) and suggested that the State and Tribal Opt-in Subcommittee consider how the North Slope Borough case study should be revised to reflect these circumstances.*

a) Abandoned Mine Lands (AML) Reclamation Program Addition

Luke Hawbaker, IA team member, presented an overview of the content that the IA created about the Abandoned Mine Land (AML) Reclamation Program. He explained that the IA organized the material into three sections: Abandoned Mine Land Overview, AML Revenue & Disbursements, and The AML Fund. Once the MSG approves the

content created by the IA, the IA will send the content to 18F for design and finalization of presentation. The content presented by Mr. Hawbaker is available online at: https://www.doi.gov/sites/doi.gov/files/uploads/useiti_aml_visualization_20160607_vs_end.pdf.

MSG members made the following comments and asked the following questions following Mr. Hawbaker's presentation; *direct responses to questions and comments are indicated in italics*:

- Veronika Kohler, National Mining Association and industry sector co-chair, thanked the IA for accommodating the industry sector's capacity gap between the departure of coal company representatives from the MSG and awaiting the seating of a new representative. She added that she has heard widespread praise of the AML material prepared by the IA.
 - Dan Dudis, Public Citizen, inquired whether the maps of coal mines would be interactive and would allow users to identify which mines have been reclaimed. *Mr. Hawbaker indicated that the maps would not be interactive in the 2016 Report but that this functionality could be considered for incorporation in future years.*
 - Paul Mussenden and Ms. Kohler inquired about the process for finalizing the presentation of content once the MSG approves it.
 - *Greg Gould, ONRR and government sector co-chair, responded that the Online Advisory Work Group would work closely with 18F and MSG members to make sure that 18F's final presentation of content aligns with the MSG's intentions.*
 - *John Mennel, IA team member, noted that 18F may make some revisions in formatting and verbiage based on its design work and user-testing process.*
 - *In response to suggestions from Ms. Kohler and Ms. Brian, Ms. Platts agreed to provide a process schema for tracking work products through the review and finalization process. John Cassidy, IA team member, requested that the MSG try to abide by the process laid out by the IA.*
 - The MSG approved the content created by the IA about the Abandoned Mine Land (AML) Reclamation Program.
- **Decision: The MSG decided to send the content created by the IA about the Abandoned Mine Land (AML) Reclamation Program to 18F.**

b) State and Tribal Addition

Mr. Hawbaker presented an overview of the content that the IA created about Montana, one of the states and tribes exploring USEITI opt-in. He explained that the process of creating the Montana content included collecting input from the State of Montana and from MSG members and working with the State and Tribal Opt-In Subcommittee to review and revise the content. The IA is putting forward the Montana content as a template for approval by the MSG; if the MSG approves the Montana

content, the IA will create similar content for other states and tribes. The Montana content is available online at:
https://www.doi.gov/sites/doi.gov/files/uploads/state_opt-in_visualization_montana_6_10_2016_vmsg.pdf with enlarged mock-ups of components of the Montana content available online at:
https://www.doi.gov/sites/doi.gov/files/uploads/2016june10_montana_enlarged_mockups_vmsg.pdf.

Editor's Note: For purposes of continuity, MSG discussion that was conducted during the "State and Tribal Opt-in Subcommittee Update" session (see page 17) is included in this section of the meeting summary.

MSG members made the following comments and asked the following questions following Mr. Hawbaker's presentation; *direct responses to questions and comments are indicated in italics:*

- Johanna Nesseth, Chevron, noted that whereas the MSG took the approach of informing the counties that were profiled in the county case studies that narratives based on publicly available information would be included in the USEITI report, the process has been more interactive with the opting-in states and tribes. *Mr. Hawbaker explained that the IA is sending draft versions of write-ups to states for multiple rounds of review and comment. Tribes have an exclusive right of final approval and sign-off on their write-ups. Danielle Brian added that the tribes are accorded this higher level of editorial authority due to the Federal government's trust responsibility with them.*
- Michael Gardner, Rio Tinto, inquired about whom the IA is speaking with at the state level. *Sarah Platts explained that the State and Tribal Opt-in Subcommittee provides the IA with a state point of contact who then also provides contact information for other state officials. Ms. Brian added that the State and Tribal Opt-in Subcommittee and the IA are also working to consult with state-level representatives from the industry and CSO sectors in addition to state government representatives.*
- Ms. Nesseth also suggested that Federal and state data would need to be very clearly differentiated and that revenue information be presented before regulatory information.
 - *Mr. Hawbaker responded that it should be relatively easy for 18F to identify data sources.*
 - *Paul Mussenden noted that both Federal and state data are forms of public data and that state regulatory agencies are accorded the same weight as Federal agencies. Kris Sarri suggested that it may be helpful to readers to make it very easy to find information about data sources so that readers can themselves explore the data sources.*
 - *John Mennel stated that both Federal and state/tribal data should come from credible public sector resources and should be well-cited. He added that a difference between Federal and state/tribal data is that, while the*

MSG has decided what data should be included, the states and tribes are largely defining what data to include in the USEITI report through the opt-in process.

- John Harrington suggested that it could be helpful to provide the states and tribes opting into USEITI with a summary of the factors and criteria that the MSG considered when deciding which revenue streams to include at the Federal level. If states or tribes define a revenue stream as material, then the MSG should defer to their decision. Paul Bugala, George Washington University, expressed agreement.
- David Romig, Freeport-McMoRan Oil & Gas, added that, while the MSG should defer to states and tribes, the included revenue streams should relate to the extractive industries.
- Mike Matthews, State of Wyoming, suggested that, if a state or tribe wants to include revenue streams that are not included at the Federal level, that the jurisdiction in question be asked to provide the relevant data.
- Ms. Nessith suggested that the MSG create a mechanism to vet revenue streams such that, for example, the State and Tribal Opt-in Subcommittee consider the revenue streams proposed by states and tribes that maybe or are beyond the scope of the Federal report.
- Dan Dudis suggested that a materiality threshold could be established for including revenue streams and that resources that are not included at the Federal level, such as forestry and fisheries.
- Veronica Slajer, North Star Group, noted that the Red Dog Mine in Alaska would not meet the USEITI materiality threshold but is a very significant mine in Alaska. She suggested creating a template for state and tribal opt-in that is based on the standards defined by the MSG for Federal reporting but also providing a space in the template for states and tribes to propose inclusion of other extractive commodities and revenue streams that are significant for them.
 - *John Cassidy noted that the state and tribal sections may end up looking somewhat different in content and format. In 2015, the MSG sought a uniform format and presentation for the country write-ups.*
- Patrick Field, USEITI facilitator from the Consensus Building Institute, synthesized the discussion and suggested the following process: a template based on the Montana model will be distributed to states and tribes opting into USEITI that would provide them with guidance about revenue reporting for participation in USEITI while also allowing them the opportunity to suggest additional commodities and revenue streams that are locally significant. Those proposed additions that are relatively straightforward would be handled by the IA while those that are further outside Federal scope would be considered by the State and Tribal Opt-in Subcommittee. In addition, the Co-Chairs will circulate drafts of content from the states and tribes that are opting into USEITI to MSG members via email for prompt review and comment.

- David Romig suggested that the acronyms for government agencies used in the report be hyperlinked to the names of the agencies. Lynda Farrell, Pipeline Safety Coalition, inquired about how decisions about hyperlinking are made. *Mr. Hawbaker explained that hyperlinks are generally used the first time that a term is used but that 18F would make final decisions about hyperlinking through design and usability testing.*
 - Keith Romig, United Steelworkers, suggested that the content more clearly differentiate between extractive commodities and primary products.
 - Dan Dudis noted that revenue information seems to be presented more prominently than cost information, in some cases.
 - Mike Matthews noted that many of the larger mine sites are pretty self-contained in terms of equipment and resources and therefore impose minimal costs on the local government. There are also some cases, such as Gillette, Wyoming, where the local mine is significantly supporting the town. This can make it difficult to determine what “fiscal costs” should be included.
 - *Ms. Brian agreed and noted that the IA is only including those costs that states and tribes have themselves directly attributed to extractive industry activity.*
 - Veronika Kohler suggested that, if cost information is going to be included, that contributions from industry be included next to the costs.
 - Ms. Brian added that she would be in favor of that as long as revenue and cost information are presented side-by-side.
 - Mr. Dudis expressed discomfort with presenting revenue and cost information side-by-side because cost information is often under-documented.
 - *Mr. Mennel explained that the IA is using the same criteria for including revenue and cost information that the MSG agreed on for the 2015 report: that the data source be a credible government data source and that the revenue or cost be directly attributed to extractive industry activity by a government entity. He added that, if any sector has concerns about a specific item, it can flag that item for the IA, and if a sector would like to see content presented differently, the IA can communicate that to 18F.*
 - Mr. Dudis inquired whether Montana is particularly rich in available data about the extractive industries. *Ms. Platts responded that Montana, Wyoming, and Alaska are all notably rich in available data among the states, which may be why they are the first three states to be opting into USEITI.*
- **Decision: The MSG decided to approve the Montana template for state and tribal reporting. The template based on the Montana model will be distributed to states and tribes opting into USEITI that would provide them with guidance about revenue reporting for participation in USEITI while also allowing them the opportunity to suggest additional commodities and revenue streams that are locally significant. Those proposed additions that are relatively**

straightforward would be handled by the IA while those that are further outside Federal scope would be considered by the State and Tribal Opt-in Subcommittee. In addition, the Co-Chairs will circulate drafts of content from the states and tribes that are opting into USEITI to MSG members via email for prompt review and comment.

c) Budget, Audit, and Assurance Process Addition

Andrew Varnum, IA team member, presented an overview of the content that the IA created about US budget, audit, and assurance processes. Once the MSG approves the content created by the IA, the IA will send the content to 18F for design and finalization of presentation. The content presented by Mr. Varnum is available online at:

https://www.doi.gov/sites/doi.gov/files/uploads/budget_and_audit_visualization_160610_junemsg.pdf.

MSG members made the following comments and asked the following questions following Mr. Varnum's presentation; *direct responses to questions and comments are indicated in italics*. A number of commenters identified gaps in the information presented:

- John Harrington, ExxonMobil, noted that the large number of linkages to other data and information sources makes it hard to understand exactly what information will be presented but that he could identify some gaps at present, such as that IRS auditors are continuously present onsite at companies, not just when audits are taking place.
- Aaron Padilla, American Petroleum Institute, suggested that more information could be included about non-tax revenues and that steps 2 and 3 presently have some redundancy that could be eliminated.
- Mike Matthews noted that companies are audited at the state level in addition to being audited by the Federal IRS.
- Danielle Brian identified a few linguistic concerns, such as the use of "such as" before "accounting principles" in the Data Validation introduction.

Given the need for further review and revision of portions of the Budget, Audit, and Assurance Process Addition, the MSG agreed to send the content created by the IA to 18F to begin creating the visualization while the IA works with the Online Advisory Work Group and the following subject matter experts to further revise any content that needs further work: Paul Bugala (George Washington University), Aaron Padilla (American Petroleum Institute), Phil Denning (Shell Oil Company), and Curtis Carlson (US Department of the Treasury).

- Sam Bartlett, International EITI Secretariat, commended USEITI on the high quality and clarity of the content created about US budget, audit, and assurance processes.

➤ **Decision: The MSG decided to send the US budget, audit, and assurance processes content created by the IA to 18F while the IA works with the Online**

Advisory Work Group and MSG subject matter experts to further revise any content that needs further work.

d) *Twelve County Case Studies*

Sarah Platts explained that the IA is updating the twelve county case studies included in the 2015 USEITI Report and is adding some minor content in some cases. Drafts of the case studies are available online at: <https://www.doi.gov/eiti/june-27-28-2016-meeting>.

MSG members made the following comments and asked the following questions following Ms. Platts' comments; *direct responses to questions and comments are indicated in italics*:

- Dan Dudis stated that the draft write-up for the State of Montana is at the scale and depth that he had been anticipating for the county write-ups in 2015. He inquired as to the possibility of trying to find additional data sources for the counties.
- Danielle Brian suggested that the sectors could search for additional data sources and provide them to the IA for consideration to be included in future years of USEITI reporting.
- In response to a question from Mr. Dudis about the possibility of including additional data in the county case studies for the 2016 USEITI Report, Ms. Brian and Greg Gould explained that expanding the county case studies is not included in the work plan for 2016. Mr. Gould added that the budget for contracts with the IA and 18F would need to be considered when deciding whether expanded county write-ups could be included in the 2017 work plan.
- Johanna Nesseth suggested that the State and Tribal Opt-in Subcommittee and the IA could ask state-level contacts about additional data sources.
- Veronika Kohler recommended that decisions about how to expand the report be based on input and requests received from the public.

e) *Coal Excise Tax Contextual Information*

A draft of the information prepared by the IA about the coal excise tax is available online at:

https://www.doi.gov/sites/doi.gov/files/uploads/coal_excise_msg_20160607_vf.pdf.

While suggesting that the MSG move forward with deciding that the coal excise tax contextual information be sent to 18F for inclusion in the 2016 USEITI Report, Veronika Kohler noted that coal mining company representatives have recently left the MSG due to cut backs in the coal industry and thereby requested that the representative from Peabody Energy that is awaiting confirmation to join the MSG be allowed to review the coal excise tax information and provide input.

Greg Gould agreed with Ms. Kohler's request and suggested that the industry sector put forward the Peabody Energy representative as a "technical expert" now so that he can provide input even before being confirmed to join the MSG.

- **Decision: The MSG decided to send the coal excise tax contextual information to 18F for inclusion in the 2016 USEITI Report, with additional review and comment to be provided by industry sector coal industry representatives, as needed.**

2. 2016 USEITI Report (PDF) Executive Summary

Sarah Platts presented the outline for the executive summary to the 2016 USEITI Report to the MSG. She explained that the intention for the executive summary was to make it significantly shorter than the executive summary of the 2015 Report. Ms. Platts also mentioned that the 2015 Report would be archived online so that it would always be publicly available. The outline for the executive summary to the 2016 USEITI Report is available online at:

https://www.doi.gov/sites/doi.gov/files/uploads/20160617_executive_summary_presentation_v_send_0.pdf.

MSG members made the following comments and asked the following questions following Ms. Platts' comments; *direct responses to questions and comments are indicated in italics*:

- John Harrington suggested that a description of USEITI be added to the executive summary outline.
- Keith Romig suggested that guidance about how to navigate the online report be added to the executive summary outline.
- In response to a question from Dan Dudis about whether infographics similar to those included in the 2015 executive summary would be included, Ms. Platts indicated that they would.
- Mr. Dudis inquired as to whether information comparing the 2015 and 2016 reports, such as the number of companies included and the types of quantities of revenues reported, would be provided anywhere. He noted that this is a standard element of reports that are issued annually.
- Mr. Harrington and David Romig questioned the utility of including such a comparison.
- Greg Gould agreed that it could be helpful to include year-to-year comparisons but explained that this is not included in the IA's 2016 scope of work. He suggested that the Secretariat would explore whether it could take this on internally and that, since the data and reports are provided online, readers can draw their own inferences comparing the 2015 and 2016 reports.
- Ms. Kohler suggested that the MSG discuss how the year-to-year comparison would be framed and reported so that, for example, the appropriate emphasis is placed on the level of company participation in reporting and reconciliation given that all revenue data is also provided through unilateral disclosure. Mr. Gould agreed that this would be important to discuss at a future MSG meeting.
 - *John Mennel expressed agreement about the importance of providing year-to-year comparison information and said that the IA would include*

this type of information. The framing and outline could be discussed by the Implementation Subcommittee.

- In response to a question from David Romig about disclosing the use of 2013 data for reconciliation in the 2015 Report and 2015 data in the 2016 Report (and thereby skipping 2014 data), Mr. Gould agreed that it would be important to clearly state that information in the 2016 Report as well as to provide the 2014 revenue data through unilateral disclosure.
- **Decision: The MSG decided to approve the Executive Summary outline for the 2016 Report with revisions suggested by MSG members: inclusion of background on USEITI, guidance about how to navigate the online report, and year-to-year comparative information.**

3. Update on Company Reporting and Reconciliation Process

Alex Klepacz and Kent Schultz, IA team members from Deloitte, provided an update on the company revenue reporting and reconciliation process. They reported on the materials that the IA has distributed to companies, the IA's communication process with companies, and the current status of company participation in reporting and reconciliation. Additional information is available in Mr. Klepacz's and Mr. Schultz's slides, available online at:

https://www.doi.gov/sites/doi.gov/files/uploads/20160617_rr_msg_v_send.pdf.

In response to Mr. Klepacz's and Mr. Schultz's comments, Danielle Brian inquired as to whether it could be helpful to encourage additional companies to participate in reporting and reconciliation if MSG members were to supplement the IA's outreach efforts. Mr. Klepacz responded by explaining that the five companies that have informed the IA that they will not participate in reporting provided somewhat generic reasons for not doing so, such as having time and resource constraints. As such, it may not make much difference if MSG members were to do additional outreach.

D. Communications Subcommittee Update

Veronika Kohler, Chair of the Communications Subcommittee, provided an update on the Subcommittee's activities. She reported that the Subcommittee is revising the USEITI communications plan to focus on outreach around the 2016 USEITI Report with a particular focus on social media to engage the general public. She also reported that 84 people participated in a recent webinar held for the general public and that the Subcommittee is reaching out to Congressional offices. In addition, the IA held two sets of webinars for reporting companies, in Houston and Denver, with one set focused on non-tax revenue reporting and the other focused on tax reporting. Ms. Kohler also reported that the Department of the Interior sent a letter to reporting companies signed by Kris Sarri, Principle Deputy Assistant Secretary, Policy Management and Budget. Ms. Sarri added that a letter from the Secretary of the Interior, Sally Jewel, would go out to reporting companies on the day of the MSG meeting, June 27.

Finally, Ms. Kohler also reported that two public outreach sessions are planned for Montana (one public in Helena and one near or on the Blackfeet Nation) and one for New Orleans, Louisiana. These locations were chosen jointly by the Communications and State and Tribal Opt-in Subcommittees because Montana has both the state and the Blackfeet Nation opting into USEITI and New Orleans was the only location in the earlier round of public outreach at which members of the public attended.

In response to Ms. Kohler's comments, members of the MSG asked the following questions and made the following comments; *responses are indicated in italics*:

- Was the public webinar recorded and, if so, is it accessible for MSG members to view? *Ms. Kohler: yes, the webinar was recorded and is available for viewing. DOI is also exploring how to turn it into a learning module for companies.*
- How receptive do companies seem this year to participating in income tax reporting? *Mr. Klepacz and Mr. Mennel: Although we are seeing more participation by company tax representatives in our outreach events, there was only one question asked across the four webinars. The IA will also be making a presentation at the American Petroleum Institute Tax Conference.*

E. State and Tribal Opt-in Subcommittee Update

Ms. Danielle Brian, Chair of the State and Tribal Opt-in Subcommittee, provided an update on the Subcommittee's work. She reported that three states and one tribe have opted in, with discussions about opt-in progressing with a second tribe. Once approved by the MSG, the IA and 18F will use the same template for state-level reporting that has been created for Montana for other states opting into USEITI. She added that the Alaska state government wants to explore including revenue streams, such as pipelines, that the USEITI MSG has defined as out-of-scope for Federal reporting. Additional information is available in the presentation slides available online at:

https://www.doi.gov/sites/doi.gov/files/uploads/2016june23_state_and_tribal_msg_slides_v4_1.pdf.

Editor's Note: For purposes of continuity, MSG discussion that was conducted during this portion of the meeting is included in the "State and Tribal Addition" section of the meeting summary (see page 9).

F. Implementation Subcommittee Updates

Greg Gould, Chair of the Implementation Subcommittee, introduced the key topics of discussion for the MSG from the Implementation Subcommittee: a revision of the EITI Standard has raised "beneficial ownership" and "mainstreaming" on the agenda for USEITI consideration. Presentations made on these topics and accompanying MSG discussions are summarized below.

1. Update on 2016 EITI Standard Revisions

Judy Wilson provided an overview of key elements of the revised EITI Standard. Her comments focused on seven requirements of the EITI Standard, updated requirements

around disclosure of beneficial ownership, updated requirements around data quality and assurance and the possibility of “mainstreaming” EITI reporting, and updated procedures for validation of country reports. Additional information is available in Ms. Wilson’s presentation slides, available online at:

https://www.doi.gov/sites/doi.gov/files/uploads/eiti_2016_standard.pdf.

2. Beneficial Ownership Roadmap

Members of the Reporting and Reconciliation Work Group of the Implementation Subcommittee presented information of their work group’s due diligence and discussions around the new EITI beneficial ownership requirement and the context for meeting the requirement in the United States. Work group members Paul Bugala (George Washington University), John Harrington (ExxonMobil), Jim Steward (US Department of the Interior), and Curtis Carlson (US Department of the Treasury) reviewed the following information and made the following points:

- The revised requirements around beneficial ownership disclosure are in the 2016 Standard;
- The considerations that would need to be taken into account would be explored in a required “roadmap” for disclosure, due this year, to address beneficial ownership by 2020;
- The beneficial ownership would very likely not apply to publicly held companies that are registered with the Securities and Exchange Commission (SEC). Instead, the requirement would apply to privately held companies that are registered under state laws.
- State laws do not compel disclosure by privately held companies of beneficial ownership.
- Federal laws governing extractive activity do not require disclosure of beneficial ownership.
- There are thousands of extractives companies operating on Federal lands, of which only about 10 percent are publicly traded. There are many other companies that operate on non-Federal lands.
- Various bills have been introduced in Congress to require the identification of beneficial owners over the past ten years. None of these bills would compel the public disclosure of beneficial ownership and none have been enacted into law.
- Compelling disclosure of beneficial ownership will likely be a very difficult undertaking in the United States given existing laws and regulations. The 2016 EITI Standard does allow countries to prioritize disclosure, for example by the largest companies first, with an intention to include all companies in disclosure by 2020.

Additional information is available in the presentation slides available online at:

https://www.doi.gov/sites/doi.gov/files/uploads/beneficial_ownership_overview_presentation_drft_06_17_2016_v9.pdf.