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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 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.



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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



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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
- 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.

Appendix 4 — In-Scope Company Audits

Company	Public / Private	Entity Type	Disclosure of Beneficial Owners	Applicable Accounting Standards	Form 10-K or Annual Report	Form 20-F	Form 40-F	Publicly Available Financial Statements	External Auditors
Alpha Natural Resources, Inc.	Public	Corporation	Yes	GAAP	✓	•	•	Yes	KPMG
Anadarko Petroleum Corporation	Public	Corporation	Yes	GAAP	✓	•	•	Yes	KPMG
Apache Corporation	Public	Corporation	Yes	GAAP	✓	•	•	Yes	E&Y
Arch Coal, Inc.	Public	Corporation	Yes	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	GAAP	✓	•	•	Yes - Annual Report	PWC
Cimarex Energy Co.	Public	Corporation	Yes	GAAP	✓	•	•	Yes	KPMG
Cloud Peak Energy Resources, LLC	Public	Corporation	Yes	GAAP	✓	•	•	Yes	PWC
Concho Resources, Inc.	Public	Corporation	Yes	GAAP	✓	•	•	Yes	Grant Thornton
ConocoPhillips	Public	Corporation	Yes	GAAP	✓	•	•	Yes	E&Y
Continental Resources, Inc.	Public	Corporation	Yes	GAAP	✓	•	•	Yes	Grant Thornton
Devon Energy Corporation	Public	Corporation	Yes	GAAP	✓	•	•	Yes	KPMG

Company	Public / Private	Entity Type	Disclosure of Beneficial Owners	Applicable Accounting Standards	Form 10-K or Annual Report	Form 20-F	Form 40-F	Publicly Available Financial Statements	External Auditors
Encana Corporation	Public	Foreign Corporation (Canada)	Yes	GAAP	✓	•	✓	Yes - Annual Report	PWC
Energy XXI	N/A	Foreign Corporation (Bermuda)	Yes	GAAP	✓	•	•	Yes	BDO USA
ENI Petroleum	Public	Foreign corporation (Italy)	Yes	IFRS	✓	•	•	Yes	Unavailable
EOG Resources, Inc.	Public	Corporation	Yes	GAAP	✓	•	•	Yes	Deloitte & Touche LLP
EPL Oil & Gas, Inc.	Public	Subsidiary of Foreign Corporation (Italy)	Yes	GAAP	✓	•	•	Parent Only*	BDO USA
Exxon Mobil Corporation	Public	Corporation	Yes	GAAP	✓	•	•	Yes	PWC
Fieldwood Energy LLC	Private	Limited Liability Company	Yes		•	•	•	No	Unavailable
Freeport-McMoRan Inc.	Public	Corporation	Yes	GAAP	✓	•	•	Yes	E&Y
Hess Corporation	Public	Corporation	Yes	GAAP	✓	•	•	Yes	E&Y
Jonah Energy LLC	Private	Limited Liability Company	Yes		•	•	•	No	Unavailable
Linn Energy, LLC	Public	Limited Liability Company	Yes	GAAP	✓	•	•	Yes	KPMG
LLOG Exploration Company LLC	Private	Subsidiary of Limited Liability Company	Yes		•	•	•	No	Unavailable
Marathon Oil Company	Public	Corporation	Yes	GAAP	✓	•	•	Yes	PWC
Murphy Oil USA Inc.	Public	Corporation	Yes	GAAP	✓	•	•	Yes	KPMG
Noble Energy, Inc.	Public	Corporation	Yes	GAAP	✓	•	•	Yes	KPMG
Oxy USA, Inc.	Public	Corporation	Yes	GAAP	✓	•	•	Parent Only*	KPMG
Peabody Energy Corporation	Public	Corporation	Yes	GAAP	✓	•	•	Yes	E&Y
QEP Resources, Inc.	Public	Corporation	Yes	GAAP	✓	•	•	Yes	PWC
Red Willow Offshore, LLC	Private	Limited Liability Company, Southern UTE Indian Tribe	No		•	•	•	No	Unavailable



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Company	Public / Private	Entity Type	Disclosure of Beneficial Owners	Applicable Accounting Standards	Form 10-K or Annual Report	Form 20-F	Form 40-F	Publicly Available Financial Statements	External Auditors
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
Stone Energy Corporation	Public	Corporation	Yes	GAAP	✓	*	*	Yes	E&Y
Talos Energy LLC	Private	Limited Liability Company	Yes		*	*	*	No	Unavailable
Ultra Resources Inc.	Public	Foreign Corporation (Canada)	Yes	GAAP	✓	*	*	Yes	E&Y
W&T Offshore, Inc.	Public	Corporation	Yes	GAAP	✓	*	*	Yes	E&Y
WPX Energy, Inc.	Public	Corporation	Yes	GAAP	✓	*	*	Yes	E&Y

Note: Annual reports and 10-Ks are accessible as of April 6, 2017, and link to the 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)



USEITI Mainstreaming Feasibility Study

June 2017



The United States Extractive Industries
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Executive Summary

This mainstreaming feasibility study was prepared by the United States Extractive Industries Transparency Initiative (USEITI) International Administrator (IA) in consultation with the USEITI multi-stakeholder group (MSG) and other stakeholders from government, industry and civil society. The process for mainstreaming consists of seven phases: formal commitment, feasibility study, work plan, application, approval, implementation, and review. Based on the evidence available, the USEITI MSG recommends pursuing mainstreaming. The United States has made the formal commitment to mainstreaming, and with the submission of this feasibility study and the recommendation to pursue mainstreaming, USEITI will proceed to the preparation of a mainstreaming application for review by the EITI International Secretariat.

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 revenue 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 USEITI Mainstreaming Feasibility Study Entail?

The USEITI Independent Administrator (IA) is preparing this study at the request of the USEITI MSG. The IA completed this feasibility study in close consultation with the USEITI MSG, as well as government and company stakeholders, and the information in this report is a reflection of those consultations as well as an independent assessment of U.S. processes and controls.

The mainstreaming process consists of four main components—review of materials, stakeholder consultation, feasibility study, and plan of action. This study presents information on the U.S. track record of reconciliation, an explanation of how the United States will increase and embed disclosures, an evaluation of data quality, and options for data reconciliation. This study makes a statement about U.S. readiness on each of those components.

In order to prepare this study, the IA gathered and reviewed relevant documents and research around processes, systems, data, and controls of both the U.S. government and U.S. companies. In addition to this literature review, the IA also interviewed select stakeholders from three sectors: government, industry, and civil society. The IA used a standard interview guide to gain

Commented [DB1]: This was never presented as an option at the MSG. We agreed that Deloitte was going to do a feasibility study but their findings were not reported to us. In fact, the comments in this document show that Keith and I both opposed this move.

Commented [MS2]: As things currently stand, this report is confusing because the USEITI will likely be disbanded soon. Any sort of mainstreaming efforts would be undertaken unilaterally by the US government, but would not be a product of the USEITI MSG.

Commented [U3]: This false. The MSG approved a process for reviewing mainstreaming to determine whether it met the requirements of the EITI Standard, particularly Section 4. During the February 2017 USEITI MSG meeting, Deloitte made a presentation titled “Mainstreaming Feasibility In-Progress Update.”¹ The presentation indicates that at the time Deloitte was in the progress of “completing a feasibility study” of mainstreaming. The same slide indicates that MSG approval of the feasibility study would lead to the need for MSG agreement on a schedule for disclosure and assurance, which would form the basis for a mainstreaming application. The same slide states, “MSG must approve an application to the EITI Board seeking approval of the proposed workplan,” which must in turn be approved by the International Board. Until all of this is completed and approved on a consensus basis, this statement is false and invalidates this entire document, because it ignores Deloitte’s own outline of MSG approval for mainstreaming and appears to be shared for comment in bad faith.

Further, without a functioning MSG and its public meetings this document cannot be approved and the subsequent mainstreaming steps cannot be taken.

I hereby withhold my approval of this document. Paul Bugala

Commented [U4]: Not possible. The MSG has not met since February and has no scheduled meetings.



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perspectives and insights on data timeliness, reliability, and comprehensiveness, as well as on U.S. progress toward 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 to this study.

U.S. Track Record of Reconciliation

In order for countries to be considered for mainstreaming by the EITI International Board, they must show a track record of reconciliation without major errors. The EITI International Board does not define the length of time required, materiality threshold, or maximum number of discrepancies. As a result, this section contains a summary of the U.S. track record of reconciliation, thresholds, and unexplained variances.

Unilateral Disclosure of Revenue (UDR) in the United States

Each year, the Office of Natural Resources Revenue (ONRR), a division of the U.S. Department of the Interior (DOI), unilaterally discloses calendar year (CY) energy and mineral revenue paid to DOI. Only material payments deemed to be in-scope are 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 both ONRR's statistical information site and USEITI's data portal.

Specifically, the UDR includes:

Topic	Disclosure Detail
Calendar Years Disclosed	2013–2016
Unique Identified Companies	1,635
Total \$ Amount Disclosed ²	\$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; ONRR/BLM permit fees; and OSMRE abandoned mine

¹ OSMRE and BLM revenue streams are not collected through Forms ONRR-2014 and ONRR-4430. Also, not all UDR AML fee revenue for OSMRE is from federal lease holders.

² This disclosure represents all revenue paid to DOI in CYs 2013–2016.

Commented [ZM5]: Suggest clarifying what is "in scope" and roughly what percentage of ONRR revenues are disclosed in this way

	land (AML) fees, including audit and civil penalties, as well as late charges)
--	--

These amounts will grow annually as production and/or prices increase, and ONRR will continue to unilaterally disclose revenue. 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, natural resource, and revenue type.

Adapted Implementation for Subnational Payments in the United States

EITI Standard Requirement 4.2 (d) mandates reporting and reconciliation of material company payments to subnational government entities and the receipt of such payments. Separately, EITI Standard Requirement 4.2 (e) mandates reporting on mandatory revenue transfers from national governments to subnational governments. The EITI International Board approved USEITI's request for adapted implementation of the EITI Standard for subnational reporting as part of USEITI's 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 considers that USEITI's reporting will comply with EITI Standard Requirement 4.2 (e), which mandates reporting 100% of revenue specific to extractive industries collected by the U.S. federal government and transferred to U.S. state governments within the unilateral data disclosure. However, payments made by companies to state governments (4.2 (d)) and revenue collected by state governments are not directly be included in the reconciliation.

What Is the U.S. Record of Results for Reconciliation?

The United States conducted its first reconciliation in 2015. The MSG 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 45 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 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.

In the following year, the United States conducted its second reconciliation covering CY 2015 revenue. Similar to the CY 2013 reconciliation, the USEITI MSG set the scope of reconciliation to

Commented [ZM6]: This doesn't seem right: the issue here is not just reconciliation but also reporting, so shouldn't it say something like: "reported, unless a state opts in"?



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include the top paying companies that, together, accounted for 79% of revenue paid to ONRR³. The 79% reconciliation rate was below the materiality threshold of 80% set by the MSG. Of the 25 companies reporting (out of 41 invited), the overall variance for all DOI revenue came to \$156,387,357, or 3.24%. For seven companies reconciling taxes, the overall variance came to \$120,122,958, or 33.8% of the total value of taxes reconciled. Additionally, 21 discrepancies exceeded the allowable margin of variance determined by the USEITI MSG. The IA, in collaboration with in-scope companies and government entities, resolved or explained all 21 discrepancies, which included differences regarding when payments were recorded and how they were classified.

Each year, companies may choose to report and reconcile both taxes and DOI revenue; however, per the reconciliation history, more companies choose to report and reconcile DOI revenue than taxes. Nevertheless, once a country chooses to implement EITI "all companies and government agencies making or receiving payments must participate⁴." So, it is not for in-scope companies to choose whether to report taxes or DOI revenue. The necessity of in-scope company reporting is also emphasized in a 2010 blog post by the EITI International Secretariat's Deputy Head⁵.

³ https://www.doi.gov/sites/doi.gov/files/uploads/rr_results_msg_presentation_vfinal_1.pdf

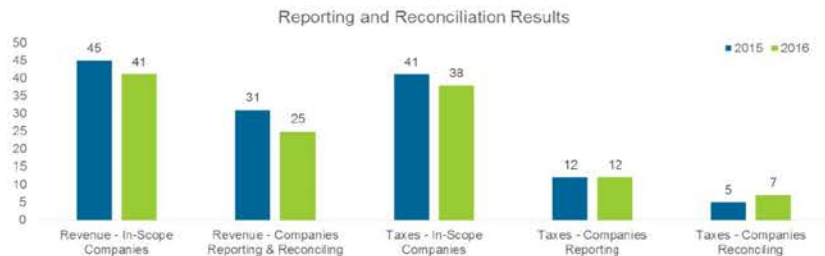
⁴ EITI Secretariat. "Frequently Asked Questions. 'Is the EITI voluntary?'" EITI Web Site. <https://eiti.org/FAQ#voluntary>

⁵ Rich, Eddie. "The voluntary dimension of the EITI." EITI Web Site. September 16, 2010. <https://eiti.org/blog/voluntary-dimension-of-eiti>



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Figure 1. USEITI Reporting and Reconciliation Results (2015 and 2016)



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%

What Are the Expected Results for 2017?

The USEITI MSG has decided not to conduct a reconciliation of extractive industries revenue reported by U.S. government and U.S. companies for 2017 due to its judgement that the reconciliation process is redundant with established audit and assurance procedures and controls in place in the United States⁶. Instead, the USEITI MSG has decided to use the UDR to document controls in place in the contextual narrative as it believes the UDR process will continue to be comprehensive, timely, and accurate. The USEITI MSG plans to make the UDR publicly available via existing sources, except where current laws or regulations prohibit data disclosure.

The USEITI MSG plans to produce an annual report for 2017 and will continue to update USEITI's data portal with additional contextual narrative information and data from U.S. states.

⁶ Decision made by the USEITI MSG on February 2, 2017.

Commented [DB7]: NO! The CSOs believe that the existing DOI process with its third party audit firm provides the level of reconciliation that is meaningful and that Deloitte's work was redundant, but we did NOT decide not to reconcile.

Commented [U8]: This is a lie. Show us where this happened in the MSG minutes.

Commented [MS9]: The USEITI MSG does not make any decisions in regards to unilateral disclosure. Those decisions are solely the US government's.

Commented [U10]: This decision was not made and I contradict it whenever and wherever I can.

Commented [DB11]: This is not possible since the MSG will not be meeting to approve it.

Commented [U12]: This is contradicted by the letters the MSG members were sent on March 9, which state the following, "Building on your direction in December 2017, ONRR will complete a third online report." This is also impossible with MSG meeting, involvement, and consensus approval.

Increasing and Embedding Disclosures

How Does the Government Embed and Increase Disclosures?

The 2016 EITI Standard encourages countries to make use of existing reporting for EITI rather than duplicate their findings in an EITI report. To this end, the EITI International Secretariat has hailed USEITI's data portal as a good example of mainstreaming data.

The U.S. government publicly discloses all data embedded in USEITI's data portal. This data is updated annually. Key information in USEITI's 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.
- **Federal revenue by region and company** for 2006 to 2015. This data can be filtered by natural resource category and/or region.
- **Company data** for 2013 to 2015, 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 USEITI'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.

USEITI's data portal also includes reconciliation data and Corporate Income Tax data for companies that have opted to report their tax data. Companies can also authorize government's disclosure of their tax payments pursuant to the Tax Reform Act of 1976 (26 U.S. Code § 6103), but few companies have chosen to provide this authorization. The Internal Revenue Service (IRS) discloses aggregate tax liability by industry based on a stratified sample

Commented [U13]: A statement like this surely deserves a reference.

Commented [U14]: I'm sure other commenters have pointed this out, but there's nothing keeping in-scope companies from giving permission for these disclosures. For example, Exxon and Chevron make tax disclosure per Canadian and EU law. Chevron Canada Limited. "Extractive Sector Transparency Measures Act - Annual Report." May 29, 2017. <http://www.chevron.ca/documents/ESTMA-Reporting-Template-Chevron-Canada.pdf>; ExxonMobil Canada Investments Company. "Extractive Sector Transparency Measures Act - Annual Report." April 24, 2017. <http://cdn.exxonmobil.com/-/media/global/files/other/2017/exxonmobil-canada-investments-company-estma-report-30nov2016.pdf>

¹ Chevron North Sea Limited. "Annual Extractive Report." U.K. Companies House Extractives Service. November 15, 2016. <https://extractives.companieshouse.gov.uk/company/01546623>

² EITI International Secretariat. "EITI Board Members 2016-2019." May 31, 2017. p. 2. https://eiti.org/sites/default/files/documents/eiti_board_members_2016-2019_as_of_31_may_2017.pdf



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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 Bureau of the Fiscal Service, a division of the U.S. Department of the Treasury ("US Treasury"), collects Corporate Income Taxes.

In summary, the U.S. government discloses the majority of data required for mainstreaming on USEITI's data portal. Disclosures by the IRS provide information on taxes at an aggregate industry level, but not by company. Opportunities for the U.S. government to increase and embed disclosures include the expansion of the revenue streams disclosed, such as the Coal Excise Tax and in-scope natural resources.

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 (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 general accepted in the United States of America (GAAP). 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. Based on a review of company 10-Ks, these public companies arrange their internal controls according to the *Internal Control—Integrated Framework* (2013) established by the Committee of Sponsoring Organizations of the Treadway Commission's (COSO), which is a joint initiative of the American Accounting Association, the American Institute of Certified Public Accountants (AICPA), Financial Executives International, the Association of Accountants and Financial Professionals in Business, and the Institute of Internal Auditors. Appendix 3 contains information on the disclosures, forms, and auditors of in-scope companies, as well as links to available annual reports or 10-Ks for 2015, the last year for which all companies created such reports.

None of these disclosures are comparable to information required to be reported under the EITI Standard. The US does have a law that requires such disclosures, known as Section 1504 of the Dodd-Frank Act, which is required to be implemented by the SEC.

Private Companies

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

Commented [ZM15]: This requires a lot more detail

Commented [U16]: The whole of the U.S. Government should be engaged in the USEITI process. This is not an excuse.

Commented [U17]: I don't think you've made this case.

Commented [U18]: Perhaps by not fighting to overturn the law and SEC rule that required these disclosures?

Commented [ZM19]: Yes but the real question is, what about actual disclosure? AN honest assessment would point out that we have almost no disclosure of EITI-relevant information from companies

Commented [ZM20]: Why go on about this at such detail since none of these disclosures have any relevance to EITI? Suggest abbreviating to make the point that although there are extensive disclosure requirements, none of them really fit with the EITI Standard



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controls and audits in which public companies operate. Importantly, private companies can be subject to audits by the IRS.

Related Disclosures

In addition to these internal controls, external audits, and related disclosures, a number of in-scope companies report their payments in other EITI countries, and/ or according to European regulations. (Rio Tinto, included below, is not an in-scope company, but is a USEITI MSG member and, therefore, is included.)

Company	Natural Resource	Reports Under	Disclosures
BP p.l.c. (BP)	Oil & Gas	U.K. law	BP reports payments to governments at the project level, and such payments are unaudited, but independently assured by Ernst & Young. http://www.bp.com/content/dam/bp/pdf/sustainability/group-reports/bp-report-on-payments-to-governments-2015.pdf
Eni S.p.A. (ENI)	Oil & Gas	Voluntary	ENI reports payments to governments at the national level, as well as additional contextual information. The ENI report is unaudited. https://www.eni.com/en_IT/sustainability/integrity-human-rights/transparency-of-payments.page
Shell Oil Company ("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. The Shell report is unaudited. http://www.shell.com/sustainability/transparency/revenues-for-governments.html
Statoil ASA ("Statoil")	Oil & Gas	Norwegian law	Statoil reports payments to governments at the project and country levels. It also includes contextual information in its annual report. The Statoil report is unaudited. https://www.statoil.com/en/investors.html#annual-reports
BHP Billiton (BHP)	Coal & Hardrock	Voluntary	BHP reports both tax and non-tax payments to governments, as well as contextual information and data on broader economic contributions (e.g., wages). BHP's non-tax data includes payments to governments at the project level. BHP's report is audited by an independent auditor according to Australian Auditing Standards. http://www.bhpbilliton.com/our-approach/operating-with-integrity/tax-and-transparency

Commented [MS21]: Section should be renamed to reflect the fact these disclosures are not necessarily voluntary but may be required by other jurisdictions.

Commented [U22]: Further, this should note that members of the MSG lobbied to have legal disclosure requirements in the U.S. overturned and revoked. Letter from Jack N. Gerard, President and CEO of the American Petroleum Institute, to the Honorable Paul D. Ryan, Speaker of the U.S. House of Representatives, and the Honorable Nancy Pelosi, Democratic Leader of the U.S. House of Representatives, about H.J. Res. 41, January 31, 2017.
http://www.api.org/-/media/Files/News/Letters-Comments/2017/1-1-31-17_Letter_to_House_Leadership-CRA_Sec_1504.pdf

Commented [ZM23]: What about those in-scope companies that do not provide this information? That should also be noted for completeness

Commented [MS24]: Should note that, in most of these reports, the companies define "project" in the US as state-level reporting.

Commented [ZM25]: Not true! They do include taxes, see p6, e.g. \$138m in US taxes

Company	Natural Resource	Reports Under	Disclosures
Rio Tinto	Coal & Hardrock	Voluntary	Rio Tinto reports both tax and non-tax payments to governments, as well as publishes an annual "Taxes Paid" report. Payments are reported at the government and project levels. The report includes economic contribution data and contextual information, including case studies. Rio Tinto's 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 United States must comply with the reporting requirements under the Sarbanes-Oxley Act of 2002 (the "Act") and the corresponding U.S. Securities and Exchange Commission (SEC) Final Rule, *Management's Report on Internal Control Over Financial Reporting and Certification of Disclosure in Exchange Act Periodic Reports* (<https://www.sec.gov/rules/final/33-8238.htm>). The SEC Final Rule requires that a company's board of directors "include in their annual reports a report of management on the company's internal control over financial reporting."⁷ Specifically, the SEC Final Rule states the annual report must include:

- 1) A statement of management's responsibility for establishing and maintaining adequate internal control over financial reporting at 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 (i.e., *Internal Control—Integrated Framework*, established by COSO, is the most commonly used).
- 4) A statement affirming that the registered public accounting firm that audited the company's financial statements 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) follows a review by the company's own internal auditors (reporting to the company's audit committee).

⁷ 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.

Commented [ZM26]: Unclear how this is relevant to EITI reporting given there are no comparable SEC disclosures unless & until 1504 is implemented. Therefore this whole discussion of SOX should be deleted, unless you can explain how it's relevant in the EITI context



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A review of controls is part of the annual financial statement audit that every public company must complete with an independent public accounting firm. This audit provides investors and other interested parties with an assessment as to whether the 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, rely on and require the same level of assurance and attestation.

Evaluating Data Quality

The requirements for mainstreaming include determining whether data from both government and industry sources is up to date, comprehensive, and reliable outside of the EITI reporting structure. This section outlines the 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." 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). There is, however, not sufficient payment data from companies until Section 1504 is implemented, which will require up-to-date payment disclosures from public companies.

Comprehensive Data

The U.S. government's UDR covers all in-scope, non-tax payments received by the U.S. government, including payments from companies not in scope for USEITI revenue reconciliation purposes. 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 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 USEITI's data portal, which provides a detailed overview of the extractive industry 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 USEITI and how the extractive industries function in the United States. Specifically, the portal includes:

Commented [ZM27]: How many? Nowhere near enough to be fairly described as "comprehensive"

Commented [U28]: As noted above, once a country chooses to implement EITI "all companies and government agencies making or receiving payments must participate." The necessity of in-scope company reporting is also emphasized in a 2010 blog post by the EITI International Secretariat's Deputy Head¹.



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- 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 USEITI's *Audit and Assurance Practices and Controls in the U.S. Factsheet*, which is available at https://useiti.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 bodies⁸. 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.

Appendix 2 provides a table of laws, regulations, professional standards, and regulatory organizations used by companies, governments, and auditors to guide the reporting of financial information in the United States, including 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, then the data is "audited in accordance with international standards, the procedure does not require a comprehensive

Commented [U29]: The following section includes a lot of very useful regarding reconciliation and government audit systems. It seems this information that should be shared with the public regardless of mainstreaming efforts.

⁸ "Tracking and Verifying Company Payments to Government Agencies in the U.S. Extractive Industries," n.d., USEITI, https://useiti.doi.gov/downloads/USEITI_budget-audit-factsheet_2016-08-17.pdf.



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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.

This report covers CY 2015 rents, royalties, and bonuses that, together, constitute 95% of DOI revenue streams, as well as Corporate Income Taxes. The following table provides additional details:

Revenue Stream	Percent of DOI Revenue	Upfront 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	N/A	✓	✓	✓

Note: Percentages total more than 100% due to rounding and negative ONRR other revenue.

ONRR’s Upfront Reconciliation Process

ONRR’s mission is to collect, account for, and verify natural resources revenue due to U.S. states, American Indians, and the federal government. Each month, ONRR receives and processes 49,000 royalty and production reports. ONRR’s reconciliation process determines whether the U.S. government has been paid what it is owed, as well as whether companies made payments to the federal government in a timely manner. For ONRR’s reconciliation

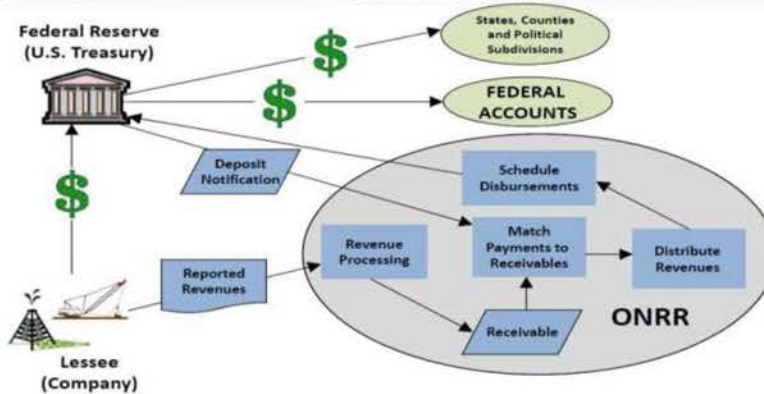


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process, companies report data the month after the month of production. Comprehensive reporting by companies and payors occurs on a project or lease level⁹ basis.

The following graphic illustrates the 100% upfront reconciliation and matching of company payments to ONRR revenue, as well as the distribution of revenue to recipients.

Figure 2. Upfront Reconciliation and Matching of Company Payments to ONRR Revenue



In this process, companies make payments to the U.S. Treasury and report those payments to ONRR on a monthly basis.

DOI Mainstreamed Processes and Controls

ONRR's Internal Controls and Processes

The United States has a set of standards and internal controls that are aimed at achieving reliability and accuracy in payment collection, accounting, and reporting. In accordance with guidance from the U.S. Government Accountability Office (GAO) Green Book, These standards and internal controls are outlined as follows:

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

⁹ A "project" is defined as the operational activities governed by a single contract, license, lease, concession, or similar legal agreements that forms the basis for payment liabilities to a government. If multiple agreements are interconnected, they should be considered a project.



Components of Internal Control	Principles
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 annual OIG audits, external third parties audit ONRR's financial functions on an annual basis in accordance with generally accepted government auditing standards (GAGAS). Audits in the United States have a high standard of verification in the form of evidence for source documents and records, resulting in greater accuracy of payment and reporting information. Additionally, ONRR uses U.S. Standard Government Ledger (USSGL) accounts to prepare external reports for the Office of Management and Budget (OMB) and the U.S. Treasury, which includes this financial information in its annual consolidated DOI Agency Financial Report. Finally, the Chief Financial Officer (CFO) Act requires annual audits of DOI's financial statements, which include a thorough review of ONRR.

OMB Circular A-123 is part of the DOI Agency Financial Report. Per this regulation, the secretary of the DOI must provide an assurance statement on the state of the DOI's internal controls to the president and Congress. OMB, GAO, and Congress established the requirement for agencies to develop and maintain effective internal controls 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 of 1982.

The A-123 process at ONRR begins with the director of ONRR issuing guidance to employees that outlines the compliance assurance activities that must be completed. ONRR's Internal Review, Oversight, and Compliance (IROC) program provides leadership and technical support to ONRR employees as they complete the A-123 process. Program managers of each assessable unit (AU) in ONRR use DOI's Integrated Risk Rating Tool (IRRT) to complete a risk assessment of



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their processes. With that information, IROC develops ONRR's Three-Year Component Inventory and Annual Risk-Based Internal Control Review Plan (Three-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, and 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 flow chart form
- Identify, document, and test key controls of all processes that are significant to a line item on DOI's financial statements
- Perform DOI-directed and ONRR-directed internal control reviews (ICRs)
- Develop DOI-required information technology (IT) and overall annual assurance statements

Additionally, DOI has designed an **Integrated Internal Control Program** comprising the plans, methods, and procedures used to support its mission, goals, and objectives. DOI has a six-step approach for its Integrated Internal Control Program that aims to enable performance-based management and supports DOI's mission, while addressing multiple legislative requirements.

Figure 3. DOI's Integrated Internal Control Program

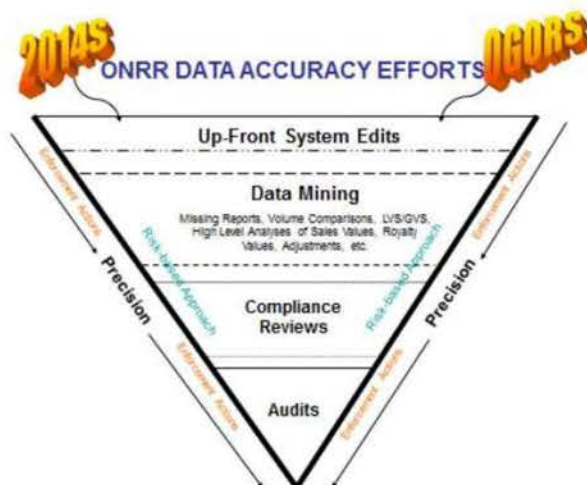


The goals of DOI's Integrated Internal Control Program are to:

- 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 refining internal control guidance and using 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 extractive industries companies is reliable and accurate. These controls occur at different points in the data collection and analysis process, as depicted in the following graphic, and provide the foundation for ONRR's compliance reviews and audits.

Figure 4. ONRR's Data Accuracy Process



Data control and verification starts at the submission stage of extractive industries reporting. Royalty reports (i.e., Forms ONRR-2014 and ONRR-4430) and production reports (i.e., oil and gas operations reports (OGORS)) go through hundreds of upfront system edits and checks for individual companies before they are submitted and accepted into ONRR's financial systems. These edits help prevent companies from submitting incorrect data, such as erroneous lease agreement amounts, incorrect prices, mathematical errors, or missing data elements.

Once the data is submitted by companies, 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 Form ONRR-2014 and OGOR submissions, as well as identifies errors that occur across multiple companies. When such errors are identified, ONRR works to provide specific guidance to companies and/or establish improved internal processes for data collection and review. Data mining focuses on resolving issues collaboratively with companies prior to any compliance review and/or potential audit by using a system-generated variance to identify the required workload.

Audit and Compliance Management Function

ONRR's audit and compliance management (ACM) function is a part of the U.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 companies to verify compliance with lease instruments and established regulations, laws, and guidelines. The subsequent



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information detailed in this section is based on interviews with federal officials. This information was not independently verified by the IA.

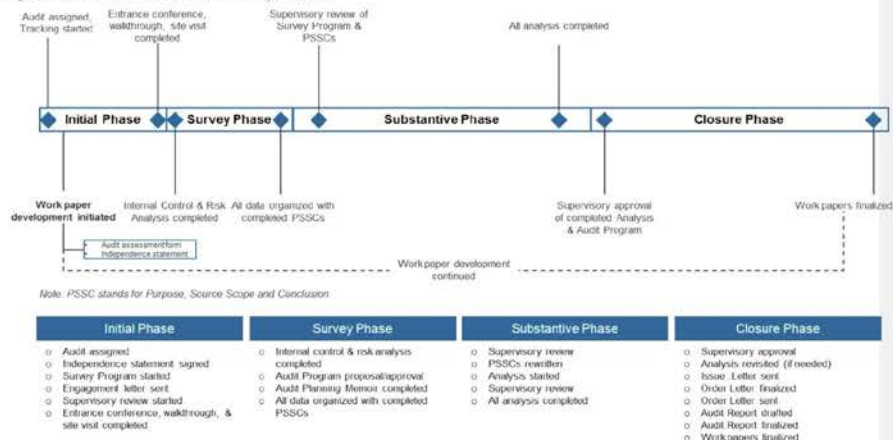
ONRR's ACM function uses a risk-based approach to conduct compliance reviews and audits. This approach uses a risk calculation tool to develop audit and compliance work plans and identify potential risks of noncompliance based on a number of proprietary indicators, including previous audits and compliance reviews and the significance of royalty dollars. The risk calculation tool stratifies the compliance of companies and properties into high-, medium-, and low-risk categories. ACM's work is performed by more than 240 ONRR staff in six regional offices and 125 auditors working for states and tribal nations that have significant activity in extractive industries. The auditors on the State and Tribal Royalty Audit Committee perform audit and compliance reviews under the 202/205 cooperative agreements between ONRR, states, and tribes.

Through the ACM function, ONRR uses multiple evaluative techniques to determine if payments received from companies are for the appropriate amounts. These techniques include the following:

- One month after sales of production, a report and payment is due. At the time of the reporting, ONRR uses upfront system edits to verify royalty and production reports, including transportation and processing limits, multiple royalty rates, pricing edits, and agreement amounts.
- 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 volume 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 upfront-system edits and data mining, ONRR conducts compliance reviews and audits. Compliance reviews are used to examine issues and potential reporting errors after the upfront system checks and data mining. The compliance reviews are conducted two to three years after the original data submissions to allow for adjustments and clarification of the data. In fiscal year (FY) 2016, ONRR completed more than 500 compliance reviews. Compliance reviews can come from a variety of sources, including a referral from another part of the agency, information obtained from the IRRT, or data anomalies found by the system.

Audits are performed based on source documentation or other verifying information obtained to analyze the completeness and accuracy of the production volumes, sales volumes, sales values, transportation and processing allowances, and royalty values reported by companies, in accordance with the reporting and valuation regulations. In FY 2016, the ACM function conducted 128 audits. ACM's audit process timeline is outlined in Figure 5.

Figure 5. Audit Process Timeline for ACM



When ONRR discovers inaccurate payments or potential fraud, it has several enforcement mechanisms at its disposal, including alternative dispute resolution, litigation, and civil penalties.

Additional Audits by the State and Tribal Royalty Audit Committee (STRAC)

In addition to the ONRR's audits, state government agencies also audit companies' reported production and payments, and these state government agencies are in turn subject to controls and audits of their own. Likewise, tribes in the United States also complete audits and are subject to controls and audits of their own. This multilayered system of checks and balances strengthens the data's reliability. Furthermore, STRAC works with ONRR to audit leases within its respective jurisdictions. STRAC consists of representatives from nine states and six Indian tribes. STRAC's purpose is to help ensure proper royalty payments are made by oil, gas, and solid mineral companies. STRAC's agreements are authorized under Sections 202 and 205 of the Federal Oil and Gas Royalty Management Act of 1982 (FOGRMA), as amended by the Federal Oil and Gas Royalty Simplification and Fairness Act of 1996 (FOGRSFA). STRAC helps further the accountability of money owed to its jurisdictions and improves the reliability of reported data.

U.S. Bureau of Land Management (BLM) Controls

BLM uses several methods and processes to ensure data accuracy and integrity when collecting rents, bonuses, and BLM permit fees.

First, the BLM Collections and Billings System (CBS) builds data integrity into the data collection system design. BLM uses 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. CBS uses



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BLM's intranet to transmit collection information and includes several layers of security. In addition, CBS allows field personnel to enter any type of collection and organizes receipts into the correct accounts by natural resource category, subject, and action. BLM conducts continuous internal reviews and reports to ensure the timeliness, accuracy, and compliance of data entered into CBS.

Second, the Automated Fluid Minerals Support System (AFMSS) is a BLM-wide fluid mineral (i.e., oil and gas, geothermal, and helium) system with authorized use and inspection and enforcement support. AFMSS 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; and assessments and penalties for noncompliance and undesirable events (i.e., spills), as well as displays well production data (OGOR) collected by ONRR and data on customers (i.e., producers and 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 and compliance data, including data related to preconstruction, drilling, production measurement and accountability, facility abandonment, undesirable events, enforcement actions (i.e., assessments and penalties), and inspection strategy information. AFMSS also contains the following: oil, gas, and geothermal leases; unit agreements; participating areas; communitization agreements; bond coverage; and drainage assessment data.

These assurance mechanisms and processes help BLM meet internal and external audit requirements and support accurate accounting and reporting.

[Office of Surface Mining Reclamation and Enforcement \(OSMRE\) Controls](#)

OSMRE uses the Internet-based Coal Fee Collection Management System (CFCMS) to report on 99% of U.S. coal production. The system is designed to prepopulate information about companies with coal-producing permits, thus reducing data entry error. The system contains numerous edits to ensure data accuracy, as well as automatically calculates fee amounts based on the production data entered by companies. OSMRE also completes paper-based reports for the remaining 1% of U.S. coal production.

Internally, OSMRE conducts continuous reviews of both automated and manual data entered into CFCMS to ensure the timeliness, accuracy, and compliance of data.

Externally, OSMRE conducts independent reviews of CFCMS data during audits of coal company records. During such audits, OSMRE auditors review data entered into CFCMS against coal company records of reported tonnage to determine whether there are any discrepancies in the CFCMS data.



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OSMRE's Division of Compliance Management (DCM) performs audits of coal mining operations nationwide in accordance with GAGAS. These audits are performed using an internally developed automated audit program that is integrated with other OSMRE systems to increase efficiencies and reduce errors. DCM maintains an internal quality control system that is monitored on an ongoing basis to provide reasonable assurance that the policies and quality controls are appropriately designed and effectively applied. DCM's audit plan uses a risk-based approach, prioritizing audits based on identified risk factors. The audit program is designed to promote timely and accurate reporting of coal tonnage and ensures correct fee payments. In accordance with the requirements of GAGAS, DCM is subject to a peer review every three years performed by an independent certified public accounting firm.

The efficiencies of the audit program and its related activities have enabled OSMRE to achieve a compliance rate of more than 99% at a minimal cost to the Abandoned Mine Land (AML) Fund. OSMRE's process improvements and successful migration to electronic reporting has automated virtually all audit functions and eliminated 100% of data entry errors.

OIG Oversight

OIG provides independent oversight and promotes accountability within programs, operations, and management of the department. OIG performs the following functions:

- Oversees the contract with an independent certified public accounting firm to perform the annual DOI 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
- Keeps interested parties informed about deficiencies related to the administration of programs and operations and the progress of necessary corrective actions
- Reviews the activities related to the EITI initiative

Additional DOI Controls

Various entities within DOI support the accuracy, reliability, and timeliness of data collection and reporting, as detailed in the following table:

DOI Office	Responsibilities/Functions
Financial and Production Management	<ul style="list-style-type: none">• Collects, verifies, and distributes all royalties, rents, and bonuses• Receives, processes, and verifies industry-submitted royalty reports• Performs data mining functions• Receives, processes, and verifies industry-submitted production reports and error corrections for all federal and Indian production• Oversees meter inspections for production verification

DOI Office	Responsibilities/Functions
General Ledger (GL)	<ul style="list-style-type: none"> Accounts for billions of dollars collected and disbursed by ONRR, in accordance with GAAP Processes payments Prepares reports and reconciliations for the U.S. Treasury Processes revenue-sharing disbursements to states and counties through the U.S. Treasury, as well as transfers to other federal agencies Processes refunds of overpayments to lease holders Provides the initial trial balance used to develop departmental financial statements GL is subject to an annual financial audit by OIG
Accounting Services	<ul style="list-style-type: none"> Defines accounts payable (AP) functions as either federal or Indian Ensures revenue is received with correct information and proper recipients Prepares disbursement data for the U.S. Treasury and the Office of the Special Trustee Provides distribution and mineral revenue reports to federal agencies, states, tribes, tribal allottees, and other requestors
Accounts Payable (AP) Federal	<ul style="list-style-type: none"> Oversees system processing of all payor reporting and payments Works closely with recipient agencies, states, and counties to resolve issues and ensure timely distribution of shared revenue Ensures AP federal processes are in compliance with federal statutes regarding mineral extraction on federal lands
Accounts Payable (AP) Indian	<ul style="list-style-type: none"> Collects daily rents and royalties on behalf of Indian tribes and allottees Works extensively with the Bureau of Indian Affairs (BIA), the Office of the Special Trustee for American Indians (OST), and recipient Indian tribes Prepares a daily report of deposits for OST and a twice-monthly distribution report on leases held by individual Indian allottees Works with OST and Indian tribes to answer questions and reconcile accounts, as needed Works with ONRR's Indian outreach organization to resolve allottee issues
Financial Services	<ul style="list-style-type: none"> Manages other related federal and Indian account reconciliations Reconciles payments to receivables within customer accounts Establishes receivables for mineral royalty reports Identifies credit and refund actions and processes related paperwork

U.S. Government Mainstreamed Processes and Controls

U.S. Treasury Single Source Cash Flow

The U.S. Treasury and Federal Reserve System (the "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 all federal agencies. The core tenet of this centralized system of accounts is that no single federal agency controls the receipt and payment of public funds. All



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federal agencies that handle government financial transactions must properly perform their functions to support internal government controls and the system of central accounts.

Treasury performs variance analysis and other reconciliations on transactions and balances contained within its systems. Treasury contacts ONRR with any questions it may have and can request ONRR justify or make changes to transactions or balances. DOI's external auditor also samples deposit and disbursement data from all Treasury systems and traces that data back to originating lease documents within ONRR's systems or other agency accounting advice.

To accomplish these ends, there are several primary systems maintained by Treasury that ONRR utilizes for cash flows, including the Collections Information Repository (CIR) for revenue collections, the Intra-Governmental Payments and Collections System (IPAC) for intragovernmental transfers, the 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 revenue, as well as geothermal and solid minerals revenue through the CIR, which serves as a transaction broker, data warehouse, and reporting solution. CIR provides a single touchpoint 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. CIR is a self-contained system with various related external system interfaces. CIR provides ONRR with revenue related to payments from the public sent via Fedwire, Pay.gov, automated clearing house (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 CIR is used for revenue collected by ONRR from extractive industries companies, IPAC is used for oil and gas revenue collected by other federal agencies and transferred to ONRR. 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 transactions (i.e., buy, sell, fiduciary, and other miscellaneous payment transactions). Sender and receiver Treasury account symbols/business event type codes (TAS/BETC) are validated in a shared accounting module (SAM) and transmitted to the CARS account statements at the time of IPAC origination.



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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 disbursement activity. CARS is a one-stop tool to:

- Provide and retrieve data and information from Treasury
- Capture and record TAS information for payments
- Deposit intragovernmental transactions
- Provide an account statement of the fund balance with Treasury
- Allow access to transaction details to support research and reconciliation
- Improve the usability and currency of government-wide financial information
- Minimize data redundancy and enhance data sharing between Treasury's central accounting system, financial service provider systems, and ONRR's core financial systems

ONRR reconciles the CARS fund balance with Treasury. ONRR's accounting system does this via reclassification of collection and disbursement transactions to identify the proper fund within Treasury. This reconciliation process is performed during 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 revenue managed by ONRR, OSMRE, and BLM. In FY 2016, DOI obtained an unmodified opinion from its independent certified public accounting firm—this was the 20th consecutive unmodified opinion for DOI.

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



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processes generally employed across DOI's bureaus and offices to achieve the department's overarching mission.

- First is an examination of 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 GAAP. 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 GAAP.

In the United States, such a third-party audit involves the following types of high-level activities:

- 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 material misstatements of the general-purpose financial statements and closing-package financial statements, whether due to 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

KPMG, LLP, DOI's independent auditor, noted in one of the Independent Auditor's Report, "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 ... 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."¹⁰

¹⁰ "DOI Agency Financial Report FY 2013," <http://www.doi.gov/pfm/afr/2013/upload/DOI-FY-2013-AFR.pdf>; "DOI Agency Financial Report FY 2014," <http://www.doi.gov/pfm/afr/2014/upload/DOI-FY-2014-AFR.pdf>.



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The audit of ONRR and DOI was conducted in accordance with GAGAS. This framework is used for conducting high-quality audits with competence, integrity, objectivity, and independence. These standards are promulgated by the 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 revenue. OIG provides oversight in a number of areas. OIG's Office of Audits, Inspections, and Evaluations examines financial statements to determine if they are presented fairly and in accordance with GAAP. OIG's Office of Investigations conducts, supervises, and coordinates investigations related to allegations of fraud, waste, abuse, or mismanagement of financial resources or that result in significant financial losses to DOI.

Ultimately, as members of the executive branch, DOI and ONRR are subject to congressional oversight. Congress has a constitutional responsibility and right to investigate the actions of the executive branch and can compel reports, witnesses, and testimony.

The U.S. Government Accountability Office (GAO)

GAO supports Congress in meeting its constitutional responsibilities and assists in improving the performance and accountability of the federal government. GAO's 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 spent efficiently and effectively
- Investigates allegations of illegal and improper activities
- Reports on how well government programs and policies are meeting their objectives
- Performs policy analyses and outlines options for congressional consideration
- Issues legal decisions and opinions
- Advises Congress and the heads of executive agencies on ways to make government more efficient, effective, ethical, and responsive
- Publishes a high-risk list (<http://www.gao.gov/highrisk/overview>)
- Its work leads to laws and acts that improve government operations
- Maintains and updates GAGAS

The GAO comptroller general issues GAGAS, which were first published in 1972 and are commonly referred to as the "Yellow Book." GAGAS cover federal entities and those organizations receiving federal funds. The most recent 2011 revision of *Government Auditing Standards* takes into account recent changes in other auditing standards, including IFRS.

GAGAS incorporates, by reference, the AICPA *Statements on Auditing Standards (SAS)* and *Statements on Standards for Attestation Engagements (SSAE)*. Auditors may elect to use the

Commented [MS30]: It would be an oversight not to mention that the GAO considers Interior's management of its oil and gas resources to be a "high risk" area.
http://www.gao.gov/highrisk/management_federal_oil_gas/why_did_study



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International Auditing and Assurance Standards Board (IAASB) standards, the 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 modifies the base standard only where modifications are deemed necessary to better serve the needs of the U.S. legal and regulatory environment. 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 at 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 professional standards committee of the International Organization of Supreme Audit Institutions (INTOSAI), 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.

Overview of Beneficial Ownership Requirements in the 2016 EITI Standard

The 2016 EITI Standard requires implementing countries to ensure companies disclose their beneficial owners, as well as politically-exposed persons holding ownership rights by 2020¹¹. The Standard recommends that beneficial ownership information be made available through public registers, and that at a minimum the information be included in the country's annual report. The Standard first requires implementing countries to publish a roadmap outlining activities and preparations that the MSG considers necessary to implement beneficial ownership requirements. The USEITI MSG published this roadmap in January 2017 and shared it with the EITI International Board; the roadmap is available as part of the meeting materials for the November 16-17, 2016 MSG.

Current Status of Beneficial Ownership in the United States

There is currently no a single definition for beneficial ownership in the United States, nor is there an institutional framework for beneficial ownership disclosure, a specific framework for the level of detail of beneficial ownership information collected, or a single methodology for

¹¹ The Standard outlines that this applies to corporate entities that bid for, operate or invest in extractive assets and that this disclosure should include the identities of beneficial owners (including name, nationality, and country of residence), the level of ownership and details about how ownership or control is exerted.



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assessing the accuracy of the data. However, the U.S. does have a number of frameworks for the collection of beneficial ownership information, but data collection and requirements vary.

The first framework for collection is the corporate formation process. In the United States, individual states manage the corporate formation process. As such, information requirements for incorporation vary widely, but no states require persons forming corporations to name beneficial owners at the time of corporate formation. There are no mechanisms that capture, track, and manage beneficial owners at the state level. Some states do make certain data on incorporated companies public through online systems. 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 Alabama¹², Connecticut¹³, Massachusetts¹⁴, Nebraska¹⁵, North Carolina¹⁶, Texas¹⁷, and Virginia¹⁸. There are no federal laws regulating incorporation.

At the federal level, three requirements provide an institutional framework for beneficial ownership information collection, but not disclosure. First, the U.S. Treasury's Customer Due Diligence Rule¹⁹ requires U.S. financial institutions to know the real people who own, control, and profit from companies (beneficial owners) and to verify their identities. Whenever companies open a new account at a covered financial institution, the customer must disclose the identity of 1) each individual who owns 25% or more of the company and 2) any individual who controls the company. Second, legal entities that file federal taxes must obtain and have an Employer Identification Number (EIN). To do so, they must name a "responsible party." A 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."²⁰ Finally, the Securities Exchange Act of 1934 requires any person or group that acquires more than 5% beneficial ownership of public company equity securities must disclose its position within 10 days of crossing the threshold.

For extraction on federal lands, the Mineral Leasing Act of 1920 (MLA) and the Outer Continental Shelf Leasing Act (OCSLA) require companies to meet certain requirements pertaining to ownership. The MLA requires companies holding onshore federal mineral leases

¹² <http://www.sos.alabama.gov/government-records/business-entity-records>

¹³ <http://www.ct.gov/sots/site/default.asp>

¹⁴ <https://www.sec.state.ma.us/cor/>

¹⁵ <https://www.nebraska.gov/sos/corp/corpcorsearch.cgi>

¹⁶ <https://www.sosnc.gov/corporations/>

¹⁷ <http://www.sos.state.tx.us/Corp/sosda/index.shtml>

¹⁸ <https://www.scc.virginia.gov/clk/bussrch.aspx>

¹⁹ <https://www.federalregister.gov/documents/2016/05/11/2016-10567/customer-due-diligence-requirements-for-financial-institutions>

²⁰ USEITI Beneficial Ownership Work Group meeting minutes, 2016

Commented [U31]: Per the request of the co-chairs, the following beneficial ownership definition was developed for include in the 2017 reporting template.

USEITI Proposed Beneficial Ownership Definition
March 7, 2017

In accordance with requirement 2.5.f.ii "The definition should be aligned with (f)(i)¹ 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".

Proposed Definition:

A beneficial owner in respect of a company means the natural person(s) who directly or indirectly ultimately owns or controls the corporate entity. For purposes of this definition: "Owns" means holding 5% or more of the shares and/or voting rights in the corporate entity, disregarding any shares or voting rights held by the entity itself. "Controls" includes but is not limited to influencing the company via controlling ownership interests, voting rights, agreement or otherwise. Those whose control over a corporate entity arises solely from their position as a paid employee of the entity are not beneficial owners for the purposes of this definition. Those with legal agency to control interests held by minor children are the beneficial owners for the purpose of this definition. For the avoidance of doubt, nominees, agents or other forms of proxy cannot be identified in the place of the actual beneficial owner(s).

The term 'politically exposed person' means a natural person who is or who has been entrusted with prominent public functions and includes the following:

- (a) heads of State, heads of government, secretaries and deputy or assistant secretaries;
- (b) members of Congress or of similar legislative bodies;
- (c) members of the governing bodies of political parties;
- (d) members of supreme courts, of constitutional courts or of other high-level judicial bodies, the decisions of which are not subject to further appeal, except in exceptional circumstances;

Commented [ZM32]: Suggest deleting this, irrelevant here because none of these are with respect to **beneficial** owners (they all deal with legal owners, i.e. name-only)

Commented [ZM33]: Need to make the point here that the EITI requirement on BO cannot be mainstreamed unless US also has adequate public disclosure of BO data; data collection alone is not enough

Commented [ZM34]: Not quite the same as BO



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to meet citizenship and acreage requirements. For coal and leasable solid minerals, a 10% ownership in a partnership or association must be disclosed to ensure this compliance. 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. There are no comparable requirements for geothermal. The OCSLA governs oil, gas, sulfur, other minerals, and renewables leased on the Outer Continental Shelf of the United States. It requires that bidders prove they are qualified to bid by demonstrating: 1) if an individual, that they are a citizen or national of the U.S. or an alien lawfully admitted for permanent residence, 2) if a corporation, that they are organized under the laws of a state or territory, or 3) if an association, that the association's members must be qualified individuals or corporations. They don't need to disclose underlying owners. Furthermore, to obtain a mining claim for locatable minerals (such as gold or copper) on federal lands one must prove that one is either a U.S. citizen, legal immigrant who has filed for citizen, business entity organized under the laws of the state, or an agent or person falling into those categories.

There is no authoritative source for beneficial ownership information of legal entities, given that there is no requirement for U.S. states to collect this information when a company is formed. For the information that is collected, there are a number of restrictions to its disclosure. 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 applies to CDD and EIN information collected, among others. SEC filings are public, given their intent to safeguard investors.

The United States does have significant statutes and regulations restricting U.S. government employee ownership of certain financial interests, requiring employee reporting on certain financial interests, and restricting 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. These laws are outlined in the USEITI MSG's beneficial ownership roadmap and are detailed in Appendix 3.

USEITI MSG's Proposed Activities from Beneficial Ownership Roadmap

The USEITI MSG outlined these considerations and more in detail in its beneficial ownership roadmap. It also outlined a proposed timeline and objectives for meeting the beneficial ownership requirement. Details of these timelines and activities is outlined below:

Timeframe	Activity
Calendar Year 2017	The MSG agrees to working definition of beneficial owner and conducts a legal review of the legal barriers and enablers to public disclosure of beneficial ownership information under U.S. law

Commented [ZM35]: This is an opinion not a statement of fact, or a conclusion supported by any facts

Commented [ZM36]: Not relevant as it does not deal with BO but with responsible parties

2017 USEITI Reporting Season (March – August)	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

Commented [U37]: Much of the preceding three steps will be very difficult to achieve given the cancelation of MSG meetings and halt of working group activities. An honest assessment of the situation would note that.

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

Conclusions of the Report and Recommendation on Mainstreaming

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

1. *The United States has routine disclosures at the requisite level of detail for a significant amount (though not all) of the data required by the EITI Standard and the terms of reference developed by the USEITI MSG. The U.S. government’s UDR covers all in-scope, non-tax payments received by the U.S. government, including payments from companies not in scope for USEITI, 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://useiti.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. The EITI document, “Toward Mainstreaming Action Plan,” approved by the EITI International Board on October 25, 2016, specifically highlights USEITI’s data portal as an example of “the trend toward mainstreamed EITI implementation.”*

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*

Commented [U38]: The MSG has not been in operation since March. This should be noted and no claims of consultation beyond that point should be made. Further, it should be clear that these are the recommendations of Deloitte on its own. My further comments reflect this understanding of our circumstances.

Internal Revenue Code (26 U.S.C.), which provides for the confidentiality of tax returns and return information, authorizes disclosure by the U.S. government of taxpayer information at the company level provided the taxpayer explicitly authorizes such disclosure; but most in-scope companies have chosen not to authorize tax disclosure. 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 taxpayer returns. In addition, some companies disclose Corporate Income Tax data as part of EITI reporting, to fulfill regulatory requirements in other countries, or as part of their voluntary transparency reporting. Fuller tax disclosure would require implementation of Dodd-Frank Section 1504.

- *Beneficial ownership disclosures are required by Section 2.5 of the EITI Standard starting on January 1, 2020. 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, companies can register in any of the 50 states, and no state requires tracking or disclosure of beneficial ownership information.*

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 required under the 2016 EITI Standard. In the areas of Corporate Income Tax and Beneficial ownership, the EITI Board would need to decide if current routine disclosures meet the substance of the “agreed-upon” procedures for mainstreaming.

2. *In-scope financial data for the U.S. Department of Interior and the majority of in-scope companies is subject to independent audit, applying international standards, as required by the EITI Standard and laid out in the “Mainstreaming Action Plan.”²¹ 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

²¹ https://eiti.org/sites/default/files/documents/2016-10-towards_mainstreaming_action_plan.pdf

Commented [ZM39]: This does not appear to be justified given lack of tax and BO information. The following sentence misrepresents disclosure of tax and BO as routine, when it is closer to non-existent

Commented [DB40]: This makes no sense to me and I would just strike

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. See Appendix 3 for available data on audits for all in-scope companies—both public and private.

3. **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. The ACM function 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 internal audit committees.

Recommendation for Mainstreaming and Next Steps

Based on available evidence, the USEITI MSG recommends that USEITI pursue mainstreaming.

The process for mainstreaming consists of seven phases: formal commitment, feasibility study, work plan, application, approval, implementation, and review. The United States has made the formal commitment to mainstreaming, and with the submission of this feasibility study, USEITI will proceed to the preparation of a mainstreaming application for review by the EITI International Secretariat. Prior to the submission of this application, the USEITI MSG will agree on a schedule for disclosure and assurance, including any capacity building and technical assistance necessary; this will form the basis of USEITI's application. An overview of the process is outlined below.

Commented [DB41]: You can say the USG recommends this but not the MSG

Commented [U42]: What evidence? Show a reference to the MSG meeting minutes? Anything. This is not a truthful statement. Again, I withhold my consent to approve this document and of mainstreaming in general at this time. Paul Bugala

Figure 6. USEITI Mainstreaming Process



Source: EITI International Board Paper, Annex A – Draft Agreement Procedure for Mainstreaming Processes
<https://eti.org/sites/default/files/2018/04/Annex-A-Draft-Agreement-Procedure-for-Mainstreaming-Processes.pdf>

As part of developing the mainstreaming work plan and application, the following steps will be necessary:

1. Documentation of commitment by the USEITI Secretariat to maintain the UDR and data portal to the current level of timeliness, comprehensiveness, and reliability for a reasonable period of time.
2. Agreement with the EITI International Board that the current disclosures of non-tax revenue and aggregate disclosure of Corporate Income Tax are sufficient for mainstreamed implementation for a reasonable period of time.
3. Agreement with the EITI International Board on continued adapted implementation with regards to subnational disclosures related to the federal nature of the United States.
4. Documentation of a process for periodic review of mainstreamed implementation by a multi-stakeholder group, either the current USEITI MSG or a new body that meets the requirements of Section 1.4 of the EITI Standard.

Commented [ZM43]: We cannot make this argument with a straight face



Appendix 1 — Stakeholder Interview Notes

Interviewees

The IA invited 11 USEITI MSG members and alternates from across civil society, industry, and government to engage in stakeholder interviews, and the following nine people 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 each individual's goals for USEITI and the U.S. track record of reconciliation, as well as evaluated the data quality of USEITI as it relates to mainstreaming. Key takeaways from these interviews follow:

Topic	Sector	Takeaway
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Topic	Sector	Takeaway
Goals for USEITI	Civil Society (CSO)	CSO representatives spoke about a range of goals for USEITI, including consolidating already available public data in an easily accessible place, creating a meaningful contextual narrative, revealing data not previously available to the public, and representing specific constituents.
		CSO representatives were split on how reconciliation fits into their goals. One interviewee expressed the view that reconciliation inherently compares company data to company data (i.e., government data was just company data provided to the government by the company). Another interviewee found reporting and reconciliation to be positive, with the exception of tax reporting and reconciliation.
		Neither interviewee saw mainstreaming specifically fitting into their goals for USEITI.
Goals for USEITI	Government	The U.S. government expressed a range of goals, including educating the public, participating and leading on the international stage, creating useful data for the public and the government, improving government operations, achieving a workable solution within U.S. laws, and achieving validation.
		The U.S. government did not see reconciliation as part of its 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 United States to achieve validation. Mainstreaming is viewed as easier than reconciliation and likely to increase participation. The government believes U.S. audits and controls already achieve the purpose of reconciliation laid out in USEITI.

Commented [U44]: It's not possible for this CSO statement to be true and for this unreferenced assertion to be true at the same time. "Based on available evidence, the USEITI MSG recommends that USEITI pursue mainstreaming." Paul Bugala

Topic	Sector	Takeaway
Goals for USEITI	Industry	Industry representatives stated their goals for USEITI are to increase transparency and data accessibility to the public, increase public understanding and confidence, articulate the current state of U.S. management as a model internationally, and build trust with other sectors.
		Industry representatives did not see reconciliation as fitting materially with these goals and noted it was a check-the-box exercise and a waste of time.
		Mainstreaming is seen as essential by industry representatives 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 to the American public.
Track Record of Reconciliation	CSO	CSO representatives saw the U.S. track record of reconciliation as strong with regards to non-tax revenue, but tax revenue reconciliation was seen as weak and lacked reporting.
Track Record of Reconciliation	Government	The U.S. government saw the track record of revenue as very strong given the U.S. system of audits, controls, checks, and balances. The government viewed tax reporting and reconciliation as the biggest weakness, given the legal prohibitions against disclosure and the lack of company involvement.
		The U.S. government viewed the decline in the number of companies as an effect of broader market forces (the decline in prices for natural resources, as well as company bankruptcies) not specifically reflective of USEITI.

Topic	Sector	Takeaway
Track Record of Reconciliation	Industry	<p>Industry representatives saw the U.S. track record of reconciliation as strong, given the audits, controls, and systems in place. Reconciliation helped prove the numbers match and that the United States has already mainstreamed.</p> <p>Industry representative did not view the decline in the number of companies as important; instead they saw reconciliation as having achieved its purpose of showing that dollars match. They also did not view the net decline as decreasing the amount of information available given data disclosures.</p>
Evaluating U.S. Data Quality	CSO	<p>CSO representatives saw the strength of U.S. data in government disclosures and the promise of government project-level disclosures, even if those are completed upon request. CSO representatives also noted that U.S. data was up to date and reliable.</p> <p>CSO representatives viewed the lack of tax reporting and reconciliation and the rescinding of Section 1504 of the Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank Act") as fatal weaknesses in U.S. data quality.</p>
Evaluating U.S. Data Quality	Government	<p>The U.S. government found U.S. data to be up to date, reliable (due to the stringent system of audits and controls in the United States), and comprehensive for non-tax revenue. The U.S. government noted that USEITI has achieved an unprecedented level of disclosure and that contextual narrative information helps make data comprehensible.</p> <p>The U.S. government viewed the lack of tax disclosure, given U.S. laws, as the chief weakness in U.S. data comprehensiveness and the rescinding of Section 1504 of the Dodd-Frank Act as fatal to U.S. hopes of achieving that kind of disclosure, and with it mainstreaming.</p>



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Topic	Sector	Takeaway
Evaluating U.S. Data Quality	Industry	<p>Industry representatives articulated an extensive list of U.S. data quality strengths, including public accessibility, level of disaggregation, up-to-date nature, control- and audit-based reliability, contextual explanations of data, and the comprehensive release of appropriate data.</p> <p>Industry representatives generally saw less cause for concern with the rescinding of Section 1504 of the Dodd-Frank Act and articulated cases for how the United States could 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 and Regulations

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

Law Name and Code	Description	Relevant Lands or Waters	Relevant Natural Resources
General Mining Act of 1872, as Amended ²² (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 ²³ (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 ²⁴ (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 ²⁵ (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

²² http://apps2.eere.energy.gov/wind/windexchange/wind_installed_capacity.asp.

²³ <http://www.gpo.gov/fdsys/pkg/USCODE-2011-title25/pdf/USCODE-2011-title25-chap12-sec396.pdf>.

²⁴ https://www.cnrr.gov/laws_R_D/PubLaws/PDFDocs/MineralLeasingAct1920.pdf.

²⁵ <http://www.gpo.gov/fdsys/pkg/USCODE-2009-title25/html/USCODE-2009-title25-chap12.htm>.



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Law Name and Code	Description	Relevant Lands or Waters	Relevant Natural Resources
Mineral Leasing Act for Acquired Lands of 1947 ²⁶ (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
Materials Act of 1947 ²⁷ (30 USC § 601 et. seq.)	Also known as the Common Varieties Act, it regulates the sale and permitting of the <u>most common hardrock minerals</u> . 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 ²⁸ (43 USC § 1301 et. seq.)	Recognizes states' rights to the <u>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 Lands	All natural resources
Outer Continental Shelf Lands Act of 1953, as Amended ²⁹ (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 ³⁰ (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

²⁶ <http://legcounsel.house.gov/Comps/miaacq.pdf>

²⁷ [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).

²⁸ <http://www.boem.gov/uploadedFiles/submergedLA.pdf>.

²⁹ <http://www.gpo.gov/fdsys/pkg/USCODE-2010-title43/html/USCODE-2010-title43-chap29-subchapIII.htm>.

³⁰ <http://www.gpo.gov/fdsys/pkg/STATUTE-84/pdf/STATUTE-84-Pg1566.pdf>.



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Law Name and Code	Description	Relevant Lands or Waters	Relevant Natural Resources
Mining and Minerals Policy Act of 1970 ³¹ (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) ³² (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
Surface Mining Control and Reclamation Act of 1977 (SMCRA) ³³ (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

³¹ <http://www.gpo.gov/fdsys/pkg/USCODE-2011-title30/pdf/USCODE-2011-title30-chap2-sec21a.pdf>.

³² <http://www.gpo.gov/fdsys/pkg/STATUTE-90/pdf/STATUTE-90-Pg1083.pdf>.

³³ <http://www.gpo.gov/fdsys/pkg/STATUTE-91/pdf/STATUTE-91-Pg445.pdf>.



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Law Name and Code	Description	Relevant Lands or Waters	Relevant Natural Resources
Federal Oil and Gas Royalty Management Act of 1982 (FOGRMA) ³⁴ (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 ³⁵ (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) ³⁶ (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) ³⁷ (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

³⁴ http://www.boem.gov/uploadedFiles/BOEM/Oil_and_Gas_Energy_Program/Leasing/Outer_Continental_Shelf/Lands_Act_History/federal%20o%20royalty%20mgmt.pdf.

³⁵ <http://www.gpo.gov/fdsys/pkg/STATUTE-96/pdf/STATUTE-96-Pg1938.pdf>.

³⁶ <http://www.gpo.gov/fdsys/pkg/USCODE-2011-title30/pdf/USCODE-2011-title30.pdf>.

³⁷ http://www.onrr.gov/laws_r_g/PubLaws/PDFDocs/rsfa.pdf.



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Law Name and Code	Description	Relevant Lands or Waters	Relevant Natural Resources
Energy Policy Act of 2005 (EPA Act) ³⁸ (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) ³⁹ (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	Relevant Natural Resources
Federal Land Policy and Management Act of 1976 (FLPMA) ⁴⁰ (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

³⁸ <http://www.gpo.gov/fdsys/pkg/BILLS-109hr6enr/pdf/BILLS-109hr6enr.pdf>.

³⁹ <http://www.boem.gov/Oil-and-Gas-Energy-Program/Energy-Economics/econ/GOMESA-pdf.aspx>.

⁴⁰ <http://www.boem.gov/Oil-and-Gas-Energy-Program/Energy-Economics/econ/GOMESA-pdf.aspx>.



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Law Name and Code	Description	Relevant Lands	Relevant Natural Resources
Clean Air Act of 1970 (CAA) ⁴¹ (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 of 1977 (CWA) ⁴² (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. ⁴³	All Lands	All natural resources, except when oil and gas are exempted
Safe Drinking Water Act of 1974 (SDWA) ⁴⁴ (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. ⁴⁵	All Lands	All natural resources, except when oil and gas are exempted

⁴¹ <http://www.gpo.gov/fdsys/pkg/USCODE-2008-title42/pdf/USCODE-2008-title42-chap85.pdf>.

⁴² <http://www.gpo.gov/fdsys/pkg/USCODE-2010-title33/pdf/USCODE-2010-title33-chap26.pdf>.

⁴³ U.S. Environmental Protection Agency, “Regulation of Oil and Gas Construction Activities,” March 9, 2009, <http://water.epa.gov/polwaste/npdes/stormwater/Regulation-of-Oil-and-Gas-Construction-Activities.cfm>

⁴⁴ <http://www.epw.senate.gov/rdwa.pdf>.

⁴⁵ 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.



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Law Name and Code	Description	Relevant Lands	Relevant Natural Resources
Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) ⁴⁶ (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) ⁴⁷ (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 ⁴⁸ (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

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

⁴⁶ <http://www.epw.senate.gov/cercla.pdf>.

⁴⁷ <http://www.nmfs.noaa.gov/pr/pdfs/laws/esa.pdf>.

⁴⁸ <http://www.nmfs.noaa.gov/pr/pdfs/laws/mmpa.pdf>.



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Laws, Regulations, Professional Standards, and Regulatory Organizations

Law, Regulation, Professional Standard, or Regulatory Organization	Acronym	Description
Accounting Principles Generally Accepted in the United States of America	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	<p>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.</p> <p>The SEC is required by law to implement payment reporting rules comparable to the EITI Standard with respect to extractive issuers. The SEC's two previous attempts to implement this law have been vacated in court and in Congress due to opposition from certain oil industry members.</p>



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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.

Law, Regulation, Professional Standard, or Regulatory Organization	Acronym	Description
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.
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.

Law, Regulation, Professional Standard, or Regulatory Organization	Acronym	Description
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.

Law, Regulation, Professional Standard, or Regulatory Organization	Acronym	Description
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.
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.

Appendix 3 – U.S. Statutes and Regulations Related to Conflicts of Interest

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 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

Commented [ZM45]: None of the laws discussed here deal with BO per se, but with preventing conflicts of interest



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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 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.



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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



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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
- 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.

Appendix 4 — In-Scope Company Audits

Company	Public / Private	Entity Type	Disclosure of Beneficial Owners	Applicable Accounting Standards	Form 10-K or Annual Report	Form 20-F	Form 40-F	Publicly Available Financial Statements	External Auditors
Alpha Natural Resources, Inc.	Public	Corporation	Yes	GAAP	✓	*	*	Yes	KPMG
Anadarko Petroleum Corporation	Public	Corporation	Yes	GAAP	✓	*	*	Yes	KPMG
Apache Corporation	Public	Corporation	Yes	GAAP	✓	*	*	Yes	E&Y
Arch Coal, Inc.	Public	Corporation	Yes	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	GAAP	✓	*	*	Yes - Annual Report	PWC
Cimarex Energy Co.	Public	Corporation	Yes	GAAP	✓	*	*	Yes	KPMG
Cloud Peak Energy Resources, LLC	Public	Corporation	Yes	GAAP	✓	*	*	Yes	PWC
Concho Resources, Inc.	Public	Corporation	Yes	GAAP	✓	*	*	Yes	Grant Thornton
ConocoPhillips	Public	Corporation	Yes	GAAP	✓	*	*	Yes	E&Y
Continental Resources, Inc.	Public	Corporation	Yes	GAAP	✓	*	*	Yes	Grant Thornton
Devon Energy Corporation	Public	Corporation	Yes	GAAP	✓	*	*	Yes	KPMG

Company	Public / Private	Entity Type	Disclosure of Beneficial Owners	Applicable Accounting Standards	Form 10-K or Annual Report	Form 20-F	Form 40-F	Publicly Available Financial Statements	External Auditors
Encana Corporation	Public	Foreign Corporation (Canada)	Yes	GAAP	✓	•	✓	Yes - Annual Report	PWC
Energy XXI	N/A	Foreign Corporation (Bermuda)	Yes	GAAP	✓	•	•	Yes	BDO USA
ENI Petroleum	Public	Foreign corporation (Italy)	Yes	IFRS	✓	•	•	Yes	Unavailable
EOG Resources, Inc.	Public	Corporation	Yes	GAAP	✓	•	•	Yes	Deloitte & Touche LLP
EPL Oil & Gas, Inc.	Public	Subsidiary of Foreign Corporation (Italy)	Yes	GAAP	✓	•	•	Parent Only*	BDO USA
Exxon Mobil Corporation	Public	Corporation	Yes	GAAP	✓	•	•	Yes	PWC
Fieldwood Energy LLC	Private	Limited Liability Company	Yes		•	•	•	No	Unavailable
Freeport-McMoRan Inc.	Public	Corporation	Yes	GAAP	✓	•	•	Yes	E&Y
Hess Corporation	Public	Corporation	Yes	GAAP	✓	•	•	Yes	E&Y
Jonah Energy LLC	Private	Limited Liability Company	Yes		•	•	•	No	Unavailable
Linn Energy, LLC	Public	Limited Liability Company	Yes	GAAP	✓	•	•	Yes	KPMG
LLOG Exploration Company LLC	Private	Subsidiary of Limited Liability Company	Yes		•	•	•	No	Unavailable
Marathon Oil Company	Public	Corporation	Yes	GAAP	✓	•	•	Yes	PWC
Murphy Oil USA Inc.	Public	Corporation	Yes	GAAP	✓	•	•	Yes	KPMG
Noble Energy, Inc.	Public	Corporation	Yes	GAAP	✓	•	•	Yes	KPMG
Oxy USA, Inc.	Public	Corporation	Yes	GAAP	✓	•	•	Parent Only*	KPMG
Peabody Energy Corporation	Public	Corporation	Yes	GAAP	✓	•	•	Yes	E&Y
QEP Resources, Inc.	Public	Corporation	Yes	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	PWC



Company	Public / Private	Entity Type	Disclosure of Beneficial Owners	Applicable Accounting Standards	Form 10-K or Annual Report	Form 20-F	Form 40-F	Publicly Available Financial Statements	External Auditors
								Report	
Statoil Gulf of Mexico	Public	Foreign Corporation (Norway)	Yes	IFRS	✓	✓	*	Yes - Annual Report	Unavailable
Stone Energy Corporation	Public	Corporation	Yes	GAAP	✓	*	*	Yes	E&Y
Talos Energy LLC	Private	Limited Liability Company	Yes		*	*	*	No	Unavailable
Ultra Resources Inc.	Public	Foreign Corporation (Canada)	Yes	GAAP	✓	*	*	Yes	E&Y
W&T Offshore, Inc.	Public	Corporation	Yes	GAAP	✓	*	*	Yes	E&Y
WPX Energy, Inc.	Public	Corporation	Yes	GAAP	✓	*	*	Yes	E&Y

Note: Annual reports and 10-Ks are accessible as of April 6, 2017, and link to the 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)