

Chairperson Mary Jo White
SEC Headquarters
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e-mail: help@sec.gov, rule-comments@sec.gov

Re: Rulemaking for Section 1504 of the Dodd-Frank Wall Street Reform and Consumer

Dear Chair:

The Project On Government Oversight and other civil society organizations recently **sent a letter** to the Securities and Exchange Commission (SEC) urging the agency to put in place a rule that requires companies to be more transparent about their payments to governments for extracting oil, gas, and minerals from public lands. This would allow citizens and the government to track specific information about extraction projects, such as annual revenues for every contract.

The letter highlights two reasons project-level reporting is necessary.

First, significant portion of “both national and local-level budgets” are funded with this revenue. Yet there is currently no way to determine whether companies are making proper payments to governments. For example, on the national level, the Department of the Interior cannot “verify that it has collected the correct amount of money from extractives companies,” according to the letter. On the local level, governments cannot ensure that “revenue-sharing agreements by states are being properly implemented.” The rule will ensure that the data these governments need to verify payments is available.

Second, the public deserves to know the costs and benefits of allowing private companies to extract resources from public lands. Extraction can damage infrastructure, the environment, and local social structures.

A **Texas Department of Transportation** study on infrastructure determined that “a well reduces highway service life by as much as 53%.” The environmental impact can be similarly devastating. The **Environmental Protection Agency** estimated “40 percent of the headwaters of watersheds in the American West had been polluted by hardrock mining.” Furthermore, as the letter points out, resource boomtowns see the social costs every day with “rapid spikes in crime, substance abuse, and sex trafficking.”

In addition to damage, extraction can **create additional costs** when small towns experience sudden increases in population. Several major problems are the lack of “school classrooms, retailing inventories, housing, and ... physicians in the community.”

The letter also notes that the Government Accountability Office has criticized “the Department of the Interior’s management of oil and gas revenue.” According to the letter, there is a “‘high risk’ for ‘waste, fraud, abuse, and mismanagement.’”

Despite this risk, the SEC has **repeatedly refused** to issue a rule on project-level reporting for the last five years. But a recent Oxfam lawsuit prompted the SEC to release a rulemaking schedule, which states that a draft rule will be voted on this December. The rule will be finalized by June 2016.

The United States is also set to release its first Extractive Industries Transparency Initiative (EITI) report in December. Representatives of the extractive industry, civil societies, and the government

are all participants in the U.S. EITI. Due to the SEC's delay in issuing a rule on project-level reporting, the U.S. EITI said it was "unable to reach a consensus on a project-level reporting definition," and the report will therefore lack this important data.

Opponents of project-level reporting, such as the American Petroleum Institute, **favor state-level reporting**. However, states are so large that this data would be virtually meaningless, as it would be impossible to determine whether individual companies were compliant.

Any further delay from the SEC is unacceptable. The SEC must implement a rule that enforces project-level reporting to ensure that governments and the public receive what is owed to them by companies extracting natural resources from public lands.

Thank you for the opportunity to bring these remarks to your attention.

Yours Sincerely,
Robert E. Rutkowski

cc: House Minority Leadership

[REDACTED]
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Re: POGO letter: <http://www.sec.gov/comments/df-title-xv/resource-extraction-issuers/resourceextractionissuers-89.pdf>