USEITI

The United States Extractive Industries Transparency Initiative

2016

Executive Summary

2016 USEITI Report by the Numbers

Revenue from Extractive Industries in the U.S.

- Second USEITI report
- 100% of DOI revenues for 2014 and 2015 disclosed in unilateral disclosure
- In 2015, $7.8 billion in DOI revenues from extraction on federal lands and waters

USEITI Company Participation and Reconciliation Results

- 41 in-scope companies
- 25 in-scope companies reported and reconciled $4.83 billion in DOI revenues
- 12 out of 38 applicable companies reported $308 million in corporate income taxes related to extractive industries revenue
- Seven in-scope companies reconciled $130 million in corporate income taxes related to extractive industries revenue
- 100% of 21 initial material variances have been resolved or explained

USEITI 2016 Features and Additions

- Three states with significant extractive industries opted in
- 12 county case studies on extractive industries – updated with the most recent data
- One section overviewing the audit and assurance practices and controls in the U.S.
- One section providing extensive information on the Abandoned Mine Land Reclamation Program
- One section outlining the Coal Excise Tax

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1

U.S. EXTRACTIVE INDUSTRIES TRANSPARENCY INITIATIVE OVERVIEW

U.S. Extractive Industries Transparency Initiative Overview

The United States is a world leader in producing natural resources, including oil, gas, coal, renewable energy, and nonenergy minerals. It led the world in both oil and gas production in 2014 and produced the second most coal in the world in 2013.[1]

In an effort to improve transparency and accountability, the U.S. joined seven other countries in launching the Open Government Partnership (OGP), a global platform of participating countries dedicated to making governments more open, accountable, and responsive to citizens. As part of the 2011 OGP National Action Plan, the U.S. sought to improve the transparency of extractive industries for U.S. citizens, as well as manage public resources—specifically natural resources on federal lands and waters—more effectively by joining the Extractive Industries Transparency Initiative (EITI).[2] The U.S. renewed that commitment in its National Action Plans in 2013 and 2015, which can be accessed at http://www.opengovpartnership.org/country/united-states/action-plan.

The President designated the Secretary of the U.S. Department of the Interior (DOI) as the senior U.S. official responsible for leading implementation of the U.S. Extractive Industries Transparency Initiative (USEITI). As required by the EITI Standard, a Multi-Stakeholder Group (MSG) oversees USEITI implementation. It consists of 23 members and 17 alternates from three sectors: government, industry, and civil society. On March 19, 2014, the U.S. formally became an EITI candidate when the EITI International Board approved USEITI's candidacy application. In December 2015, USEITI released its first report online. The 2015 Executive Summary can be accessed at https://useiti.doi.gov/about/report/. This document provides the Executive Summary for USEITI's 2016 report, available online at https://useiti.doi.gov.

[1] U.S. Energy Information Administration, http://www.eia.gov/beta/international/

[2] The White House, "The Open Government Partnership National Action Plan for the United States of America," September 20, 2011, https://www.whitehouse.gov/sites/default/files/us_national_action_plan_final_2.pdf

WHAT IS EITI?

EITI is a global standard that promotes "open and accountable management of natural resources."1 The EITI International Board and implementing member countries believe that a nation's natural resource wealth belongs to its citizens.

To increase transparency and accountability, EITI relies on a cross-sector partnership between government (i.e., government agencies that oversee extraction in a country), industry (i.e., companies operating in extractive industries), and civil society (i.e., individuals and organizations that represent community and citizen interests). Together, all three sectors make up the Multi-Stakeholder Group (MSG) responsible for overseeing EITI in a given country. An Independent Administrator (IA) also assists in implementing the EITI Standard. Later, a Validator commissioned by the EITI International Secretariat assesses whether or not the country successfully implemented the EITI Standard. At the time of this report, there were 51 EITI-implementing countries, 31 of which were compliant with the EITI Standard.

[1] Extractive Industries Transparency Initiative, https://eiti.org

Overview of 2016 USEITI Activities

Building upon its first report in 2015, the USEITI MSG prioritized several key activities in 2016 to strengthen the information presented, further participation in EITI, and increase transparency and public awareness.

In 2016, the USEITI MSG prioritized:

- Encouraging state and tribal participation
- Improving public engagement and outreach
- Increasing industry reporting and reconciliation

The MSG tasked the completion of these goals to its three subcommittees: the State & Tribal Subcommittee, the Outreach & Communications Subcommittee, and the Implementation Subcommittee. The Implementation Subcommittee focused on industry reporting and reconciliation and explored how the U.S. can comply with changes to the EITI Standard in 2016, notably beneficial ownership and mainstreaming revenue reporting. The State & Tribal Subcommittee worked to increase state and tribal participation in USEITI. The Outreach & Communications Subcomittee sought to increase public awareness of, and engagement with, USEITI.

Additionally, the MSG added four new contextual narrative sections to the 2016 USEITI report to explain key topics related to extractive industries in the U.S.

The 2016 USEITI Executive Summary highlights four new contextual narrative sections:

- Abandoned Mine Land Reclamation Program
- Coal Excise Tax
- Audit and Assurance Practices and Controls in the United States
- State Opt-Ins

The MSG worked closely with the USEITI Secretariat on all activities in 2016. The USEITI Secretariat consists of staff from DOI's Office of Natural Resources Revenue (ONRR), which collects the majority of DOI revenue related to extractive industries.

ONRR's 2015 unilateral disclosure includes production data for 42 different products extracted from federal lands and waters, including:

- **Gas:** 4,782,558 million cubic feet
- **Oil:** 755,158 thousand barrels
- **Coal:** 375 million tons
- **Copper:** 25,000 tons

In FY 2015, ONRR disbursed $9.9 billion dollars, including major disbursements to the following:

- **U.S. Treasury:** $4.4 billion
- **U.S. States:** $1.8 billion
- **Reclamation:** $1.4 billion
- **Land and Water Conservation:** $889,000
- **American Indian Tribes:** $853,000

The full 2016 USEITI report is online

This Executive Summary presents an overview of the 2016 USEITI report, the majority of which can be found online at **https://useiti.doi.gov/**. Online you can:

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

How it works

How do natural resources result in federal revenues?

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

Case studies

How does natural resource extraction affect local communities?

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

Explore data

Where does the money go?

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

USEITI Progress in 2016

In the 2015 report, the IA made six recommendations to enhance USEITI, which can be read in full in last year's Executive Summary at https://useiti.doi.gov/about/report/. Work on each of the six recommendations has progressed in 2016.

2015 IA Recommendation	2016 Progress
Scoping: At the beginning of the 2016 reporting period, the MSG should thoroughly scope reporting companies, revenue streams, and commodities to be included in the 2016 USEITI report.	The MSG agreed on 12 in-scope revenue streams, 41 in-scope companies, and seven in-scope commodities.
Reporting Entity Communication: The MSG should consider additional outreach and communication channels regarding the USEITI reporting and reconciliation process. Specifically, the 90-day reporting period for the 2016 USEITI should extend to 120 days, with communication prior to that period. Webinars focused on tax reporting and reconciliation should be conducted (in addition to those on revenue reporting) for tax professionals at reporting companies and include U.S. Treasury and Internal Revenue Service (IRS) participation.	The MSG and the IA communicated with companies four times prior to the beginning of the reporting period, including four webinars that separately covered revenue and tax reporting and reconciliation. The webinars included U.S. Treasury participation and were held in Houston, Texas, and Denver, Colorado, with companies also able to participate online. Additional individual email outreach occurred as well. Industry peer-to-peer outreach through the American Petroleum Institute and the Independent Petroleum Association of America supplemented MSG and IA efforts.
Sample Approach for Data Reconciliation: The MSG should consider alternative options for reconciliation that could satisfy the requirements of the EITI Standard with a lower investment of time and cost in the reconciliation process. Specifically, the IA should support the MSG in developing options for consideration by the EITI International Secretariat, including a sample-based reconciliation approach and the development of a portal in which reporting companies can confirm whether revenues reported as part of the unilateral disclosure match company records.	The IA prepared a proposal for sampling, which was reviewed by the Implementation Subcommittee. The Implementation Subcommittee explored the sampling proposal, discussed alternate approaches, and recommended to the MSG that companies should continue to report in full for 2016 given USEITI had only one year of experience with reporting and reconciliation thus far.

Continued on next page

2015 IA Recommendation	2016 Progress
Enhanced, Phased Rollout for the Online Report: The MSG should increase the percentage of the contextual narrative that lives solely online, as well as create a phased rollout for future online content updates, preferably on a quarterly basis. Moving additional content online would allow for a more engaging and accessible presentation of the contextual narrative information. The MSG could implement awareness campaigns framed around quarterly updates to the online report, which could generate increased public engagement.	While the 2016 contextual narratives are summarized in this document, the full USEITI contextual narrative content resides online. This emphasis on online content has been paired with the efforts of the Outreach & Communications Subcommittee, which has worked to build awareness of the portal and its content. Additionally, content has been rolled out throughout the year—a practice that will continue.
Increased State, Local, and Tribal Contextual Narrative Content: The MSG should increase state, local, and tribal contextual narrative content to provide citizens with the information most relevant to them and their local communities. In particular, the MSG should include information about legal and fiscal frameworks to portray different approaches to managing natural resources and extraction.	The State & Tribal Subcommittee led efforts focused on increasing state and tribal participation, as well as increasing the information on state, local, and tribal governance of extractive industries in the contextual narrative. The IA created new contextual narrative sections covering legal frameworks, production, and fiscal frameworks (including revenue and distribution), along with the economic impact of extractive industries in those states that opted into USEITI during 2016: Alaska, Montana, and Wyoming. These sections enable comparisons between different states. Additionally, the 2016 online report includes updated information for the 12 county case studies covered in the 2015 USEITI report.
Determine Steps to Increase Company Reporting: The MSG, with support from the IA, should discuss, consider, decide, and act upon steps to increase participation by companies in the USEITI reporting and reconciliation process for DOI revenues and corporate income taxes.	The MSG took a number of steps aimed at understanding and addressing barriers to participation and improving communication. Gaps were identified in communication at the executive level and in the tax departments of in-scope companies. As such, the U.S. government (the "Government") distributed letters to the CEOs of all participating companies. The IA and MSG sought to identify tax contacts for each company and conducted webinars and presentations at industry events focused on tax professionals.

Updates to the EITI Standard

In 2016, the EITI International Board released an updated standard for countries participating in EITI. The USEITI MSG has actively explored two key changes in the 2016 EITI Standard: beneficial ownership and mainstreaming revenue reporting.

The new standard requires that implementing countries produce a road map for disclosing beneficial ownership by 2017, with full compliance by 2020.[3]

The new standard does not require mainstreaming, but presents it as an option available to implementing countries that have "made substantial progress in making the information required by the EITI Standard routinely available through government and corporate reporting systems." With the inclusion of mainstreaming in the 2016 EITI Standard, the EITI International Board intends to encourage and recognize "countries that make transparency an integral and routine feature of their governance and management systems."[4] Once approved, mainstreaming revenue reporting will allow countries with automatic disclosures to forego the reconciliation process due to the other transparency measures already in place. While mainstreaming is encouraged by the EITI, no country has yet been approved to use this process.

[3] Extractive Industries Transparency Initiative, "Improved Standard for improved sector governance," March 8, 2016 https://eiti.org/blog/improved-standard-improved-sector-governance

[4] Extractive Industries Transparency Initiative, "Mainstreaming the EITI: Moving from reports to reporting," n.d., https://eiti.org/mainstreaming

IN ADDITION TO THESE TWO CHANGES, THERE WERE FIVE OTHER SIGNIFICANT CHANGES TO THE 2016 EITI STANDARD:

1. The new standard added improved validation procedures that disaggregate requirements and better recognize improvements.
2. The new standard, in order to encourage action on recommendations, now requires implementing countries to document their progress toward recommendations in their annual reports and work plans.
3. The new standard encourages open data policies and includes suggestions on how MSGs can implement robust open data policies.
4. The new standard clarifies the expectations for MSG governance.
5. The new standard restructures the requirements to align with the extractive industries value chain, making it easier to assess requirements during validation.

2

2016 REPORTING AND RECONCILIATION RESULTS

2016 Reporting and Reconciliation Results

WHAT'S HERE AND WHERE TO GO FOR MORE INFORMATION

The Executive Summary highlights the scope and results of reconciliation. For more details on the reconciliation process, you can read the 2016 USEITI Reconciliation Report available at https://useiti.doi.gov/downloads/reconciliation/.

WHAT'S CHANGED FROM THE 2015 TO 2016 REPORT

2015
2016

In 2015, 31 companies reported revenues and 12 companies reported taxes. In 2016, 25 companies reported revenues and 12 companies reported taxes. For 2016, the MSG set 80% of ONRR's revenues as in-scope for reconciliation, the same level as 2015. For the 2016 USEITI report, the MSG decided on a materiality threshold of ~$37.5 million total annual revenues reported to ONRR by a parent company, including its subsidiaries. The MSG agreed on this threshold because it would allow 80% of ONRR's revenues to be in-scope for the reconciliation. This threshold lowered the number of in-scope companies from 45 to 41. The number of in-scope revenue streams did not change. The period of the reconciliation was calendar year (CY) 2015 (January 1, 2015 through December 31, 2015). While last year's report covered CY 2013, the MSG decided to use CY 2015 data for reporting and reconciliation in the 2016 USEITI report because CY 2014 and CY 2015 data will be unilaterally disclosed on the data portal, and CY 2015 data is closer to the current time period.

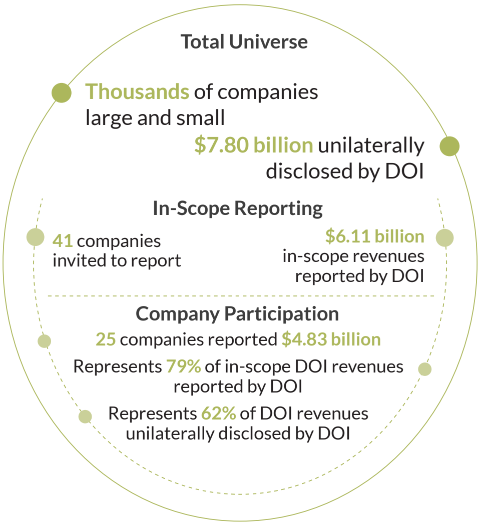
Scope of the Reconciliation

Requirement 4 of the EITI Standard outlines the MSG's responsibility to determine the scope of EITI reporting in the U.S. Accordingly, the USEITI MSG considered information from a variety of sources before coming to a consensus on the scope for the 2016 USEITI report.

During the scoping process, the MSG identified different revenue streams received by U.S. government agencies from extractive industries companies. The MSG then decided which revenue streams to include in-scope for reconciliation in the 2016 USEITI report. The MSG considered many factors in evaluating revenue streams, including the magnitude of the revenues and the relative complexity of gathering and reporting the data from companies.

Table 1, *In-Scope Government Entities and Revenue Streams*, provides the list of government entities and revenue streams selected by the MSG as in-scope for reconciliation. Also refer to Appendix B in the 2016 USEITI Reconciliation Report for additional descriptions of these revenue streams.

DOI Revenue Reporting for the 2016 Report



Federal Corporate Income Tax Reporting for the 2016 Report

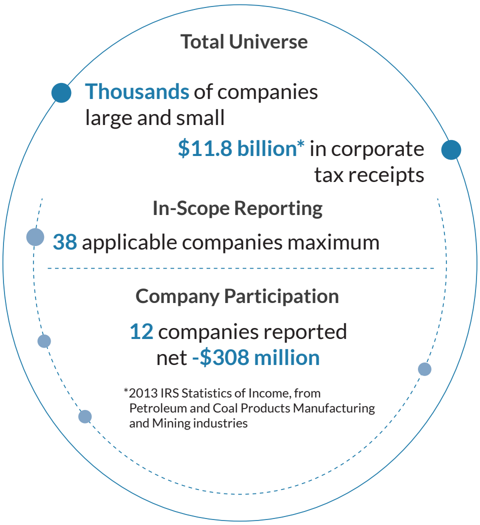


Table 1: In-Scope Government Entities and Revenue Streams

In-Scope Government Entities	In-Scope Revenue Streams
Department of the Interior — Office of Natural Resources Revenue (ONRR)	Bonuses Rents Royalties Other Revenues Offshore Inspection Fees Civil Penalties
Department of the Interior — Bureau of Land Management (BLM)	Bonus & First Year Rentals Permit Fees Renewable Energy Collections
Department of the Interior — Office of Surface Mining Reclamation and Enforcement (OSMRE)	Abandoned Mine Land (AML) Fees, Including Audits and Late Charges Civil Penalties, Including Late Charges
Internal Revenue Service (IRS)	Corporate Federal Income Tax Payments

In-Scope Reporting Entities

The MSG identified that ONRR collects a majority of DOI's extractive industries-related revenues; consequently, the MSG decided to use ONRR's reported revenues as a proxy for DOI revenues to establish the materiality threshold for revenue reporting. For the 2016 USEITI report, the MSG decided on a materiality threshold of ~$37.5 million total annual revenues reported to ONRR by a parent company, including its subsidiaries. The MSG agreed on this threshold because it would allow 80% of ONRR's revenues to be in-scope for the reconciliation.

Based on the materiality threshold defined by the MSG for reconciliation, the MSG identified 41 companies for inclusion in the 2016 reconciliation, as listed in Table 2, *In-Scope Companies*.

Table 2: In-Scope Companies

Alpha Natural Resources, Inc.	Encana Corporation	Oxy USA, Inc.
Anadarko Petroleum Corporation	Energy XXI	Peabody Energy Corporation
Apache Corporation	ENI Petroleum	QEP Resources, Inc.
Arch Coal, Inc.	EOG Resources, Inc.	Red Willow Offshore, LLC
Arena Energy, LLC	EPL Oil & Gas, Inc.	Shell E&P Company
BHP Billiton LTD	ExxonMobil Corporation	Statoil
BOPCO, LP	Fieldwood Energy LLC	Stone Energy Corporation
BP America	Freeport-McMoRan Inc.	Talos Energy LLC
Chevron Corporation	Hess Corporation	Ultra Resources Inc.
Cimarex Energy Co.	Jonah Energy	W&T Offshore, Inc.
Cloud Peak Energy Resources, LLC	Linn Energy, LLC	WPX Energy, Inc.
Concho Resources, Inc.	LLOG Exploration Company LLC	
ConocoPhillips	Marathon Oil Company	
Continental Resources, Inc.	Murphy Oil USA Inc.	
Devon Energy Corporation	Noble Energy, Inc.	

ABOUT THE DATA IN THE 2016 USEITI REPORT:

For consistency with the EITI Standard and across data sets, this report used 2015 data whenever possible.

The reporting period in question for the 2016 USEITI reconciliation was calendar year CY 2015, from January 1, 2015 to December 31, 2015.

Revenue data is often reported by fiscal year (FY). In the case of the federal government, FY 2015 includes October 1, 2014 through September 30, 2015. Unless otherwise noted, or if the content is part of a state opt-in section or county case study, fiscal year refers to the federal fiscal year.

Corporate income tax data is often reported by tax year. A tax year is a period of time covered by a tax return, usually a calendar year, but not necessarily.

State data reporting varies by state and can use calendar, fiscal, production, or tax years. The dates covered by those years vary by state.

Data Collection and Reconciliation Process

The IA distributed the USEITI reporting and reconciliation materials to in-scope companies on April 29, 2016, and the reporting period stayed open for just over 90 days.

The reporting process included the following steps:

> For all DOI revenue streams, ONRR manages the process of gathering data from each of the in-scope DOI bureaus. Then, the Government reports all revenue for in-scope companies to the IA and a federal official certifies the date of that disclosure.
>
> Reporting companies submit completed reporting templates directly to the IA, including certification by a senior company official, as required by the EITI Standard.
>
> For reporting companies that made the decision to allow for tax reconciliation, the IRS provides the data directly to the IA for reconciliation.

The IA reconciled the data by comparing the reported amounts from reporting companies to the reported amounts from government entities and identifying any variance amounts. The IA then compared any variance amounts to an investigation threshold known as the Margin of Variance.

Results of the Reconciliation

The 25 reporting companies that participated in the reconciliation reported $4,825,623,245 in payments to government entities for the nontax, in-scope revenue streams. This represented approximately 79% of the total nontax, in-scope revenues reported by government entities for the 41 in-scope reporting companies, which was $6,109,421,691.

There were 25 of the 41 in-scope companies that chose to participate in the reconciliation and submit a reporting template to the IA. Of the 25 participating companies, nine companies had variances exceeding the Margin of Variance. The total number of variances exceeding the Margin of Variance for these nine companies was 21. All 21 variances have been explained.

Full reporting and reconciliation results for 2016 can be found here at https://useiti.doi.gov/downloads/reconciliation/.

3

STATE PARTICIPATION IN USEITI

State Participation in USEITI

WHAT'S HERE AND WHERE TO GO FOR MORE INFORMATION

State and tribal participation in USEITI received focus and effort from the MSG in 2016. This section outlines that work, focusing on state opt-ins, while providing a high-level overview of the types of information states provided and how it has been presented. Online you can explore the state opt-in sections at https://useiti.doi.gov/explore. You can view more information on state and tribal governance at https://useiti.doi.gov/how-it-works/. Additionally, you can read the 12 county case studies at https://useiti.doi.gov/case-studies/. As a note, under USEITI's adapted implementation, states and tribes do not need to reconcile revenues.

WHAT'S CHANGED FROM THE 2015 TO 2016 REPORT

This work builds upon USEITI's adapted implementation of requirement 4.2(d) for subnational revenue payments that it sought and obtained from the EITI International Board. In 2015, the online report included overview information about state and tribal revenue collection and governance for extractive industries. In 2016, three additional states opted in, providing data on revenues, distribution of those revenues, and legal and fiscal governance of extractive industries, as well as the economic impact of extraction in their states. The MSG also furthered local accountability and transparency in this year's report by updating 12 county case studies that depict the impact of specific extractive industries on local communities.

State Opt-Ins: Alaska, Montana, and Wyoming

The MSG identified increasing state and tribal participation in USEITI as a goal for 2016 and tasked the State & Tribal Subcommittee with spearheading those efforts. The subcommittee conducted conversations and worked with state and tribal officials, some of whom are members of the MSG and the subcommittee, to encourage them to "opt in" to USEITI.

Three additional states chose to opt in: Alaska, Montana, and Wyoming. All three states are among the 18 that the MSG prioritized in 2015 as centers of extractive industries activity in the U.S.

ALASKA

Alaska ranks fourth among U.S. states in oil production, and has a long history in oil production. In FY 2015, it collected $2.4 billion in oil and gas revenues, down from $5.7 billion in 2014, causing the state government to wrestle with questions of revenue sustainability.[1]

MONTANA

Montana is one of the nation's chief producers of coal and recently began significant oil and natural gas development in its portion of the Bakken formation. Montana collected $446 million in revenues related to extraction in FY 2014.[2]

WYOMING

Wyoming and its Powder River Basin lead the nation in coal production, generating almost 40% of the nation's coal in 2014. In Wyoming's 2014 production year, the state collected $3.2 billion in revenues.[3]

[1] Tax Division, Alaska Department of Revenue, "Working Together to Close the Gap," 2015, http://www.tax.alaska.gov/programs/documentviewer/viewer.aspx?1240r

[2] Montana Department of Revenue, "Biennial Reports," 2014, https://revenue.mt.gov/home/publications/biennial_reports

[3] Wyoming Department of Revenue, "2014 Annual Report," 2014, http://revenue.wyo.gov/dor-annual-reports

State Opt-In Information

These opt-in states worked with the subcommittee to provide publicly available data and contextual information covering five areas:

Laws and the Land

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

Production

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

Revenues

Information on the state's revenue streams, including the types of revenue streams, the amounts collected, the chief counties where revenues come from, and tax expenditures the state institutes.

Distribution

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

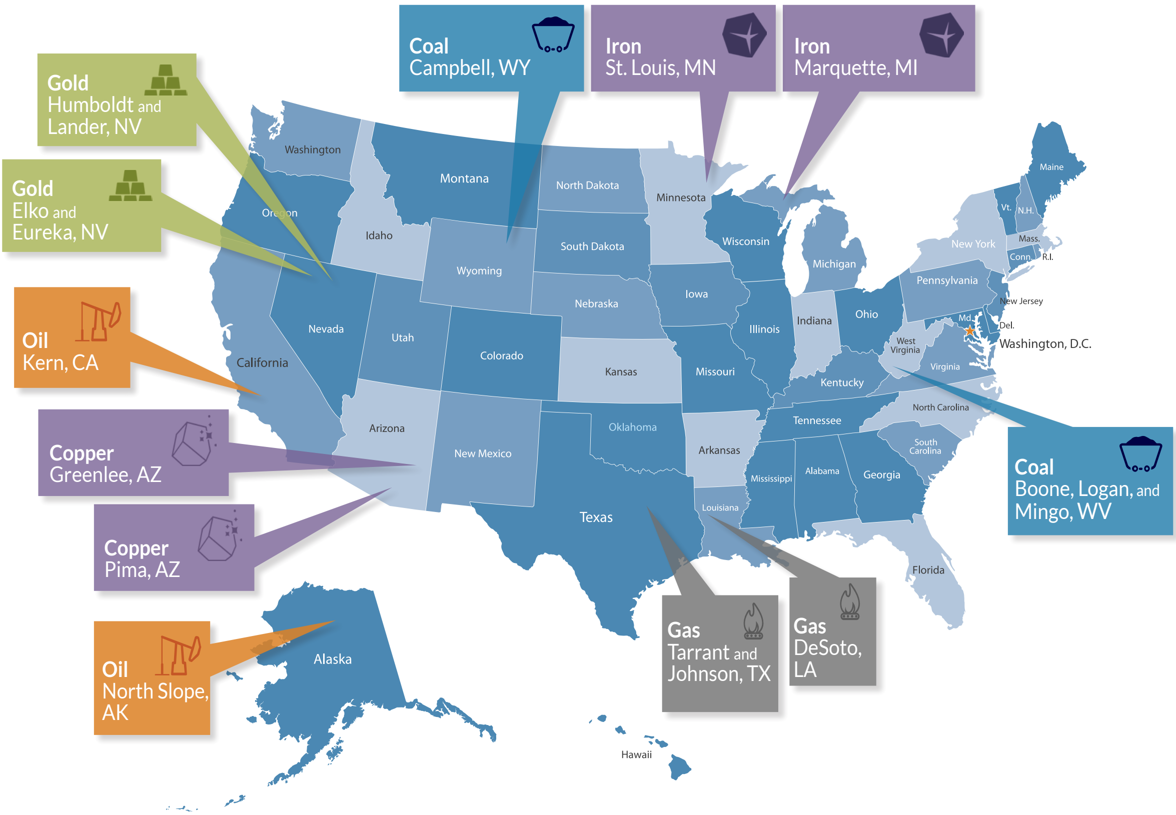
Economic Impact

Information on the extractive industries' contributions to state gross domestic product (GDP), jobs, and wages, as well as the state's revenue sustainability and the costs associated with extraction.

You can see state opt-in sections, as well as more robust state-specific pages for every state with extractive industries activity in the online report at https://useiti.doi.gov/explore. There you can view the data in depth and explore interactive maps of production for different commodities, as well as interactive graphs related to production, revenues, disbursements, and economic impact.

County Case Study Updates

In 2016, USEITI updated information on the 12 county case studies developed in 2015. These case studies provide a snapshot into communities that, over the last decade, have led U.S. counties in producing oil, gas, coal, gold, iron, or copper. The county case studies are designed to help readers understand the economic and fiscal effects of oil, gas, coal, and mineral extraction on local communities, including revenue sustainability. You can read the full case studies in the online report, available at https://useiti.doi.gov/case-studies/.



4

NEW SECTIONS IN THE 2016 USEITI REPORT

New Sections in the 2016 USEITI Report

WHAT'S HERE AND WHERE TO GO FOR MORE INFORMATION

In an effort to improve public understanding and inform discussions around extractive industries in the United States, USEITI developed new contextual narrative sections for the 2016 USEITI report. In addition to the state opt-in section, the report covers the Abandoned Mine Land (AML) Reclamation Program, U.S. audit and assurance practices and controls, and the Coal Excise Tax. This portion of the Executive Summary contains an overview of the AML, audit, and Coal Excise Tax information. The online report contains additional information, including more graphs and maps. You can see the AML section at https://useiti.doi.gov/how-it-works/amlreclamation-program/. The Coal Excise Tax section can be found at https//useiti.doi.gov/how-itworks/coal-excise-tax/. The audit and assurance section can be found at https://useiti.doi.gov/downloads/USEITI_budget-audit-factsheet_2016-08-17.pdf.

WHAT'S CHANGED FROM THE 2015 TO 2016 REPORT

2015
2016

While last year's report included introductory material on the AML Reclamation Program, information about AML, audit, and Coal Excise Tax all represent new sections in 2016.

Abandoned Mine Land Reclamation Program

The AML Reclamation Program uses fees paid by present-day coal mining companies to reclaim coal mines abandoned before 1977. This makes these areas safer for people and the environment. The Surface Mining Control and Reclamation Act of 1977 (SMCRA) created this program to use company fees to reclaim coal mines abandoned before 1977, to set standards for today's coal companies as they reclaim areas contemporaneously with their mining, and to post bonds to cover the cost if companies are unable to reclaim current coal mines.

The online report includes detailed information on the program, including:

- Explanations of how the AML program works, what companies pay annually, how the federal government disburses fees to states and tribes, and how the AML Fund functions
- Information on the amounts paid by companies, the interest those fees have earned, and the status of reclamation across the United States today
- Graphs of AML funding and spending to date, the amount of annual fees received, and the growth of the AML Fund's unappropriated balance

You can read more about the AML program at https://useiti.doi.gov/how-it-works/aml-reclamation-program.

Coal Excise Tax

In the U.S., coal producers must pay an excise tax whenever the coal is first sold or utilized. This tax originated in 1977 when Congress passed the Black Lung Revenue Act establishing the Black Lung Disability Trust Fund (BLDTF), which included the excise tax on coal. The tax is the chief source of revenues for the BLDTF, which pays benefits to miners disabled by black lung disease, as well as their eligible survivors and dependents.[5]

Tax payments collected by the IRS from the excise tax on coal are transferred to BLDTF. Amounts in BLDTF are available, as provided in appropriation acts, for benefit payments that are administered by the Department of Labor's Division of Coal Mine Workers' Compensation (DCMWC).[6]

The tax rate is $1.10 per ton for coal extracted from underground mines and $0.55 per ton for coal extracted from surface mines. Both rates are limited to a maximum of 4.4% of the coal's selling price.[7] The Coal Excise Tax rates are scheduled to decline to $0.50 per ton for coal extracted from underground mines and $0.25 per ton for coal extracted from surface mines (both limited to 2% of the coal's selling price). This change will occur on whichever date comes first: January 1, 2019 or on the first January 1 when there are no more repayable advances from the General Fund of the U.S. Treasury to the BLDTF trust fund and no unpaid interest on previous advances. You can read more about the Coal Excise Tax at https://useiti.doi.gov/how-it-works/coal-excise-tax.

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5 Department of Labor, "FY 2016 Congressional Budget Justification Black Lung Disability Trust Fund" p.8, 2016, http://www.dol.gov/sites/default/files/documents/general/budget/2016/CBJ-2016-V2-08.pdf

6 Department of Labor, "FY 2015 Agency Financial Report," 2015, https://www.dol.gov/_sec/media/reports/annual2015/2015annualreport.pdf; Department of Labor, "FY 2016 Congressional Budget Justification Black Lung Disability Trust Fund" p.8, 2016, http://www.dol.gov/sites/default/files/documents/general/budget/2016/CBJ-2016-V2-08.pdf

7 Department of Labor, "FY 2016 Congressional Budget Justification Black Lung Disability Trust Fund" p.8, 2016, http://www.dol.gov/sites/default/files/documents/general/budget/2016/CBJ-2016-V2-08.pdf

Audit and Assurance Practices and Controls in the U.S.

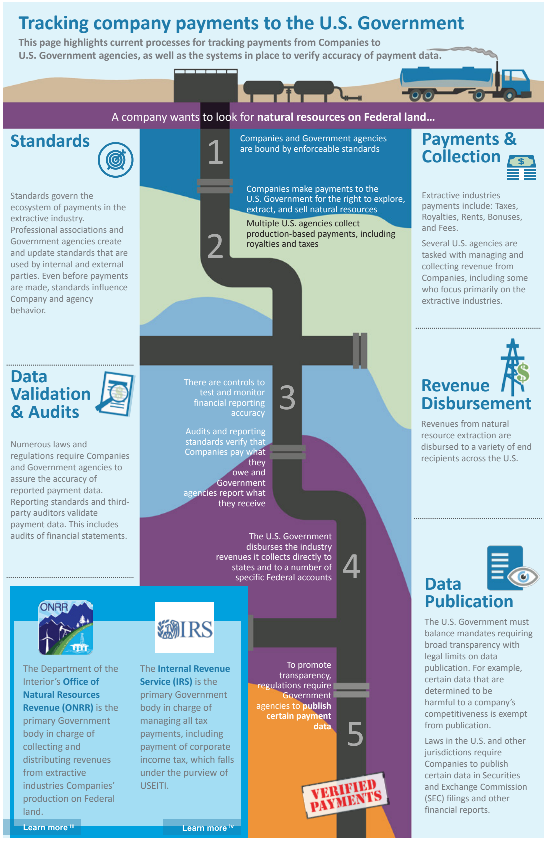
A goal of USEITI is to support transparency in payments to the U.S. government made by companies in the extractive industries. Both the U.S. government and companies in the extractive industries (i.e., oil and gas or mining companies) are subject to laws and regulations that guide the process for receiving payments. The audit and assurance section illustrates where these payments are recorded, how they are verified, and how they are publicized. This includes the types of payments companies are required to pay and the statutes providing authority to the U.S. government to collect them.

The five chief topics of this section include:

- **Standards:** Standard-setting bodies monitor, regulate, and update audit and controls requirements.
- **Payments and Collection:** In the U.S., payments come in two types: nontax and tax.
- **Data Validation and Audits:** Prior to publication, different revenue payments are verified by high levels of internal and external scrutiny.
- **Revenue Disbursement:** Once revenues are collected and verified, they are disbursed to a variety of end recipients.
- **Data Publication:** Each form of payment requires different levels of publicity and transparency.

You can read the more about audit and assurance practices and controls online at https://useiti.doi.gov/downloads/USEITI_budget-audit-factsheet_2016-08-17.pdf.

Online you can see the full section and read more detailed information.



Online you can also read more detailed information on the audit and assurance practices and controls of two government organizations that play a role in collecting and distributing payments related to extraction: ONRR and the IRS. You can also access links to additional information on key U.S. government agencies, standards, and processes that support transparency related to payments to the U.S. government made by companies in the extractive industries.

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UPDATES TO RELEVANT LAWS AND REGULATIONS

Updates to Relevant Laws and Regulations

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

Relevant New Laws, Rules, and Reports

In 2016 there were a number of new final and proposed rules, as well as reports issued by the Government Accountability Office (GAO) and the DOI Office of Inspector General (OIG). They include updates to the regulations governing oil and gas leasing on the Outer Continental Shelf, an update to coal valuation regulations, and an OIG report on the Financial Management Division of ONRR. You can read summaries of these updates and find links to the full rules and reports online at https://useiti.doi.gov/how-it-works/federal-reforms/.

Dodd-Frank 1504

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

Dodd-Frank 1504 mandates disclosure of "the type and total amount of (such) payments made for each project of the resource extraction issuer relating to the commercial development of oil, natural gas, or minerals," including "taxes, royalties, fees (including license fees), production entitlements, bonuses, and other material benefits, that the Commission, consistent with the guidelines of the EITI (to the extent practicable), determines are part of the commonly recognized revenue stream for the commercial development of oil, natural gas, or minerals."[8] In its adoption of the final rule, the SEC also noted that EITI represents a "substantially similar disclosure [regime] for purposes of alternative reporting, subject to certain conditions." Provided a company meets these conditions, USEITI reporting will satisfy disclosure requirements under the rule.[9]

[8] Dodd-Frank Wall Street Reform and Consumer Protection Act, https://www.gpo.gov/fdsys/pkg/PLAW-111publ203/content-detail.html

[9] Securities and Exchange Commission, https://www.sec.gov/rules/final/2016/34-78167.pdf

The SEC rewrote the rule to implement this law and released the final rule in June 2016. Section 4.7 of the EITI Standard states: "Reporting at the project level is required, provided that it is consistent with the United States Securities and Exchange Commission rules and the forthcoming (now implemented) European Union requirements." The SEC's ruling on Dodd-Frank 1504 will require public companies to file their information 150 days after the conclusion of their FY 2018. For companies that use December 31st as their fiscal year-end, for example, the filing deadline will be May 30, 2019. However, private companies, some of which are in the scope of USEITI, will remain unaffected by this legislation.[10]

You can read the final rule at https://www.sec.gov/rules/final/2016/34-78167.pdf.

[10] Extractive Industries Transparency Initiative, https://eiti.org/sites/default/files/migrated_files/english_eiti_standard_0.pdf

Dodd-Frank 1504 Timeline[1]

July 2010
President Obama signs Dodd-Frank into law. The law gives the SEC 270 days to write the final rule.

August 2012
The SEC approves the final rule for Section 1504.

October 2012
Industry members challenge the SEC ruling on the grounds that its disclosure requirements constitute a violation of first amendment rights.

July 2013
The D.C. District Court vacates the ruling and remands it to the SEC to reconsider the publication of payment reports and the lack of exemptions for certain countries.

September 2014
EarthRights International on behalf of Oxfam sues the SEC for failure to release new transparency rules in accordance with Dodd-Frank.

September 2015
The U.S. District Court orders the SEC to expedite revenue transparency regulations for extractive industries.

June 2016
The SEC publishes the revised final rule, including an extended implementation timeline.

[1] Securities and Exchange Commission, "SEC Adopts Rules for Resource Extraction Issuers Under Dodd-Frank Act," https://www.sec.gov/news/pressrelease/2016-132.html

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2016
IA RECOMMENDATIONS

2016 IA Recommendations

For the 2016 USEITI report, the MSG built on the foundation of transparent reporting of natural resource revenue. Per the EITI Standard, the IA made recommendations to the MSG for future improvements in transparency and accountability:

Recommendation 1:

Reporting Entity Communication

OBSERVATION: MSG outreach and communication efforts have received positive feedback from reporting companies and have contributed to companies' understanding of the reporting process. Several improvements were made this year, notably the inclusion of webinars for the tax function at in-scope companies, coupled with outreach by MSG members and the IA at industry forums. Opportunities exist to continue to improve communication.

RECOMMENDATION: The MSG, with support from the IA, should continue to evaluate efforts to improve outreach and communication to reporting companies. The MSG should specifically focus on helping companies understand the relatively low level of effort required for reconciling federal corporate income taxes.

Recommendation 2:

Streamlining the Reconciliation Process

OBSERVATION: Insights from another year of reporting and reconciliation provide USEITI with opportunities to streamline the reconciliation process. Government, industry, and the IA have dedicated considerable time to the reconciliation process, and options to improve the process and make it more efficient should be considered.

RECOMMENDATION: The MSG, with support from the IA, should examine opportunities to streamline the reconciliation process, and do so in a way that does not compromise the integrity of the reporting process. Such opportunities could include greater disclosure of transaction-level detail to the IA and enable companies to streamline the reconciliation process, as well as exploring options for mainstreaming in 2017 and future years.

Recommendation 3:
Extending Adapted Implementation

OBSERVATION: Due to the federal nature of revenue governance for extractive industries in the United States where states and sovereign tribes each has its own governance regime, and given the size of extractive industries on the subnational level, the EITI International Board approved adapted implementation of subnational revenue reporting that allowed the United States to pursue a voluntary opt-in approach for states and tribes for the first two annual USEITI reports. The circumstances supporting the board's original approval of adapted implementation are still present and are highly unlikely to change for the foreseeable future.

RECOMMENDATION: The MSG should consider seeking an extension of adapted implementation from the EITI International Board to allow compliance with the subnational requirement through the present voluntary opt-in procedure for states and tribes.

Recommendation 4:
Examining USEITI and Dodd-Frank 1504

OBSERVATION: This year, the SEC adopted rules to require natural resource extraction issuers to disclose payments made to the U.S. government for the development of oil, natural gas, or minerals as part of Dodd-Frank 1504. The rule directly relates to USEITI in that it mandates the reporting of revenues and tax payments for all publicly held companies involved in extractive industries activity in the United States.

RECOMMENDATION: The MSG should continue to examine how Dodd-Frank 1504 aligns with the EITI Standard through working group discussions and at full MSG meetings. In particular, the impact of the new rule on mainstreaming revenue reporting and the path to validation should be considered.

Recommendation 5:
Refresh Definition of In-Scope Revenues

OBSERVATION: Prior to the preparation of the 2015 USEITI report, the MSG agreed upon and documented in-scope revenues, companies, and commodities for reporting and reconciliation. The MSG revisited the scoping at the beginning of the 2016 USEITI report. The MSG has continued to discuss which commodities and revenue streams may be included as in-scope in future reports based on comments from stakeholders and per section 4.1(a) of the EITI Standard.

RECOMMENDATION: Before the 2017 reporting period begins, the MSG should again discuss the in-scope revenues for reporting and reconciliation, including revenue streams, commodities, in-scope reporting thresholds, and the Margin of Variance. The conversation should consider section 4.1(a) of the EITI Standard and input from MSG members and stakeholders from civil society, industry, and government.

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