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New SEC Disclosure Requirements For Oil And Gas Reporting Companies

by Iris Linder

On January 14, 2009, the Securities and Exchange Commission Final Rule for the Modernization of Oil and Gas Reporting was published in the Federal Register. The new rule will be effective for registration statements filed on or after January 1, 2010 and for annual reports for fiscal years ending on or after December 31, 2009. The SEC has indicated that it may consider delaying the compliance date, but for now, the foregoing dates apply. In order to assure comparable disclosures across the industry, early compliance is not permitted.



oil and gas wells, but also extraction of saleable hydrocarbons in the solid, liquid or gaseous state, from oils and shale, coalbeds, or other nonrenewable natural resources that are intended to be upgraded into synthetic oil or gas.

- Definitions of “reasonable certainty,” “proved developed oil and gas reserves,” “proved undeveloped oil and gas reserves,” and “reliable technology” have also been modernized.

Industry Guide 2, which has previously been referred to in various items of Regulation S-K, is being replaced with a new Subpart 1200 of Regulation S-K. Subpart 1200 now outlines the disclosure requirements specific to oil and gas companies. Subpart 1200 differs from Industry Guide 2 in a number of respects, some of which are described below.

Key changes were made to the definition section of Rule 4-10(a) of Regulation S-X to enhance consistency with the Petroleum Resources Management System. Among the more significant changes are:

- The use of a 12-month average price to calculate economic producibility. The 12-month average price is calculated as the unweighted arithmetic average of the first-day-of-the-month price for each month within the 12-month period prior to the end of the reporting period, unless prices are defined by contractual arrangements, excluding escalations based upon future conditions. This approach replaces the decades old practice of using single-day year-end pricing to determine economic producibility of reserves.
- The definition of “oil and gas producing activities” has been expanded to include not only sources that involve extraction by traditional

- Guide 2 required and permitted disclosure only of proved reserves. New Item 1202 expands the reserves disclosure by permitting optional disclosure of probable and possible reserves, as well as reserves from non-traditional sources.
- An optional reserves sensitivity table has been added.
- A requirement to disclose the internal controls used in estimating reserves and the qualifications of the technical person primarily responsible for overseeing the preparation of reserve estimates has been added.
- A requirement that if the Company’s reserve estimate report is prepared by a third party, a

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NEW OIL & GAS S.E.C. REQUIREMENTS - *continued*

summary report from the third party containing specific information must be filed with the registration statement or report has been added.

- Enhanced disclosure requirements relating to proved undeveloped reserves (“PUDs”) have been added that require:
 - disclosure of the year-end quantity of PUDs;
 - material changes to PUDs during the year, including those that have converted to proved developed reserves;
 - investments and progress made during the year to convert PUDs to proved developed reserves; and
 - an explanation of the reasons why material concentrations of PUDs in individual fields

or countries have remained undeveloped for five years or more after disclosure as PUDs.

As a result of the foregoing changes, reports and registration statements prepared in 2010 will present new challenges and opportunities. We would be pleased to work with oil and gas reporting companies to help them work their way through these new disclosure requirements.

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