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SEC Gauging Public Interest in Changing Oil and Gas Reserve Disclosure Requirements

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On December 12, 2007, the SEC, citing "significant changes in the oil and gas industry," published a "Concept Release," seeking comments so that it may gauge the public's interest in revising oil and gas reserve disclosure requirements. The SEC noted that its current rules – all formulated between 1978 and 1982 – have not kept up with technological changes in the oil and gas industries, and thus, "may not provide investors with the most useful picture of oil and gas reserves public companies hold." Those wishing to comment must do so within sixty days after the Federal Register publishes notice of the Concept Release.

Current SEC rules allow companies to report only their "proved reserves" of oil and gas to investors. Deposits qualify as "proved reserves" if producers can extract them "with reasonable certainty . . . from known reservoirs under existing economic and operating conditions." In essence, "proved reserves," as opposed to unproved ones, must be economically producible. To establish economic producibility, and thus, achieve "proved reserve" status for a particular oil or gas reservoir, the SEC requires either actual production or a "conclusive formation test." The latter mandates that producers, with limited exception, carry out some degree of drilling or well flow testing on its candidate reservoirs.

In its Concept Release, the SEC acknowledges that companies now evaluate the economic vitality of their oil and gas reserves with more modern techniques, citing 3-D and 4-D seismic interpretation as examples. Furthermore, while older technologies in effect when the SEC promulgated its "proved reserve" rules permitted extraction of oil-containing compounds from tar sands and oil shales only through traditional mining-type activities, newer techniques recover these same compounds via oil and gas drilling techniques. Despite these advances, current SEC rules, grounded in late 1970s technology, do not permit oil and gas producers to count tar sands and oil shales as "proved reserves." As the SEC based its current rules on potentially outdated 1978 guidelines developed by the Society of Petroleum Engineers, its Concept Release encourages oil and gas producers to suggest alternatives to its current regime

Any company operating as an oil and gas producer will want to take this opportunity to provide comments to the SEC now – at a time when the SEC seems receptive and open to a variety of ideas. Questions the SEC

seeks comment on include the following:

1. Should the Commission replace its rules-based current oil and gas reserves disclosure requirements, which identify in specific terms which disclosures are required and which are prohibited, with a principles-based rule?
2. Should the Commission consider allowing companies to disclose reserves other than proved reserves in filings with the SEC?
3. Should the Commission adopt all or part of the Society of Petroleum Engineers – Petroleum Resources Management System?
4. Should the Commission consider revising the current definition of proved reserves, proved developed reserves and proved undeveloped reserves?
5. Should the Commission specify the tests companies must undertake to estimate reserves?
6. Should the Commission reconsider the concept of reasonable certainty?
7. Should the Commission reconsider the concept of certainty with regard to proved undeveloped reserves?
8. Should the Commission reconsider the concept of economic producibility?
9. Should the Commission reconsider the concept of existing operating conditions?
10. Should the Commission reconsider requiring companies to use a sale price in estimating reserves?
11. Should the Commission consider eliminating any of the current exclusions from proved reserves?
12. Should the Commission consider eliminating any of the current exclusions from oil and gas activities?
13. Should the Commission consider eliminating the current restrictions on including oil and gas reserves from sources that require further processing, e.g., tar sands?
14. What aspects of technology should the Commission consider in evaluating a disclosure framework?
15. Should the Commission consider requiring companies to engage an independent third party to evaluate their reserves estimates in the filings they make with us?

For more detailed information about the SEC's efforts to gauge the public's interest as to potential changes in oil and gas reserve reporting requirements, please see the SEC's Concept Release, <http://www.sec.gov/rules/concept/2007/33-8870.pdf>.

If you have any questions or desire additional information, please contact Lucy Schlauch (303-295-8493; MLSchlauch@hollandhart.com) or any other member of our Securities Group or Oil and Gas Group. This News Alert was authored by Dr. Paul J. Kyed, Ph.D., PE (303-295-8477;

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