

Court Orders SEC to Issue Resource Extraction Rules

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Oxfam America scored a recent victory when the U.S. District Court in the District of Massachusetts decided that the SEC must file with the Court an expedited schedule for promulgating a final rule on resource extraction disclosure within 30 days of the decision. The Court intends to monitor the schedule and ensure compliance. We previously discussed [Oxfam's complaint here](#) and our memo on the original resource [extraction rules is here](#).

Section 1504 of Dodd-Frank requires publicly traded oil and gas companies to annually disclose payments made to foreign governments or the federal government for the commercial development of oil, natural gas or minerals. The rule imposed a deadline of 270 days after the statute was enacted, which was April 17, 2011. The SEC adopted final rules in September 2012. The rule was then vacated by the district court in the District of Columbia in July 2013 and remanded to the SEC, which we [discussed here](#).

The SEC argued that because it had already issued final rules that were overturned by a court, it had not "unlawfully withheld" action under the Administrative Procedures Act (APA). The Court found, however, the 2013 court decision simply returned matters to where they stood before and "restored the status quo." The SEC's delay in promulgating final rules therefore constitutes action "unlawfully withheld," given that four years have passed since the original Dodd-Frank deadline. In addition, more than 270 days had passed from when the original rule was vacated.

If you have any questions regarding the matters covered in this publication, please reach out to any of the lawyers listed below or your usual Davis Polk contact.

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