

Senate Committee on Energy and Natural Resources
Full Committee Forum on Environmental Impacts of Shale Gas Development and Best Practices
May 23rd, 2013

Questions for the Record from Chairman Wyden:

Disclosure

1. Should the public have information on the chemicals being used before the fracking takes place? I understand that the chemicals necessary may need to be adjusted during the fracking operation, but couldn't companies provide their best information on what they plan to use, and then modify the report after the fact?

Response: It would be up to an individual state to require pre-fracture chemical disclosure estimates. FracFocus would continue to post the actual chemicals used in the fracture procedure.

FRACFOCUS

1. I have several questions about FracFocus, but let me first say that I think the effort that has been put together to date is a constructive one. I know that many states and the BLM are relying on FracFocus as a vehicle for public disclosure. Because it plays such a central role in the fracking discussion, I would like to explore ways of further supporting it and improving it. One of the concerns I have heard about FracFocus is that there is no oversight to make sure that the information that is reported by the companies is correct. Is it possible to put in place a system for checking the accuracy of what is reported? I think this is important if the public is relying on the information.

Response: It is the responsibility of the operator to file an accurate report to the state. It is the state's responsibility to audit the reports it receives to assure that they are accurate. FracFocus has no regulatory authority of its own. It relies on the authority of the state regulatory agency. States can compel operators to supply independent documentation such as invoices to verify the accuracy of a FracFocus report. Therefore, the state regulatory agencies provide the oversight for the system.

2. False reporting: Under Federal law, making a false certification to the Federal government is a criminal offense. Are there any legal repercussions resulting from false certifications on the FracFocus site?

Response: In those states where reporting to FracFocus is compulsory, it would be a violation of state law to file a false report. Each state would have its own remedies for such a filing.

3. Identity of Chemicals: I have also heard complaints that it is difficult to determine what chemicals are used in fracking, even when disclosure is made on FracFocus. I am told that this is the case because there is no standardized way of reporting the chemicals. Would it make sense to require the use of Chemical Abstract Service (CAS) numbers for the chemicals, as the proposed BLM regulation does?

Response: The FracFocus system does require the reporting of CAS numbers in all states. Many chemicals have multiple names that are used interchangeably throughout multiple industries. There is no standard chemical name protocol that is used under all circumstances. The FracFocus requirement to report CAS numbers overcomes this problem.

4. Funding: Who funds FracFocus currently? How much does it cost to maintain the site annually?

Response: Funding for FracFocus comes from the U.S. Department of Energy, state regulatory agencies through the GWPC, and from API and ANGA as part of a cost-share which was suggested by (former) DOE Secretary Chu's Energy Advisory Board (SEAB). The current cost to maintain the site is between \$250,000 and \$400,000 per year depending upon the need for minor system upgrades and the level of user support required.

5. Data Retention: How long is the data retained on the FracFocus site?

Response: The data in FracFocus is retained permanently

6. Aggregation of Data: What could make FracFocus more “user friendly”? Is there a way to modify the site to facilitate the aggregation of data and further analysis of what chemicals are used where?

Response: Under the previous FracFocus 1.0 chemical information was not stored in a data base. Consequently, it could not be extracted for aggregation other than by “scraping” it from .pdf files. This process results in data errors and is not recommended. In FracFocus 2.0 all information will be stored in a centralized data base. States will have access to the data in this system and may extract it at their discretion. The decision to provide information from FracFocus that can be aggregated would, therefore, rest with the individual states that extract the data. The BLM, if it adopted FracFocus, would have the same data extraction capability as the states now have.

Flaring

1. What would be the best way to encourage a phase out of flaring of natural gas? I understand there will always be a need for some flaring for safety reasons or otherwise, but what would be a reasonable timeline to achieve a goal of minimal flaring across the country?
2. Flaring rates in Texas and Alaska are close to zero. What is the law in Texas in regard to flaring? What makes the Bakken so different that flaring is so much more prevalent?
3. What could be done at the federal level to help reduce the amount of natural gas being flared in the Bakken and elsewhere? If the regulatory or incentive structure isn’t changed, will the amount of flared gas drop on its own, and if so how quickly?
4. Alaska addresses flaring with financial penalties. North Dakota has taken a different approach by providing incentives. What about combining these two approaches to have a combination of financial carrots and sticks to reduce or eliminate flaring?

At the Chairman’s request, please feel free to submit any additional comments on the environmental impacts of shale gas development and best practices to the committee.

**Respectfully submitted,
For the Ground Water Protection Council and Interstate Oil and Gas Compact Commission**

Stan Belieu
Deputy Director, Nebraska Oil and Gas Conservation Commission