

Singh, Angela K (DOA)

From: Colombie, Jody J (DOA)
Sent: Sunday, April 28, 2013 11:31 AM
To: Singh, Angela K (DOA)
Subject: Fwd: GWPC response to Harvard Article

Please process

Sent from my iPhone

Begin forwarded message:

From: "Wallace, Chris D (DOA)" <chris.wallace@alaska.gov>
Date: April 26, 2013, 7:32:55 AM AKDT
To: "Colombie, Jody J (DOA)" <jody.colombie@alaska.gov>
Subject: FW: GWPC response to Harvard Article

Jody,

We received the Harvard Article for inclusion into the Hydraulic Fracturing comments. As this is a response to this article, please review, check with commissioners, and determine if this can be entered into the record in this format.

Thanks and Regards,
Chris Wallace
Sr. Petroleum Engineer
Alaska Oil and Gas Conservation Commission
333 West 7th Avenue
Anchorage, AK 99501
(907) 793-1250 (phone)
(907) 276-7542 (fax)
chris.wallace@alaska.gov

Begin forwarded message:

From: Mike Paque <mpaque@gwpc.org>
Date: April 25, 2013, 1:22:03 PM CDT
To: Jami Bailey <jami.bailey@state.nm.us>, <johnbaza@utah.gov>, <matt.lepore@state.co.us>, "Richmond, Tom" <trichmond@mt.gov>, Lynn Helms <lhelms@nd.gov>, Leslie Savage <leslie.savage@rrc.state.tx.us>, <L.Wrottenbery@occeemail.com>, <larry.bengal@aogc.state.ar.us>, Doug Louis <d.louis@kcc.ks.gov>, Lisa Ivshin <livshin@ogb.state.ms.us>, Dave Bolin <DBolin@ogb.state.al.us>, <evan.kane@ncdenr.gov>, <rick.simmers@dnr.state.oh.us>, Scott Kell <scott.kell@yahoo.com>, "Bradley Field" <bjfield@gw.dec.state.ny.us>, <scperry@pa.gov>, "Joe Lee" <joslee@pa.gov> <joslee@state.pa.us>, Harold Fitch <fitchh@michigan.gov>, Herschel McDivitt <hmcdivitt@dnr.in.gov>, "Shutt, Doug" <Doug.Shutt@Illinois.gov>, <thom.kerr@state.co.us>, "Norman, John K (DOA)" <john.norman@alaska.gov>, <cathy.foerster@alaska.gov>, <Kim.Collings@ky.gov>
Subject: GWPC response to Harvard Article

The following response concerns your request for comment from the GWPC regarding the Harvard University study of FracFocus. This response is limited to the three main points raised by Harvard and does not reflect a complete response to the entire study.

According to Stan Belieu, Deputy Director of the NOGCC and current President of GWPC, "The FracFocus website was developed and is managed by the state oil and gas regulatory programs and I am not aware of any state regulatory program that has been contacted by Harvard University to make inquiry of its capabilities, I do not understand how, without direct contact, this study can draw the conclusions it has."

Just to address the three specific points noted in the Summary of the Harvard study the GWPC would offer the following:

Harvard statements:

(1) Timing of Disclosures. State laws attach penalties to a company's late submittal of, or failure to submit, chemical disclosures. However, FracFocus does not notify a state when it receives a disclosure from a company operating in that state. Nor can most states readily determine when a disclosure is made. As a result, states cannot enforce timely disclosure requirements.

(2) Substance of Disclosures. FracFocus creates obstacles to compliance for reporting companies. For example, by not providing state-specific forms, FracFocus leaves companies to figure out how to account for state disclosure requirements not covered by the FracFocus form. FracFocus staff does not review submissions, and states usually do not receive the form; factors that may encourage some companies to under-value careful reporting. Meanwhile, no state sets minimum reporting standards for FracFocus. In fact, were FracFocus to disappear entirely, most states using the registry would have no backup disclosure methods readily identified and available to them.

(3) Nondisclosures. Trade secret protection is critical in order to reward development of unique products in the marketplace. However, three characteristics of a robust trade secret regime prevent overly broad demands for this protection: substantiation by the company, verification by a government agency, and opportunity for public challenge. FracFocus has none of these characteristics; operators have sole discretion to determine when to assert trade secrets. As a result, inconsistent trade secret assertions are made throughout the registry.

GWPC responses

1. This statement is incorrect. FracFocus not only notifies states of the submission of disclosures and provides them with lists of such disclosures on a routine basis, it allows states to download the data from the disclosures so that it can be incorporated into the states own data system. FracFocus is also currently developing the capability for states to load data directly into the own state systems.
2. The whole purpose of utilizing a single format is so the public does not have to navigate multiple formats with different information. This makes it better for the public not worse. While it is true the FracFocus staff does not review the forms for content, that is the responsibility of the state agencies for whom the forms are submitted. FracFocus is a tool, not a regulatory program. We are not in a position to know and understand the specifics of individual state regulations nor are we charged by law with enforcing them. We merely provide the means by which a state receives the information so that they may review it for regulatory compliance.

With respect to FracFocus being difficult for companies to use, by providing a single means of reporting across state boundaries, FracFocus makes it easier for companies to comply with state regulations because they do not have to enter data in multiple formats.

The assertion that no state sets a minimum reporting standard for FracFocus is incorrect. The vast majority of state utilizing FracFocus have specifically detailed the reportable elements in their regulations.

3. As with all information in a FracFocus disclosure, it is the responsibility of the state regulatory program to review and act upon Trade Secret claims. FracFocus cannot act on behalf of state regulatory programs as it does not have such authority. Obviously, it is up to each operating company to know and understand individual state laws regarding disclosure. It is also up to each state to enforce compliance with its own laws. Once again, FracFocus is not a regulatory program, it is a tool for collecting the disclosures required by regulatory programs.

We believe the research done by the Harvard team fails to reflect the true capabilities of the FracFocus system and misrepresents the systems relationship to state regulatory programs.