

Summary Minutes of the

U.S. Department of Energy (DOE)
Secretary of Energy Advisory Board FracFocus2.0 Task Force
Public Meeting

Date and Time: 9:45 AM- 3:00 PM, January 6, 2014

Location: Department of Energy Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585

Committee Members: John Deutch, Chair; Frances Beinecke; Fred Krupp; Susan Tierney (on phone); Stephen Holditch; Rafael Bras; Ram Shenoy; and Dan Reicher.

DOE Staff: Amy Bodette, Designated Federal Official; Paula Gant, Deputy Assistant Secretary Office of Oil and Gas

Opening of the Meeting

Task Force Chair John Deutch opened the first meeting of the Secretary of Energy Advisory Board FracFocus 2.0 Task Force. The Task Force is charged with reviewing how FracFocus 2.0 houses the information Federal and State regulatory agencies require as part of their regulatory functions with regard to disclosure of the composition and quantities of fracturing fluids injected into unconventional oil and gas wells.

DOE Presentation of FracFocus 2.0

The first presentation was given by Paula Gant, U.S. Department of Energy, Office of Fossil Energy, Deputy Assistant Secretary, Office of Oil and Gas. Gant highlighted a number of reports from 2011-2013 aimed at the safe and responsible development of oil and natural gas resources. She specifically reviewed the progress on the recommendations made in SEAB's 2011 Shale Gas Production Subcommittee Report. The main areas of progress include improved public information on shale operations; actions to reduce methane emissions; improving performance of regulators and industry; and creation of new partnerships. Gant also reported on the progress of FracFocus and provided a clearer definition for what FracFocus is and what it is not. The full presentation can be found at www.energy.gov/seab.

FracFocus Presentation

Mike Paque, Gerry Baker, and Stan Belieu reported on the work of FracFocus and the improvements made in FracFocus 2.0 as well as their connection with Risk Based Data Management System (RBDMS) used by states and tribes. The primary clients of FracFocus are the public and it must be accurate and user friendly. The full presentation can be found at www.energy.gov/seab. The Members of the Task

Force were interested in making sure that errors were captured and recorded; accuracy of reporting due to trade secrets; and the amount of funding needed to improve and maintain FracFocus.

Stakeholder Presentation

The stakeholder presentation panel was Kate Konschnik, Harvard Law School, Cal Cooper, Texas Independent Producer and Royalty Owners Association, and Erik Milito, American Petroleum Institute.

Konschnik discussed the findings of Harvard's April 2013 report on FracFocus that found the registry inadequate as a regulatory compliance tool. The problem areas were identified as timing, format, substance, and disclosure. The submissions do not include date stamps and the spreadsheets are burdensome to use. Konschnik noted that not having to file trade secret data prevents full disclosure. She suggested that public challenges can drive the rate of disclosure down. Konschnik suggested that SEAB look at the rate of proprietary claims by state.

Cooper used his time to clarify information. Disclosures are protected by states now. The owners of the chemicals, manufacturers and service companies, have the rights to the information. The operators do not know the formula. The Task Force asked how many hands that data goes through at Apache. The service company provides information to the engineers at Apache and they supply the information to clerical staff that input the information into FracFocus. Apache enters the data, not the service company.

Milito said that asking companies to disclose their complete formula is akin to asking Coca-Cola to disclose their recipe. All of the chemicals are listed on the FracFocus sheets. Revealing trade secrets could discourage "green" hydraulic fracturing fluids. It is standard to report on well management, well control, and extent of fractures. The industry has the same business protections as all other industries to incentivize technological innovation.

Discussion followed the presentations and the Task Force raised a few issues. The Task Force noted that while the content of hydraulic fracturing fluids may not be a risk to groundwater contamination, the public has concerns. FracFocus does not address water quality presently and is foremost focused on worker protection and spills at the surface. The Task Force also addressed the suggestion of a user fee, but Milito responded that fees could discourage voluntary reporting, especially by small companies.

State Regulators Presentation

Scott Kell, Matt Lepore and Mark Bohrer served on the State Regulators Panel.

Mark Bohrer stated that FracFocus and RBDMS are the tools used by North Dakota. They do not receive a lot of public inquiries and in a recent public opinion poll only 6% of the respondents cited hydraulic fracturing and disclosure of chemicals as a concern. They have had few challenges of trade secret claims. If there is additional need for data for public health concerns the state agency can obtain the information and get the data. In August of last year, proprietary, confidential, or trade secret protection, while claimed on approximately 85% of frac jobs performed, it only constitutes on average 0.12% of the overall fluid pumped during the frac job. In FracFocus, 12% of the chemicals are reported. If issues

arise, information can be obtained and landowners can ask for analysis of water quality. North Dakota has two full time IT staff for FracFocus and RBDMS. The state has a vested interest in keeping FracFocus going.

Matt Lepore reported on Colorado's disclosure requirements. As of 2012 Colorado is required to have search and other capabilities that became available in FracFocus 2.0. The statute also requires that if FracFocus becomes inoperable that the state must still provide information to the public. There is a trade secret entitlement that requires industry to list contact information and affirmation to verify legitimacy. There is a mechanism for the public to challenge trade secret claims. Colorado initiates an auto transfer from FracFocus to compare FracFocus data with state data to determine whether FracFocus submissions were timely. As of January 2013 there is a new requirement for water samples before and after drilling. Sampling results are maintained in RBDMS and are accessible to the public. Colorado has published model sampling protocols that must meet industry standards. Environmental Defense Fund was involved in setting this up.

Scott Kell reported that the state of Ohio has set aside one million dollars for RBDMS upgrades for implementation. Hydraulic fracturing data in the state of Ohio is scanned and searchable. It is available to the public through the website. FracFocus includes a public education component that meets the Ohio's needs. Many of the public's concerns are generated by misinformation. Trade secret information can be obtained by the Chief of the Ohio Department of Natural Resources at any time. The information is also available to any medical professional without any written request required. The state retains the data in case the company leaves the state. Companies must also retain the data for two years.

Public Comment