

**TESTIMONY SUBMITTED TO THE SUBCOMMITTEE ON ENVIRONMENT AND THE
ECONOMY OF THE HOUSE COMMITTEE ON ENERGY AND COMMERCE
HEARING ON “THE ROLE OF THE STATES IN PROTECTING THE ENVIRONMENT
UNDER CURRENT LAW”**

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Good morning Mr. Chairman and members of the Subcommittee. My name is Hal Fitch. I am the Director of the Office of Oil, Gas, and Minerals (OOGM) of the Michigan Department of Environmental Quality and have served in that capacity for the past 16 years. The OOGM is charged with regulating oil, gas, and mineral exploration and production operations in Michigan.

I am here today on behalf of the Interstate Oil and Gas Compact Commission (IOGCC) to describe the states' role in protecting the environment through regulation of oil and gas drilling and production. The IOGCC is an organization chartered by Congress that represents the governors of 38 states. Its mission is to promote the conservation and efficient recovery of domestic oil and natural gas resources while protecting health, safety, and the environment. I am Michigan's Official Representative to the IOGCC. I am also a member of the Board of Directors of the Ground Water Protection Council, which is also represented here today.

I appreciate this opportunity to address you on this important issue. I want to talk briefly about the regulatory structure and processes in Michigan as well as other states, and the role of the IOGCC in assisting the states in those efforts and in coordinating state actions.

The states have a long and successful history of regulating oil and gas operations. In fact, the states' recognition of the need to protect the environment while supporting the efficient production of oil and gas dates back many decades before the modern environmental movement.

Michigan is typical of other oil- and gas-producing states in the scope and depth of our oil and gas regulations. We oversee well drilling and production from cradle to grave. I have a staff of about 60 people, comprised of geologists, engineers, attorneys, enforcement specialists, and administrative support personnel. Our oversight starts with siting of each well to assure protection of ground water, surface water, wetlands, aquatic habitat, cultural features, property, and other features. We also regulate the location and spacing of wells so that the oil and gas resources can be efficiently extracted with the minimum number of wells and least amount of surface disturbance. In addition to oil and gas extraction wells, we regulate wells for injection of brine, gas, and other fluids for disposal, enhanced oil recovery, or underground gas storage.

Oil and gas operators must obtain a permit from the state for each well before beginning to drill. Permits incorporate specific drilling and well construction criteria to assure that oil, gas, and byproducts are contained within the wellbore and do not escape to the environment. If a well is productive, we enforce regulations on production rates, surface equipment, and environmental monitoring. At the end of a well's productive life, or if the well is initially non-productive (i.e., a “dry hole”), we prescribe how it must be plugged and how the site must be restored. Our staff inspect well operations to assure adherence to requirements for protection of the environment and public health. We have a total of 15,000 oil and gas wells and 4200 injection wells in Michigan. Our staff conducted over 17,500 field inspections in 2012.

Throughout the life of a well, we enforce requirements for spill prevention, containment, and cleanup. We require secondary containment, such as synthetic liners, under areas prone to accidental spills. If spills occur, they must be promptly reported, monitored, and cleaned up. We monitor for emissions to the air and water to minimize potential impacts and assure adherence to federal and state laws. We have a dedicated fund, provided from taxes paid by the oil and gas industry, to plug wells and restore sites if an owner is in bankruptcy or ceases to exist.

Michigan's oil and gas statutes, regulations, and administrative procedures are tailored to the legal structure and doctrines, environmental conditions, geology, topography, climate, and community sensitivities specific to our state. A one-size-fits-all federal approach would not be as effective or efficient in accommodating these unique issues. In addition, our staff must have highly specialized background and expertise in well drilling, oil and gas production, law enforcement, and property rights that are distinctive to Michigan in many respects.

Our regulatory oversight has to be flexible and adaptable. A good example is our response to the issue of hydraulic fracturing. Hydraulic fracturing was first used in Michigan in 1952. Since then, we have had over 12,000 wells hydraulically fractured and there have been no instances of environmental contamination related to the practice. Recent increased use of the technology, particularly in conjunction with horizontal drilling, has dramatically increased U.S. oil and gas production; however, it has also caused concern among the public and environmental advocacy groups over potential environmental impacts.

Our agency has responded to this concern in several ways. We issued a special permitting instruction that requires evaluation of potential impacts of water withdrawals using a web-based assessment tool; reporting of chemical additives used in hydraulic fracturing and posting of the information on our website; and monitoring and reporting of pressures and fluid volumes during hydraulic fracturing operations. Over the past year my staff and I have given over 100 presentations to the public and special interest groups to provide the facts about hydraulic fracturing and explain our regulatory response to the concerns.

While each state is unique, the states also have many things in common. This is where multi-state organizations play an important role. The IOGCC and GWPC are the two main organizations that have assisted and supported the states in implementing our responsibilities.

The IOGCC provides a forum for states to share ideas, compare similarities and differences, and formulate regulatory solutions. The organization provides training, model statutes, and coordination among its member states. The IOGCC developed an Inspector Certification program used by several states to help ensure that on-the-ground inspectors have the necessary qualifications and background.

A good example of interstate cooperation around a common issue is the development of FracFocus—a nationwide web-based registry for reporting chemicals used in hydraulic fracturing operations. The registry was established in 2011 by the GWPC in cooperation with the IOGCC. Three hundred seventy-five companies now report their fracturing operations on FracFocus, and the database has more than 37,000 records of individual fracturing operations. Currently, ten states require disclosure to FracFocus by rule, and additional states may adopt this approach. FracFocus was recently upgraded to version 2.0, which provides improved searchability.

The IOGCC also supports the Underground Injection Control Peer Review program implemented by the GWPC. This program provides review and advice to help states evaluate the effectiveness of their injection well programs in protecting the environment and public health.

Another example of states working together is the Risk-Based Data Management System (RBDMS) developed by the GWPC. Michigan and many of our sister states also have adopted RBDMS to manage our oil and gas drilling and production data. RBDMS provides a common platform that can be tailored to meet the specific needs of each individual state. RBDMS is a mission critical tool for regulatory program management and environmental resource protection. Most recently, states through the GWPC are exploring ways that RBDMS can assist the Energy Information Administration to increase the public availability of timely, accurate, and comprehensive U.S. oil and gas production data.

In conclusion, we are confident in the ability of the laws, rules, regulatory procedures, and professional staff in Michigan and our sister states to protect the environment and public health in an efficient and effective manner. Our regulatory structures are adaptable in addressing new technologies and new concerns, and they yield consistent results tailored to our specific needs and priorities.

Thank you again for the opportunity to appear here today. I would be glad to entertain any questions the Subcommittee may have.