

**Meeting Minutes of the Rules Committee of the  
North Carolina Mining and Energy Commission  
September 5, 2013  
2:30 pm – 5:00 pm**

**I. Preliminary Matters**

**1. Call to Order and Notice of NCGS 138A-15**

Chairwoman Pickle called the meeting of the Rules Committee to order at 2:50 pm in the Ground Floor Hearing Room, Archdale Building in Raleigh, NC. Chairwoman Pickle read the relevant excerpt of the State Government Ethics Act, and asked Commission Members to consider whether or not they had conflicts of interest with respect to any items on the agenda. No conflicts were reported.

The following persons were in attendance for all or part of the meeting:

**Committee Members**

Amy Pickle (Chairwoman)  
Charlotte Mitchell  
George Howard  
Charles Holbrook  
Jane Lewis-Raymond

**Attorney General's Office**

Mary Lucasse

**DENR Staff Member**

Trina Ozer Matta, Department of Environment and Natural Resources (DENR) Secretary's Office  
Layla Cummings, DENR  
W. E. "Toby" Vinson, Division of Energy, Mineral and Land Resources (DEMLR)  
Walt Haven, DEMLR  
Katherine Marciniak, DEMLR  
Ryan Channell, DEMLR  
Rosalind Harris, DEMLR

**Others in Attendance**

Refer to the attached meeting sign-in sheets.

**2. Review and approval of minutes from the July 25, 2013 meeting**

Mr. George Howard made a motion to approve the minutes and Mr. Charles Holbrook seconded. The motion passed.

**3. Revisions or additions to Agenda**

None

**II. Action Items:**

**2. Preparation of Baseline Testing Rules for Transmittal to Full MEC (see attached document)**

The Rules Committee discussed the rule and made the following changes, revisions, or flags for future consideration:

- a. Deleted "the general and specific" from line two in Section XXX1;
- b. Deleted "and for air quality testing" from line four in Section XXX1;

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- c. Deleted the second sentence in Section XXX1;
- d. Change “operator” to “permittee” throughout rule set;
- e. Page 1, paragraph (a)(1) – insert “A statement of” at the beginning of the sentence;
- f. Page 1, paragraph (a)(2) – insert “A statement explaining that if the surface owner or owner of the water supply refuses the permittee access to conduct pre-drilling testing of the water supply, then such refusal may be used as evidence to rebut the presumption of liability established by”;
- g. Should there be a timeframe for a landowner to respond to the well test letter sent by the permittee requesting access to their property to test any water wells on the property. Flag this for the MEC.
- h. Page 1, Line 26- change (2) to “A copy of the written notice that was sent/submitted to the surface owner”;
- i. Page 1, Insert (a)(4) at line 21: “A surface owner may elect to have the Department sample wells located on their property, in lieu of sampling conducted by the oil or gas developer or operator, in which case the developer or operator shall reimburse the Department for the reasonable costs involved in testing of the wells in question. Nothing in this subsection shall be construed to preclude or impair the right of any surface owner to refuse pre-drilling testing of wells located on their property”;
- j. Make paragraph (c) on page 1, line 31 into a new rule section (.0XX3 Request for Investigation of Water Supply) and renumber the other sections in the rule set;  
Paragraph (d)(2) change to – Subsequent water supply testing shall be conducted at all initial sample locations:
  - (i) Between 6 and 12 months after production has commenced;
  - (ii) 24 months after production has commenced until all permitted wells have been completed on a well pad;
- k. Delete paragraph (d)(3)(i);
- l. Accept the following comments as provided by the chair:
  - AP9- restructure (c) on pages 1 and 2 into new rule section 0XX3;
  - AP10- change line 4 on page 2 from “within the presumptive liability distance, established pursuant to G.S. 113-421(a)” to “5,000 feet”;
  - AP14- replace from “The presumptive” to end of sentence to “5,000 feet”;
  - AP15- rewrite line 6 to 7 on page 3 to read “All sample analysis required by this Rule shall...”;
  - AP16- consistency of terms, baseline vs. initial;
  - AP18- change reference of (g) to (f); and
  - AP19- deletion of text on page 4, lines 5 to 6.

**3. Preparation of Wellhead Standards Rules for Transmittal to Full MEC** (see attached document)

The Rules Committee discussed the rule and made the following changes, revisions, or flags for future consideration:

- a. Should each rule start with the incorporation of rule “actor” into the rule text? - ‘The permittee shall...’
  - Meet with staff and RRC for clarification on this and other questions.
- b. The committee discussed if the cost for referenced materials needs to be provided- staff to look into this and report back to Chair Pickle.
- c. Page 1, Line 20- “over pressurization” to “over-pressurization”;

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- d. Page 1, Line 31- change “shall” to “may”;
- e. Page 1, Line 31-32- strike “and shall notify the Department immediately of such repairs”;
- f. Flag the following areas:
  - o Page 2, Line 1- “variance”- need to fully vet the authority of the MEC to grant any variances;
  - o Page 1, Line 5 and Page 2, Line 8- cost of reference material (see b above);
  - o Page 1, Line 11- “to escape”- may be too vague;
  - o Page 2, Line 16- “securely”- may be too vague.
- g. Restructure section 12 (j) to (m) where a sub-rule may be applicable.

**III. Information Items:**

**4. Discussion of Terminology and Assigned Responsibilities for “Permittees” and “Actors”**

The Rules Committee did not discuss this topic at the meeting due to time running out. This topic will be on the agenda for the September 26<sup>th</sup> meeting.

**5. Discussion of Compiled Definitions Section**

The Rules Committee did not discuss this topic at the meeting due to time running out. This topic will be on the agenda for the September 26<sup>th</sup> meeting.

**IV. Public Comment - No public comments.**

**V. Concluding Remarks -**

The Committee will take up the terms and the list of actors at the next meeting. Staff will make edits on the Wellhead Standards rules and send the revised document to the Chair.

**VI. Adjournment**

Chairwoman Pickle adjourned the meeting at 5:00 pm.

**DEMLR Staff contact for this Committee: Walt Haven, Energy Program Supervisor – NCDENR.**