

**Meeting Minutes of the Rules Committee of the  
North Carolina Mining and Energy Commission  
December 18, 2012**

**Preliminary Matters**

Chairwoman Pickle called the meeting to order at 3:15 pm and welcomed everyone attending. She read the ethics statement and asked Committee members whether or not they had a conflict of interest with respect to any action items on the agenda.

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

**Committee Members**

Amy Pickle (Chair)  
Charles Holbrook  
Jennie Hauser  
Charlotte Mitchell  
George Howard

**DENR Staff Members**

Tracy Davis  
Walt Haven

**Others in Attendance**

Refer to the meeting sign in sheets (attached to these minutes).

**Revisions or additions to agenda**

Chairwoman Pickle asked if there were any revisions or additions to the agenda. None were noted by the Committee members.

**Selection of Vice Chair**

Chairwoman Pickle stated that the appointment of Vice Chair of the Rules Committee would be deferred to the next Committee meeting. She also noted that Jonathan Williams will be vacating his Ex-Officio position on the MEC and this Committee at year's end when he assumes another position in state government.

**Information Items**

Chairwoman Pickle reviewed the purpose of the Rules Committee. She emphasized the need for establishing a framework to place draft rules as they are developed, ensuring overall consistency in rule format and definitions, coordinating rules that fit well with other Commissions' rules without overlap or conflict, and determining if the overall balance and burden of the rules is appropriate.

Mr. Tracy Davis (DEMLR Director) reviewed the framework and general content of the current North Carolina Administrative Code (rules) on Oil and Gas Conservation (15A NCAC 05D.0101 – 0.0111). The Committee discussed the merits and disadvantages of either amending the Subchapter 05D rules or establishing new rules under a new Subchapter. The Committee preferred repealing Subchapter 05D in its entirety and developing a new regulatory framework in a new Subchapter within Chapter 5 of the North Carolina Administrative Code, including moving appropriate rules elsewhere in Chapter 5 that are applicable to oil and gas to the new Subchapter. Mr. Davis noted that the rules in Subchapters B and F are applicable to the Mining Act of 1971 and should remain outside of the oil and gas Subchapter.

The Committee noted that there may be some gaps in current regulations that apply to oil and gas development that will need to be noted by this Committee and returned to the appropriate MEC Committee for consideration. Well construction sites that disturb less than one acre that would be exempt from the plan requirements of the Sedimentation Pollution Control Act was one example of a gap in regulation that would need to be addressed. Also, there was discussion on whether or not applicable rules should be referenced in the future oil and gas rules. Additionally, potential conflicts between fracking, oil and gas, and mining rules were discussed. It was noted that under the mining rules, rules related to civil penalty assessments are handled under a separate Subchapter than the mining permit application and operating rules.

The Committee stated that rules from other states should be considered when writing rules for North Carolina. Mr. Davis and Chairwoman Pickle presented examples of various rule structures used by other states that regulate oil and gas – Texas, Arkansas, Colorado and Louisiana (these examples are attached to these minutes). The Committee determined that the rule structure used by Texas was unacceptable for North Carolina.

Despite North Carolina already having an established structure, the rule framework from Arkansas was favored for its readability. The Committee also mentioned that the new oil and gas rules framework should be simplified enough as to only require division into three main subparts that relate to the life of a natural gas well – pre-drilling, drilling and production, and reclamation/closure/abandonment. Further discussion noted the need to add prior sections for Administrative/Introductory rules and Definitions to be used throughout and latter sections that would cover landowner rights and civil penalties/enforcement separately. Throughout, the rules should be readable, consistent, and “user friendly” with respect to their interpretation and application.

### **Concluding Remarks**

Chairwoman Pickle agreed to draft an initial outline of a rules framework based on the Committee's discussions for review and discussion at the next Committee meeting. Also, the Committee should be prepared to start work on the Definitions section of the rules framework.

**The Committee adjourned at 4:30 pm.**

**DEMLR Staff Contact for this Committee: Tracy E. Davis, Director, DEMLR**