

**Meeting Minutes of the Environmental Standards Committee of the
North Carolina Mining and Energy Commission
September 26, 2013**

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

Committee Chairman Mr. George Howard called the meeting to order at 1:05 p.m. He read the ethics statement and asked Committee members whether or not they had conflicts of interest with respect to any action items on the agenda. None were expressed. Chairman Howard invited members of the public who wished to formally address the Committee to sign their names to the “public speakers” sign-in sheet. Chairman Howard reviewed the meeting agenda and his plans for his Committee meeting. He provided a review of the setback draft rule presented at the September 5, 2013 Committee meeting and the proposed setbacks from occupied dwellings, roads, streams, and private water wells.

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

Committee Members Present

Mr. George Howard, Chairman
Dr. Ray Covington, Vice Chair
Dr. Vikram Rao
Dr. Kenneth Taylor
Ms. Amy Pickle
Ms. Charlotte Mitchell
Marva Price (by phone)

Attorney General’s Office

Jennie Hauser (legal counsel)

DENR Staff Members

Trina Ozer Matta, Office of the Secretary
Layla Cummings, Office of the Secretary
Tracy Davis, Director, Division of Energy, Mineral, & Land Resources (DEMLR)
Katherine Marciniak, DEMLR
Ryan Channell, DEMLR
Rosalind Harris, DEMLR

Others in Attendance

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

2. Approval of Minutes from Last Meeting

Dr. Ray Covington made a motion to approve the minutes and Ms. Amy Pickle seconded. The motion passed.

3. Presentation and Discussion of Stakeholder Recommendations

Ms. Trina Matta presented stakeholder setback recommendations and a memorandum from the DENR Office of the Secretary, identifying the recommendations supported and not supported by the Department, to the Committee (see list of recommendations and memorandum attached to these minutes). She mentioned that several stakeholders were unable to attend the September 13th meeting

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but they emailed comments to her for incorporation into the list of recommendations. The Committee discussed the stakeholder and Department recommendations as Ms. Matta presented each item.

The Committee discussed the differences between a waiver and a variance. A waiver could be an agreement between a land owner and the permittee to reduce the required setback distance from the land owner's home to the proposed wellhead. A variance could be approved by the Department of Environment and Natural Resources (DENR) to reduce the required setback distance from a reference point other than a private dwelling, such as a water body or road, to the proposed wellhead. Documentation of land owner waivers should be included in the approval process in order to address future land management issues. The approved waiver should be notarized and recorded in the appropriate county system.

Committee discussion included the use of variances and the need for variance applications to be uniform throughout all rule sets. It was noted that the Mining and Energy Commission (MEC) has the authority to grant a variance, and not the Chairman or the Chairman's designee. DENR cannot grant variances due to the fact that the rule originated in the MEC, but with MEC approval DENR could manage and grant variances. The application of a variance should be formal, outlining the maximum setback distance reduction from a petitioned feature and how the MEC or DENR would review the variance request. Ms. Jennie Hauser, legal counsel for the MEC, will review variance authority and report to the Environmental Standards Committee and the MEC at the next meeting cycle.

Committee discussion focused on a graded approach for establishing setback distances. The state of Colorado was mentioned and how setbacks are applied to high occupancy buildings. A single family home in Colorado has a setback of 500 feet, whereas a high occupancy building has a setback of 1,000 feet. The Committee wanted to know how Colorado defined high occupancy and what constituted a production facility within the Colorado rules. The appropriate reference point for measuring setback distances was also discussed. The setback distance could be measured from the wellhead, center of well pad, or edge of the disturbed area associated with the wellpad.

The Committee discussed identifying areas that would become restricted drilling units. A drilling application could be denied based on the potential location of a drilling unit in relation to features such as historical sites and parks. The permitting process should include local government review in order to avoid conflicts between state setbacks and local government setbacks. Discussion continued to address how local government setbacks and land use would be incorporated into the permitting process. The MEC could have an appeal process that local government's petition for approved permits.

4. Public Comment

Martha Girolami (Chatham County resident) – Ms. Girolami mentioned that she attended the stakeholder meeting on September 13th and felt that the area of disturbance and extent of working area should be used for the reference point to initiate the setback distance. She spoke of the Committees continued reference of setbacks in Colorado, but pointed out that Weld County is contaminated. Ms. Girolami is concerned with how activities might impact residents down wind and during different weather conditions.

Therese Vick (Blue Ridge Environmental Defense League - BREDL) – Ms. Vick said she represents over 2,000 members in BREDL living in various counties throughout North Carolina. She would like to know the reference point for measuring setbacks such as the edge of a house or the center. Ms. Vick played a

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recording of a hydraulic fracturing operation for the Committee to hear and said she would try to obtain a better recording to share. She would like to know how severed property will be managed and who would sign a waiver reducing a setback distance to an occupied dwelling. In closing, Ms. Vick suggested the Committee review the noise information presented by the DEMLR interns for guidance on appropriate setbacks.

5. Closing Remarks

Chairman Howard provided that he will produce a Chairman's Mark document on the setback rules and will also have some maps generated using the setback distances discussed during the stakeholder meeting and the committee's meeting. A map depicting the setbacks in Stokes County will also be produced prior to the October Committee meeting.

6. Adjournment

The Environmental Standards Committee adjourned the meeting at 2:54 pm.

DENR Staff Contact for this Committee: Mr. Walt Haven, DEMLR