

**Meeting Minutes of the Environmental Standards Committee of the
North Carolina Mining and Energy Commission
December 18, 2012
1:00 pm – 3:00 pm**

1. Preliminary Matters

Chairman George Howard called the meeting of the Environmental Standards Committee to order at 1:00 pm in the Ground Floor Hearing Room of the Archdale Building in Raleigh, N.C. Chairman Howard read the relevant excerpt of the State Government Ethics Act, and asked Commission Members to consider whether or not they had a conflict of interest with respect to any items on the agenda. No conflicts of interest were reported.

2. Committee Members

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

George Howard (Chair)
Dr. Ray Covington
Dr. Kenneth Taylor
Dr. Vikram Rao
Charlotte Mitchell
Amy Pickle
Dr. Marva Price (via telephone)
Jennie Wilhelm Hauser (legal counsel)

3. DENR Staff Members

Trina Ozer
Tracy Davis
Mell Nevils
Walt Haven

4. Others in Attendance

Refer to the attached meeting sign in sheets

5. Selection of the Committee Vice-Chair

Dr. Ray Covington was elected by unanimous vote to serve as Vice Chairman of the committee.

6. DENR Recommendations on Chemical Disclosure from the Shale Gas Report – Trina Ozer (see attached presentation)

DENR recommends the following with respect to hydraulic fracturing fluids:

- a. Full disclosure of hydraulic fracturing chemicals and constituents to the state regulatory agency and to local government emergency response officials;

- b. Full disclosure to the public, with the exception of trade secrets already protected under State law;
- c. Prohibiting the use of diesel fuel as a fluid constituent.

7. **Presentation from the Environmental Defense Fund (EDF)** – Adam Peltz, Attorney in the EDF’s Energy Program (see attached presentation)

Mr. Peltz presented the following items with respect to disclosure of hydraulic fracturing fluid constituents:

- a. Recommendation that the Committee review the chemical disclosure requirements of Colorado, Pennsylvania, Arkansas, Wyoming, Ohio, and Texas.
- b. Disclosure timing with respect to well stimulation and well completion activities. Discussion included recommendation of disclosure timelines of 30 day and 60 day limits for post-fracturing and initiation of fracturing, respectively.
- c. Trade secret eligibility.
- d. Trade secret substantiation.
- e. The quality of data provided to a regulatory agency with respect to fluid constituents. Discussion included recommendation that industry be required to provide accurate information to regulators.

8. **Groundwater Protection Council Presentation on “FracFocus” Database Application** – Mike Nickolaus, Special Projects Director (see attached presentation)

Mr. Nickolaus presented information on the following:

- a. Groundwater Protection Council organization and non-profit funding.
- b. The “FracFocus” website and data tables.
- c. The use of FracFocus by industry to list and promulgate hydraulic fracturing fluid constituents, without divulging trade secret information.
- d. The use of FracFocus by regulatory programs in other states.

9. **Discussion and Brainstorming** – Chairman Howard

The Committee discussed disclosure processes for hydraulic fracturing fluid constituents, along with protection of industry trade secrets. Mr. Howard stated that the committee should establish a process of disclosure and trade secret protection. Specifically, he stated that DENR should research disclosure rules in the following states: Louisiana, Arkansas, Texas, Pennsylvania, Wyoming and Colorado.

The Committee specifically addressed the Colorado Oil and Gas Commission’s approach to protect trade secrets regarding hydraulic fracturing fluids. Under the Colorado process, an operator, service company or chemical supplier may withhold the identity or concentration of chemical constituents claimed as trade secrets from well

completion reports. At the same time, regulators or medical personnel can get timely access to trade secret information in the event such data are needed to respond to an accidental release or other emergency.

The Committee also expressed a desire to learn more about baseline and background sampling of water, air, and soil samples, which could be required before oil and gas operations begin.

10. Concluding Remarks

The Committee voted unanimously to direct DENR to develop draft rules related to disclosure and trade secret protection of hydraulic fracturing fluid constituents. These draft rules will be discussed at the next Environmental Standards Committee meeting.

11. The Committee adjourned at 2:50 pm.

DEMLR Staff Contact for this Committee: Mell Nevils, Chief, Land Quality Section.