

**Meeting Minutes of the Local Government Regulation Study Group of the  
North Carolina Mining and Energy Commission  
July 12, 2013**

**1. Preliminary Matters**

Study Group Director, Mr. Charles Taylor called the meeting to order at 1:06 pm and welcomed all study group members and others attending. He read the ethics statement and asked Study Group members whether or not they had any conflicts of interest with respect to any action items on the agenda. No conflicts were noted.

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

**Study Group Members**

Charles Taylor  
Charles Holbrook  
James Womack  
Erin Wynia  
Mack Paul  
Becki Gray

**DENR Staff Members**

Tracy Davis  
W.E. "Toby" Vinson  
Ryan Channell  
Katherine Marciniak  
Rosalind Harris  
Colleen Brophy  
Franklin Wolfe

**Others in Attendance**

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

**2. Background and Introductions**

Director Taylor explained that this meeting was to go over the information from previous meetings that he and staff had compiled. He explained that the report content document (attached) was designed to aid in the final report drafting of the various sections or chapters. Once the report had been drafted by the Study Group, Director Taylor would have the report presented to the 13 Triassic Basin counties for stakeholder input.

**3. Review and Approval of June 21, 2013 Meeting Minutes-**

The Study Group reviewed the minutes and made the following amendment to the text that was incorporated from the previous meeting. The concern was over the authority assigned to a local

health director that would allow them the ability to shut down a well site that had a nuisance complaint or a site that the health director deemed to be a nuisance. The Group proposed the following text to be incorporated: *“that a local health director would be limited in directing site activities that pose an immediate health or safety hazard within the scope of their authority”*. Mr. Holbrook made a motion to include this language; Mr. Womack seconded; all were in favor.

**Comment [WH1]:** This sentence is grammatically incorrect. The pronoun should be “his or her.”

**4. Noise, Odor, and Dust: Sources, Abatement, and Rules-** Colleen Brophy and Franklin Wolfe (see attached presentation)

The following topics areas were presented to the Study Group:

- Review of decibel levels;
- OSHA safety standards for requiring workers to be issued personal protective equipment, HUD standards for housing;
- Comparison of water well versus oil/gas well drill rig noise pollution levels; and
- Noise, odor, and light pollution rules/regulations from Colorado, Arkansas, Pennsylvania, Ohio, Texas, and West Virginia.

**5. Permitting and Setbacks-** Dr. Kenneth Taylor (see attached document)

Dr. Taylor presented to the Study Group on how setbacks and permitting in other states are commonly enforced by local governments. Setbacks typically apply to the horizontal distances that separate surface works (well pad(s), haul roads) from different onsite and adjoining property features (creeks, property boundaries, buildings/dwellings). In Ohio, the permit also requires for well spacing requirements to be applied to the subsurface components of the well; 500 foot spacing from the wellhead, wellbore, and well terminus from the boundary of the drilling unit.

The topic of drilling units was also discussed and the group noted that most states establish drilling blocks or units by either rule or by permit. Two examples from Ohio were presented where the drilling unit had one well and one unit that had 5 wells present.

**6. Discussion of previously identified issues and Draft Report Content** (see attached document)

Director Taylor went over the major sections that have been captured in the draft report and asked the members to identify peripheral items that have not yet been addressed or fully examined in the current report revision (Version 6). The following report sections were discussed:

- Introduction and Goals sections were cleaned up with minimal content changes;
- No changes to the Glossary;

- Summary of Meetings section is updated after each meeting to fully document the Groups efforts and process;
- The Mandated Issues section was considerably cleaned up to present a more cohesive flow of content;
  - Some topics areas were reorganized for clarity;
  - More prescriptive lists were drafted where needed;
- The data on setbacks, as presented to the Group on June 21, 2013, were incorporated into the report as an appendix; text to reflect that setbacks should be required but should not limit the industry operations;
  - Landowner at the well site was added to the list of parties that may petition for a variance on the setbacks;
- Based on the presentation on noise, odor, dust and light, the Study Group is recommending that these areas be under the jurisdiction of the local governments. The local governments cannot use these ordinances to limit or restrict the industry;
  - The current zoning ordinances should be used to determine the acceptable noise levels;
  - *“The zoning ordinances cannot be assigned to restrict the industry but should be established by the local jurisdictions.”*
  - This should allow the industry to work within existing zones without needing classification of special land use zones.
- The Infrastructure Placement and Impact section- still to be cleaned up and condensed;
- Local Governments section content still being drafted;
- ETJs should be mentioned in the report with what they are and how an ETJ is established under current law, but that there are some areas where they are not allowed;
- The Stakeholder Input and Conclusion sections to be written.

Issues Requiring Further Consideration:

- How will waivers or variances for setbacks or other rules be handled? Who can petition for the variance and at what level of government will the determination be made?
  - The Study Group prefers the respective term of use be “variance” and not “waiver.”
- Staff was asked to look into the rules in Ohio that apply to noise attenuation;
- Review the content and statements provided from other organizations or associations;
- Jurisdiction over gathering lines should be addressed/captured in the report;
- Waste management, water treatment, storm water management, and chemical disclosure at the local government level were suggested to be captured in the report;
- It was recommended that if this Group believes there should be a way for local cost recovery through either an impact fee or portion of the severance tax it should be noted in the report.

**Comment [WH2]:** Respective information has already been provided to the Study Group and was shown during the Brophy/Wolfe presentation.

## **7. Concluding Remarks**

Director Taylor stated that he would work with staff to have a draft of the report completed by Wednesday, July 17<sup>th</sup>, for discussion on the July 19<sup>th</sup> meeting.

The next meeting date is as follows:

July 19, 2013- Archdale Building- Room 504-Q, Raleigh, NC, 1:00-4:00 pm

Director Taylor thanked the public for attending and participating and moved to adjourn. All Study Group members voted in favor of the motion.

The Study Group adjourned at 3: 48 pm.

**DEMLR staff contact for these minutes: William E. Vinson, Jr., Chief Engineer, Land Quality Section.**