

ENVIRONMENTAL REVIEW ADVISORY COUNCIL  
September 9, 2020

A meeting of the Environmental Review Advisory Council was called to order by Dave Glatt, Office of the Director with the North Dakota Department of Environmental Quality at 9:30 a.m. on Wednesday, September 9, 2020 at the Gold Seal Center, 4<sup>th</sup> Floor, Bismarck, ND and via Teams Meeting.

Members Present:

Randy Hanson, Waste Management Industry (teleconference)  
Randy Binegar, Liquid & Gas Fuels Industry  
Tom DeSutter, Agronomy & Soil Sciences (teleconference)  
Terry Steinwand, Game & Fish-statute (ex-officio)  
Terry O'Clair, Environmental Sciences  
Dan Wogsland, Corp Agriculture (teleconference)  
Ed Murphy, State Geologist-statute (ex-officio) (teleconference)  
Julie Ellingson, Livestock Industry (teleconference)  
Jessica Unruh (teleconference), Solid Fuels Industry (teleconference)  
Greg Allen, Manufacturing or Agricultural Processing (teleconference)  
Craig Bleth, Minnkota Power Cooperative (teleconference)  
Jennifer Bell, Senator, Coyote Creek (teleconference)  
John Paczkowski, Interim St. Engineer (teleconference)

Staff Members Present:

Dave Glatt, Director, Office of the Director  
Jim Semerad, Air Quality  
Chuck Hyatt, Waste Management  
David Bruschwein, Municipal Facilities  
Jim Quanstrom, Chemistry  
Maggie Olson, Ass't. Att. General (teleconference)  
Carolyn Leingang, Office of the Director (teleconference)  
Beth Jacobson, Office of the Director  
Jennifer Skjod, Public Information Officer

**WELCOME**

The meeting was called to order by Chairman Terry O'Clair and it was stated that the meeting would follow the agenda. Jennifer Skjod explained conducting the meeting via Teams and that all the information was sent to the Council members and that the documents were also made available as attachments inside the chat and will be posted publicly.

## APPROVAL OF MINUTES

Discussion about obtaining and distributing of the March 18, 2020 minutes was done. It was determined that members received the minutes and there was a motion to approve them

RANDY BINEGAR MOVED TO APPROVE THE MINUTES FROM THE MARCH 18, 2020 MEETING. SECOND BY CRAIG BLETH AND MOTION CARRIED.

## OLD BUSINESS

Dave Glatt discussed with the council the development of the board and discussion followed about how and what the board would like to see in future meetings and if there was anything that they would like to see differently.

- **Laboratory Certification Program Rules**

Updated rules regarding the North Dakota Environmental Laboratory Certification Program (NDELCP) in North Dakota Administrative Code Article 33.1-23 were approved April 22, 2020. The NDELCP is administered by Cindy Auen.

- **Boiler Inspection Rules**

**Description:** Boiler Rules Article 33.1-14 are the rules for the Boiler Inspection Program that was transferred to NDDEQ on July 1, 2019. These rules outline the definitions, general requirements, administration including fees charged, and installation requirements for the Boiler Inspection Program. The rules were updated to reflect the change to NDDEQ and to increase the fees to meet program expenses as outline in HB1024 Section 32.

**Adopted:** Rules were presented to Administrative Rules committee on June 9, 2020. The Boiler Rules were approved by the committee and effective on 7/1/2020.

- **Petroleum Tank Release Compensation Fund Rule**

**Description:** The Petroleum Tank Release Compensation Fund (PTRCF) program is in the process of writing rules NDAC Article 33.1-12 to replace the existing rules NDAC Article 45-10. The proposed rules will be released for a second public comment period in October 2020. The rules classify petroleum tanks with respect to degree of hazard and fix the registration fees for each classification.

- **Solid Waste Rules**

Rules were amended July 1, 2020, and included the following:

- Introduction of a General Permits Program,
- Adoption of the Federal Coal Combustion Residuals (CCR) Rule, and
- Updates to sections relating to:
  - Permitting
  - General Performance Requirements
  - Regulated Infectious Waste
  - Financial Assurance
  - Waste Transporters

- Certification of Operators
- Solid Waste Management Planning

- **Hazardous Waste Rules**

Rules were amended July 1, 2020 and included the following:

- Import and export of Hazardous Waste
- Hazardous Waste Generator Improvements Rule
- Confidentiality Determinations for Hazardous Waste Export and Import Documents
- Hazardous Waste Electronic Manifest User Fee Rule
- Safe Management of Recalled Airbags
- Contact Derek Kannenberg at 701-328-5160 or [dkannenberg@nd.gov](mailto:dkannenberg@nd.gov)

- **Waste Management Division Item of Note:**

- New web-based solid waste hauler application portal that allows for online new permit applications, renewals or modifications of permits, updating of contact information, and payment by credit card and e-checks.

- **Air Quality Rule Revisions Included:**

- SIP revision addressing rule changes (generally administrative).
- 111(d) plan for air emissions from municipal solid waste landfills.
- RH Federal Implementation Plan for Replacement for Basin Electric AVS.
- Updated Conflict of Interest requirements to be consistent with DEQ Policy.
- Adoption of several Federal Regulations (New Source Performance Standards) including OOOO/OOOOa

**AQ Summary:** All proposed rule changes were approved except the proposal to change to electronically posting public notices on the DEQ website rather than publishing in newsprint. This proposal was seen as both a cost and time savings measure; however, it was not accepted by the Rules Committee. AQ will now do both in the future.

**Meridian Court Decision**

**Background:** DEQ issued a minor source permit to construct (air permit) to Meridian's Davis Refinery, which is to be located near the Theodore Roosevelt National Park. Project was controversial, with over 10,000 comments. Environmental groups appealed.

**ND Supreme Court Decision (6/29/20):**

- DEQ permitting decisions are entitled to great deference.
- DEQ's technical determinations were reasonable.

**OOOO/OOOOa Program Adoption**

Work to adopt the extensive requirements is progressing well. Hiring new staff and putting a new software system into production appear to be proceeding as expected. The new software system allows electronic reporting which is a positive feature; however, it also requires a complete change in our workflow. OOOO/OOOOa is an EPA regulation that regulates leaks from many thousands of potential points at oil wells. We expect more than 15,000 reports each year. Review will include an assessment of the number of leaks at a facility, the time it takes to repair the leaks, and

an assessment if the leak is a repeating leak where a root cause analysis would be necessary. The DEQ will work closely with industry and with EPA on details and implementation of the program.

## **NEW BUSINESS**

### **2021-2022 Proposed Budget**

Beth Jacobson explained the projected budget cut and that the new budget has been submitted according to the Governor's guidelines. 10% cut in general funds and OMB will work with the Governor's Office. Further discussion was made on a potential superfund and the areas where the budget was cut.

### **RRWS NPDES Permit**

Karl Rockeman explained that a permit was issued to Red River Valley water supply project, discussed what the project consisted of and the permit requirements.

### **CARE Abandoned Well Project**

Karl Rockeman explained that 52 contracts have been granted and that the Department will be inspecting and following the well projects to make sure they are being done according to guidelines. He stated that there are about 600 total wells listed in the project.

### **PFOA/PFOS Project**

David Bruschwein explained what PFAS are, how they get into the environment, exposure into the body and health problems from such exposure. He explained medical testing and warnings for PFAS.

### **COVID-19 DEQ Response**

Dave Glatt talked about the effects of COVID-19 on work, workers, job completions and flexibility. He stated that there have been flexibilities made to industry as far as testing, inspections, travel, complying with permits and reporting as long as procedures are still being followed.

### **Water Quality Standards Update**

- Currently out for public comment until 10/23
- Changes to ammonia and mercury criteria
- Added Selenium fish tissue criteria, no change to water

### **Enforcement Update**

Maggie Olson stated that there are currently 177 active enforcement cases, 18 pending cases and 49 resolved cases. She explained the enforcement penalties and number of cases from January 1, 2020 through September 4, 2020 and the penalties that were collected during the period.

**Division Updates**

Jim Quanstrom, Chemistry

Chuck Hyatt, Waste Management

David Bruschwein, Municipal Facilities

Jim Semerad, Air Quality

Karl Rockeman, Water Quality

**NEXT MEETING – DATE/TIME**

The next meeting time was tentatively set for March 10, 2020 at 2:30 p.m.

**ADJOURNMENT**

TERRY O'CLAIR MOTIONED FOR THE MEETING TO ADJOURN. RANDY BINEGAR MOTIONED. SECONDED BY ED MURPHY. MOTION CARRIED.

Submitted,

A handwritten signature in black ink, appearing to read "L. David Glatt". The signature is stylized and cursive.

L. David Glatt, P.E.  
Executive Secretary

