

Environmental Review Advisory Council Meeting Minutes from March 10, 2025

Chairman Jonathan Fortner called the Environmental Review Advisory Council meeting to order at 9:00 a.m. on Monday, March 10, 2025, in Room 223 of the Normandy Building in Bismarck. N.D.

AGENDA: Call to Order, Approval of Minutes, New Business (board member updates, federal administration updates, federal rules updates, legislative updates, division updates), Old Business (rule updates), Public Comments, Next Meeting Date, and Adjournment

Committee Members: Sherry Adams, Craig Bleth, Gwen Crawford, Tom Desutter, Julie Ellingson, Steven Fasching, Jonathan Fortner, Randy Hanson, Ed Murphy, Kayla Pulvermacher, Reice Haase, Kurt Wickstrom, Jeb Williams, David Glatt

Members Present:

Sherry Adams, Environmental Sciences - Virtual
Gwen Crawford, County/Municipal Government - Virtual
Dr. Tom DeSutter, Agronomy/Soil Sciences – Virtual
Julie Ellingson, Livestock Industry
Jonathan Fortner, Solid Fuels Industry - Virtual
Randy Hanson, Waste Management Industry
Ed Murphy, State Geologist – Virtual
Scott Hopfauf as Proxy for Craig Bleth, Thermal Electric Generators Industry

Members Absent:

Steven Fasching, Liquid & Gas Fuels Industry
Jeb Williams, Director of Game & Fish
Reice Haase, Director of Water Resources
Kurt Wickstrom, Minn-Dak Farmers' Cooperative

Staff Members Present:

Dave Glatt, Director
Karl Rockeman, Deputy Director
Erik Wallevand, Assistant AG for the DEQ
Beth Jacobson, Accounting
David Bruschwein, Municipal Facilities
Marty Haroldson, Water Quality
Chuck Hyatt, Waste Management
Jim Quarnstrom, Chemistry
Jennifer Skjod, Public Information

Minutes:

ERAC Chair Jonathon Fortner took roll call and called the meeting to order. Tom DeSutter motioned to adopt the minutes for the Nov. 20, 2024, meeting as distributed. Julie Ellingson seconded the motion. The motion carried.

New Business:

- Board Member Updates
 - Tom DeSutter, NDSU, thanked the DEQ for their involvement in the recent reclamation conference. There were 263 attendees and 30 vendors. There are lots of new possibilities being researched regarding the reuse of produced water for things like irrigation, critical minerals, and aquifer recharge.
 - Jonathan Fortner, Lignite Energy Council, said the coal community is anticipating progress for MATS, Greenhouse Gas (GHG), Regional Haze, and Coal Combustion Residual (CCR) rules and less legal expenditures.
 - Sherry Adams, Southwestern District Health, said local public health has been following septic legislation in North Dakota and the possibility for federal funding cuts.
 - Scott Hopfauf, Minnkota Power (sitting in for Craig Bleth) said the election seemed to be steering their industry in the right direction and thanks the DEQ for keeping them updated.
 - Julie Ellingson, ND Stockmen's Association, thanked Karl Rockeman for participating in the livestock model zoning task force for animal feeding operations. She hoped the odor footprint tool would provide some options to political subdivisions for zoning options.
 - Gwen Crawford, Valley City, said their community is proceeding with their lead and copper efforts. She said mitigating asbestos in older building demolition has been costly and finding the people to do that job is a challenge.
- Federal/State Administration Changes
 - Dave Glatt addressed federal changes and uncertainty at EPA. Administrator Zeldin is looking at a 65% budget reduction. States do 90% of the work. The DEQ is committed to protecting the environment.
- Federal Rules Updates:
 - Glatt said the DEQ has been in discussions with the EPA, and they are expressing willingness to approve ND's CCR program.
 - Glatt would also like to see the GHG, MATS, Quad-O, and the Carbon Rules revisited.
 - Erik Wallevand, Assistant Attorney General for the DEQ, said certain cases are now held in abatement by EPA as they try to work through the federal administration change. Some have gone to emeritus briefings and are awaiting summary judgement.
 - The MATS rule has received an emeritus brief and is now on pause.
 - The EPA Carbon Rule and GHG Rule had both emeritus and oral argument completed and is also held in abatement.
 - EPA filed emeritus briefs for the Methane Quad-O Rule and those are in abatement.
 - The Legacy CCR completed and emeritus brief and is abatement.
 - The 111(d) Implement Rule is also in abatement.
 - The PM2.5 Rule is in abatement.
 - Waters of the United States (WOTUS) received a preliminary injunction on the rule with a summary judgement but is now in abatement.
 - The DEQ is still waiting for a decision on the Tribal Reserved Rights Rule preliminary injunction and a motion and summary judgement briefs were filed.
 - The Baseline Water Quality Standards Rule was proposed and after a long wait, EPA announced that they will withdraw that rule.
 - The National Environmental Protection Act (NEPA) received a summary judgement –a sweeping decision in favor of the states with industry challenging the NEPA rule. This would limit some enforcement by the DEQ.
- Legislative Updates

- Glatt said the DEQ budget overview was now in the House. Other legislative topics the DEQ is involved with include water operator testing certification and Commercial Animal Feeding Operations (CAFOs), and more uniform rules and licensing for onsite wastewater.
- Beth Jacobson discussed the DEQ budget, which started in the ND senate this year. The outcome was favorable and now that appropriations bill is in the House. Some added expenses in that bill included moving the chemistry laboratory to the news building and adding an FTE for testing emerging contaminants (both using special funds). The senate added some funding for the petroleum testing program and some temporary funding to boost salaries at the DEQ.
- Glatt introduced Rockeman as the new DEQ Deputy Director.
- Rockeman discussed the fee structure with the storage tank programs. He also discussed the Agency Deference Rule and how that concerns the DEQ. Fortner agreed that removing the agency's deference would be harmful to ND.
- David Bruschwein discussed the water and wastewater operating testing bill and how much the state was able to utilize a third party for testing services and how this would be a benefit to operators in ND. There would also be an option for a civil penalty, which would increase enforcement options. Another bill before the legislature would allow for \$25 million in additional grant funding for wastewater projects. This is needed for ND communities.
- Marty Haroldson sat in on the CAFO testimony and mentioned there was an opportunity to clarify processes for the odor modeling tool.
- Chuck Hyatt has been working with the Above Storage Tank bill since there are parallels with Underground Storage Tanks (UST), a program in Waste Management. He has also been working on fuel testing legislation as the UST program collects fuel samples. He is also following a bill proposing a study on advanced nuclear energy, which is of interest to the Radiation Control Program, also in Waste Management. Another bill proposes that the Environmental Energy Research Center be allowed to study nuclear energy in ND, which they were not allowed to do. Another bill his division is following is one that would add a radon disclosure for real estate sales. Glatt mentioned that a few other states are looking into Small Modular Reactors. One challenging aspect is waste storage.
- Jim Quarnstrom said the new state laboratory construction is coming along. The combined bio lab (part of ND Health and Human Services) and the DEQ chemistry lab will go from 33,000 square feet to about 100,000 square feet when the new facility is complete. The exterior is about 90% complete. They expect the project to be completed between Feb. and July of 2026. Summer is the busiest time for sample collection, so the DEQ may have to postpone their end of the move until Oct. 2026.

- Division Updates

- Chemistry: Quarnstrom said lab is replacing their Laboratory Information Management System. The current system is 40 years old. They are in user acceptance testing now –where the old and new system will run side-by-side for 6-8 weeks. The new building will be super clean, which will allow for PFAS testing. The hope is for the lab to become a regional testing center for emerging contaminants.
- Accounting: Jacobson discussed DEQ financials. She is keeping an eye on the budget and watching projections for federal funding. The DEQ appropriations bill is her priority right now.
- Waste Management: Chuck Hyatt is working with EPA on CCR. EPA would like to approve ND's CCR plan. He discussed the benefits of the DEQ's internship program for both students and the DEQ. The brownfields, asbestos, hazardous waste and tank cleanup programs could be impacted by federal budget cuts.
- Water Quality: Haroldson said spills are at the same pace they were last year. There are some large dairy operations seeking permits in ND. One of the permits is being challenged in court. The NDPDES program and permitting programs will be unveiling their new online databases.
- Air Quality: Semerad said their division will continue to work with both EPA and industry regardless of the federal outcome. The new PM2.5 standard paired with recent wildfire smoke is challenging. The permitting team is working hard to get defensible permits approved in a timely manner.
- Municipal Facilities: Bruschwein said the Clean Water State Revolving Fund Program is at 53 loans. The Drinking Water State Revolving Fund Program is at 75 loans. This is at the highest level, due in part to the

IIJA Funding –a large percentage of which goes out as loan forgiveness. The Lead and Copper Rule was finalized in Oct. 2024. The goal is to remove lead service lines in the next 13 years.

- Legal: Wallevand said the Sierra Club and a few other NGOs sued the EPA for the lack of Regional Haze decision.
- Climate Pollution Reduction Grant: Jennifer Skjod, PIO and Grant Officer for the CPRG, discussed ongoing engagement with 24+ public meetings in eight different ND communities, various intergovernmental meetings, a community working group, and many one-on-one conversations with the agriculture community, and stakeholders from oil and gas, the electric, building, transportation, waste, and natural land sectors. They received nearly 400 survey responses and have nearly 2,000 North Dakotans signed up to receive informational updates on the plan. She encouraged the board to learn more at deq.nd.gov/sustainability and to let her know if they had questions.
- Deputy Director: Rockeman discussed his new role as deputy director. Some projects he will be involved with are employee retention, CPRG, and other organizational goals.

Old Business:

- Rule Updates:
 - Wallevand will be working on assisting with new rules after legislation.
 - Hyatt said Waste Management is still working on rules for the X-ray Program.
 - Bruschwein said the Drinking Water Program was waiting for EPA to finalize.
 - Haroldson said the Water Quality Standards were in the tri-annual process.

Public Comment:

There was no public comment.

Next Meeting Date:

Fortner asked the group what they'd prefer for a future meeting date.

Glatt suggested they meet again in the first week of October, after the federal direction is confirmed.

Fortner asked suggested the group follow up closer to that date.

Adjournment:

Fortner motioned to adjourn the meeting. Ellingson seconded the motion. The motion carried.

The meeting adjourned at 11:01 a.m.

Respectfully submitted,

Jennifer L Skjod