

**FINDING AND STATEMENT OF REASON  
OF THE  
NORTH DAKOTA DEPARTMENT OF HEALTH  
REGARDING PROPOSED RULE RELATING TO  
WATER QUALITY STANDARDS**

**FINDING**

I find that emergency rulemaking to adopt a rule relating to the Standards of Quality for Waters of the State, N.D. Admin Code ch. 33-16-02.1, was necessary because imminent peril threatened public health, safety, or welfare, which could be abated by emergency effectiveness.

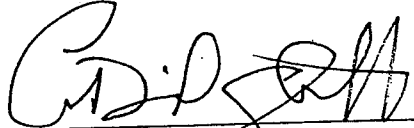
**STATEMENT OF REASON**

The rule changes the maximum limit of sulfate in a segment of the Sheyenne River. The rule will change the maximum level of sulfate in the segment of the Sheyenne River that runs from its headwaters to 0.1 mile downstream from the Baldhill Dam, including Lake Ashtabula, from 450 mg/L to 750 mg/L.

The rule changes are being requested for the following reasons:

- 1) The probability of a natural water discharge from the east end of Devils Lake has increased substantially over the last year. Just since this spring, Devils Lake has risen 3.8 feet to a record 1550.7 feet, which is just seven feet from an uncontrolled spill into the Sheyenne and eventually the Red Rivers. A natural water discharge from the east end of the lake has the real potential of causing catastrophic impacts to downstream users due to the documented poorer water quality in the east end of Devils Lake.
- 2) In less than five months, Devils Lake has flooded an additional 40,000 acres, which includes roads, businesses, homes, farmsteads and high quality agricultural land. Devils Lake is projected to continue to rise, placing land, buildings, infrastructure and livelihoods in immediate danger of inundation.
- 3) Rising lake levels are stressing the capacity of existing dike systems, roads acting as dikes and other structures not designed to retain water. Their failure would result in additional flooding of cities and rural areas, impacting land productivity as well as municipal and rural infrastructure.
- 4) Spring runoff added an additional 600,000 acre-feet of water to Devils Lake. Stabilizing the increasing lake levels may take several years to be effective, requiring the state to initiate immediate action to counteract the record volume increase.

Dated July 15, 2009.

  
L. David Glatt  
Environmental Chief