

TESTIMONY OF

Karl Rockeman, Deputy Director of the Department of Environmental Quality

Good morning, Chairman Patten and members of the Senate Energy and Natural Resources Committee. My name is Karl Rockeman, and I am the Deputy Director of the North Dakota Department of Environmental Quality (DEQ). The DEQ is responsible for the implementation and enforcement of many of the federal and state environmental protection programs in North Dakota. I am here to testify in support of House Bill 1058.

HB 1058 seeks to give the DEQ authority to develop administrative rules for aboveground storage tanks of refined petroleum fuels that are registered with the Petroleum Tank Release Compensation Fund (Fund). The purpose is to prevent, detect and minimize releases to mitigate the risk to the Fund. This bill does not require additional tanks to be registered with the Fund, but regulates those tanks that currently require registration.

The Fund, which the DEQ assumed responsibility for in 2019, has provided cost-effective environmental coverage to owners of both above and underground storage tanks. The DEQ has been regulating underground gasoline and diesel fuel storage tanks for many years to great success. As provided by NDCC 23.1-04, the DEQ developed administrative rules to require owners/operators of underground tanks to conduct recordkeeping, install and maintain leak detection equipment, report releases to the environment, and take corrective action in response to a release. This has significantly increased the integrity of underground tanks in the state and minimized environmental damage due to fuel leakage. HB 1058 would allow the DEQ to apply similar standards to aboveground storage tanks, creating consistent requirements for both types of tanks and reducing the risk to the fund and the environment.

There are approximately twice as many aboveground tanks in service in North Dakota as underground tanks, but little is known about the types or conditions of these tanks. Underground storage tank rules require regular monitoring for leaks, corrosion control and proper operation. The same level of oversight is not required for aboveground tank sites. Because of this, contamination from these tanks may not be discovered until long after the tank is gone, and nearby homes and businesses are impacted. At that point, the costs for cleanup of soil and groundwater, remediation of buildings, and ensuring minimal risk to the public from petroleum contamination become significant, sometimes over a million dollars. This causes increased costs to the tank owner and the Fund.

The solvency of the tank fund is an important factor in allowing small operators to stay in business. Affordable private environmental cleanup insurance outside of the fund has not been

available, and the fund is often the only option for many of the retail fuel businesses in the state. The bill redirects responsibility for ensuring good operating practices to the individual owners and operators of the tanks, rather than relying on the fees paid into the fund from the generally compliant operating community.

We have recently seen several sites in North Dakota where leaking aboveground tanks have led to extensive contamination and expensive clean-up. The Fund is in place to address some of the financial needs, however, there is a risk that multiple clean-ups in succession may result in fund insolvency. HB 1058 would reduce fiscal pressure on the fund by identifying leaking tanks early, allowing for quicker and less expensive clean-ups.

HB 1058 is a focused bill and does not expand the universe of tanks outside those currently required to be registered with the fund. The DEQ has considered the concerns of the regulated community and other stakeholders, and this bill explicitly exempts those facilities that fall outside the intended scope of the law. These exemptions are listed in Section 1.

HB 1058 does not impose any immediate restrictions on the owners or operators of aboveground storage tanks. It authorizes the DEQ to propose future administrative rules. These rules, of course, will be vetted through the public notice process, including review by the Environmental Review Advisory Council, Petroleum Release Compensation Board, and the Administrative Rules Committee. Because of this, the only fiscal impacts identified are expenditures due to program operating costs and those would not start to accrue until after rule implementation. The identified expenditures for the 25-27 biennium include \$15,000 to offset travel costs for inspections.

Since this bill has been filed, the DEQ has identified one change that would assist us in efficiently implementing this program. This amendment (attached) would allow DEQ to set the due date for tank registration fees in administrative code but otherwise keeps the timeline the same.

Mr. Chairman and committee members, this concludes my testimony. I ask for your support for House Bill 1058. I would be happy to answer any questions.

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SECTION 3. AMENDMENT. Subsection 7 of section 23.1-12-17 of the North Dakota Century Code is amended and reenacted as follows:

 If a registration payment is not received within sixty days of ~~July first~~ the date set under rules adopted by the department, a late fee of twenty-five dollars per tank per month must be imposed on the tank owner or operator.