

Testimony
Natural Resources Committee
Wednesday, February 22, 2012 – 1:15 p.m.
Roughrider Room, State Capitol
North Dakota Department of Health

Good afternoon Chairman Damschen and members of the Natural Resources Committee. My name is David Glatt, and I am chief of the Environmental Health Section for the North Dakota Department of Health. Our section implements a majority of the environmental protection laws and rules in the state of North Dakota. Through primacy agreements with the U.S. Environmental Protection Agency (U.S. EPA), we implement programs under the Clean Air Act (CAA), Clean Water Act (CWA), Safe Drinking Water Act (SDWA), and the Resource Conservation and Recovery Act (RCRA), by which we have adopted the federal rules as state rules for the most part. This action, in concert with state technical expertise, has allowed the state to implement environmental protection programs at the local level, giving the state a voice in how to best apply programs in North Dakota. It is important to note that the U.S. EPA provides a large percentage of the dollars needed to fund these programs and also initiates federal oversight for each of the programs.

Today I would like to briefly discuss the issue of U.S. EPA programs and their application in North Dakota. I will touch on the benefits of environmental protection regulations and some of the challenges faced by the state in their implementation. In addition, I will suggest a path forward to protect our public and environmental health.

Over the years, I believe that one of North Dakota's legacies has been the quality of the environment. People in North Dakota have a heritage of enjoying what the outdoors has to offer. Farming, recreation, hunting or just enjoying our legendary vistas has been a topic of pride for many. Environmental regulations have played a beneficial part in developing this legacy by implementing safeguards to ensure that water discharges do not adversely impact downstream water users or aquatic life, that air emissions are protective of public health and that water is safe to drink. Because we cannot all live upstream or upwind, regulations ensure that no one segment of our population has to live in an excessively degraded environment. Regulations ensure a level playing field by requiring all facilities to meet the same environmental protection regulations for the benefit of all. When common sense regulations are implemented in a manner that acknowledges the local environmental, economic and social conditions, environmental protection and economic development can coexist.

In recent times, there has been much discussion about the number of regulations, their impact on the economy and a federal government that seems to be infringing on states' rights. What constitutes appropriate environmental regulation can be an emotional issue for many. Some want strong regulations limiting nearly all activities that may impact the

environment, while others want no regulation at all, believing what they do on their property is their business and should not be infringed upon by government. Our most pressing challenge at the Department of Health is trying to find the right balance. Some of our decisions do not make anyone happy, but often strike a balance among environmental protection, appropriate laws and regulations, sound science, limits of technology and the desires of the citizens of the state. The department has often times found itself in the middle of controversial issues, relying on complex science and the law to direct its actions. Increasingly more difficult is the federal-state relationship in the implementation of environmental protection regulations. In recent years, our working relationship seems more adversarial than cooperative. At the present time, it is the opinion of this state that the U.S. EPA has a vision of environmental protection that includes a "one size fits all" mentality. There is no attempt to strike a balance between local environmental impacts, economic or social needs. In addition to little knowledge of local conditions and a distrust of state agencies, U.S. EPA is enforcement-heavy and appears to be less science-based in its decision making. Further adding to the tense working relationship are the federal regulations being proposed, debated and implemented at a high rate with limited financial assistance. The current federal-state relationship seems to be based more on finding legal remedies through the courts than on finding appropriate, workable environmental protection solutions to be implemented on the ground.

With complex environmental issues facing the nation and each state and where local decisions are increasingly scrutinized for their global implications, all available resources will need to be brought to the table to ensure the development of cost-effective and common-sense environmental protection programs. In an effort to move the environmental protection process forward, I propose the following for discussion:

- The federal and state relationship needs to evolve into one based upon cooperation, understanding of each other's challenges and mutual respect. Increasingly, environmental challenges are becoming more complex, cross regional and sometimes national boundaries, are more apt to end up in a court of law, and will require a high degree of technical and scientific expertise to find workable solutions. In this era of declining budgets and increasing environmental challenges, no one governmental entity will have all the answers and must by necessity work together to find appropriate solutions. I believe that a cooperative working relationship can be developed, but it must start at the ground level and work its way up to senior management. Working together in the field, either through work-share agreements or federal or state detail assignments would start the building of relationships where problem solving is a shared responsibility and not the sole responsibility of one entity or the other.
- Because of the increasing complexity of environmental challenges, multi-state impacts and legal challenges, a highly qualified and technically competent workforce will be needed. It will be important to look at ways to invest in our

workforce, in order to maintain our position at the federal table and to have meaningful input into the development of new regulations and their implementation.

- The pace of new regulations must be tempered to allow states, industry and the general public an opportunity to develop appropriate implementation plans, test their effectiveness and make appropriate modifications to ensure the best possible outcome for environmental and public health. At present, new regulations are promulgated before the existing ones have had a chance to be implemented. This results in regulatory confusion, lack of planning and sometimes the appearance of no environmental benefit. In a perfect world, regulations would be implemented on a routine schedule, e.g., once every five or ten years to allow time for implementation, development of business plans and assessment of their effectiveness.

It is important to note that we all benefit from common sense and scientifically sound environmental protection programs. A quote I have found to be helpful as we move forward in our daily tasks is attributed to a Native American Proverb. It states, “We do not inherit the earth from our ancestors, we borrow it from our children.”

This concludes my testimony. I would be happy to answer any questions you may have.