



# Michigan Environmental Decision-Making: Impacts of New Review Panels and EJ Orders

Charlie Denton

# Environmental Science Advisory Board

- Created by S.B. 654
- Not controversial
- Provides science-based advice to Governor (or any state office, agency or department) on issues affecting environmental protection or natural resource management

# Environmental Science Advisory Board, cont.

## Members:

- Kimberlee Kearfott of Ann Arbor is a professor of nuclear engineering and radiological sciences, biomedical engineering and applied physics at the University of Michigan.
- Dianne McCormick of Howell is director/health officer of the Livingston County Health Department.
- Ashley Moerke of Sault Sainte Marie is director of the Center for Freshwater Research and Education and a professor for the School of Natural Resources and Environment at Lake Superior State University.
- Lawrence Lemke of Mt. Pleasant is a professor and chair of the Department of Earth and Atmospheric Sciences at Central Michigan University.
- Steven Pernecky of Ann Arbor is a professor in the Department of Chemistry and associate dean of the College of Arts and Sciences for Eastern Michigan University.
- George Wolff of Farmington Hills is a principal scientist for the environmental consulting firm Air Improvement Resource, Inc.
- Lauren Brown of Ann Arbor is an associate and scientist for Abt Associates.
- John Matonich of Marenisco is retired CEO. He is board chair for Rowe Professional Services Company, Inc. and previously served as chair of the Michigan Natural Resources Commission.
- Joan Rose of Williamston is a professor, Homer Nowlin Endowed chair for Water Research, and co-director for the Center for Advancing Microbial Risk Assessment at Michigan State University.

# Environmental Rules Review Committee (ERRC)

- Created by S.B. 652
- Governor appoints 12 voting members
- Six (6) voting members can belong to a political party
- Two (2) spots reserved for statewide organizations
  - One each for environmental and land conservancy
- Mandatory industry representatives
  - Waste management, manufacturing, utilities, gas and oil, and agriculture

# Environmental Rules Review Committee (ERRC), cont.

## Members:

- Janet Barlow of Clio is the owner and manager of Jan's Professional Dry Cleaners, Inc.
- James Clift of Lansing is a policy director for the Michigan Environmental Council and was previously an environmental policy analyst for the Michigan Senate.
- Eric Pessell of Delton is the health officer for the Calhoun County Public Health Department and previously served as the environmental health director for Kent County.
- Nicholas Ramos is the manager of environmental policy for General Motors.
- Tyler Ernst of Lansing is assistant general counsel for Michigan Farm Bureau.
- Mark Fowler of East Jordan is the superintendent of water / wastewater for Boyne City.
- John Myers of Northville is a licensed professional engineer, serving as director of innovation and business optimization for Waste Management of Michigan.
- Grant Trigger of West Bloomfield is the Michigan cleanup manager for the Revitalizing Auto Communities Environmental Response (RACER) Trust.
- Helen Taylor of Okemos is Michigan state director for The Nature Conservancy and currently serves on the Great Lakes Commission.
- David Maness of Midland is the president of Maness Petroleum, chairman of the Isabella Bank Corporation and serves on the board of directors for the Michigan Oil and Gas Association.
- Fadi Mourad of Farmington Hills is a licensed professional engineer and the director of environmental strategy for DTE Energy.
- Robert Nederhood of Grosse Pointe Park is senior counsel for Foley and Lardner, LLP and previously served as deputy director of the Michigan Department of Licensing and Regulatory Affairs – Office of Regulatory Reinvention.

# Environmental Permit Review Commission

- Created by S.B. 653
- 15 members
- Governor is required to appoint members with subject-matter expertise or experience in scientific fields including:
  - Engineering, geology or hydrology

# Environmental Permit Review Commission, cont.

## Members:

- Dennis Bittner of Gladstone is a licensed professional engineer and the owner of Bittner Engineering Inc.
- Jamie (JP) Buckingham of Eaton Rapids is the COO and a principal geologist for Triterra.
- Mark Henne of Williamston is a hydrogeologist and environmental consultant for Henne Environmental.
- Mark Prein of Grand Rapids is a licensed professional engineer serving as vice president and senior project manager for Prein & Newhof.
- Tony Anthony of Novi is principal of AKT Peerless Environmental and Energy Services and is a planning commissioner for the city of Novi.
- Theodore Bornhorst of Houghton is a professor of geology and the executive director of the A.E. Seaman Mineral Museum at Michigan Technological University.
- Dirk Mammen of Traverse City is a licensed attorney, serving as a principal scientist, corporate due diligence services director and Traverse City office manager for Environmental Consulting and Technology, Inc.
- Evan Pratt of Ann Arbor is a licensed professional engineer serving as a water resources commissioner and the director of public works for Washtenaw County.
- Jeffery King of Pentwater is the founder and president of the ecological consulting firm King and MacGregor Environmental, Inc.
- Bryan Burroughs of DeWitt is the executive director of Michigan Trout Unlimited.
- Matthew Germane of Hartland is a licensed professional engineer, serving as a senior project engineer for Environmental Resource Group, LLC.
- Lori Myott of Grand Ledge is the manager of the environmental service department for Lansing Board of Water and Light.
- Bradley Venman of Lansing is a quality officer and senior vice president of NTH Consultants, Ltd.

# Environmental Justice

- Environmental Justice Work Group created in February 2017 by Governor Snyder
- “Improve environmental justice awareness and engagement in state and local agencies”
- March 2018 Report
  - Governor created an Environmental Ombudsman and Environmental Interagency Work Group
  - Comprised of representatives from DEQ, HHS, Civil Rights, Transportation, and MEDC



# QUESTIONS?



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# Commissions Overview

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Amy Epkey, DEQ Deputy Director

# Summary

- The DEQ has 29 commissions serving in various advisory roles for the department
- Six of the 29 commissions are new this year
- Processes are in varying stages of development for the six new commissions

# Commissions

- Air Advisory Council
- Criteria Stakeholder Advisory Group
- Joint Agency Transportation Committee
- Oil and Gas Advisory Committee
- Petroleum Workgroup
- Solid Waste and Recycling Advisors
- Water Use Advisory Council

# Commissions (continued)

- Advisory Board of Examiners (Drinking Water)
- Board of Certification (Municipal Wastewater)
- Board of Examiners (Industrial Wastewater)
- Child Lead Exposure Elimination Commission
- Director's Water Well Advisory Committee
- Green Chemistry Roundtable
- Medical Waste Advisory Council
- Michigan Citizen Community Emergency Response Coordinating Committee
- Michigan PFAS Action Response Team (MPART)
- Michigan Pipeline Safety Advisory Board

# Commissions (continued)

- Michigan Underground Storage Tank Authority
- Mineral Wells Commission
- Public Health Advisory Commission
- Response Activity Review Panel
- Scrap Tire Advisory Committee
- Small Business Clean Air Compliance Committee

## Newly Formed Commissions

- Michigan Infrastructure Council
- Water Asset Management Council (WAMC)
- Statewide Drinking Water Council
- Environmental Rules Review Committee
- Environmental Permit Review Commission
- Environmental Science Board

# Environmental Rules Review Committee (ERRC)

- Housed within Department of Technology Management and Budget (DTMB) Office of Regulatory Reinvention (ORR)
- Twelve voting members (four-year terms)
- Six non-voting members
- First meeting – TBD

# Environmental Rules Review Committee Members

Voting Members	Representing
John Myers	Solid Waste Management Industry
Nicholas Ramos	Statewide Manufacturing Organization
Janet Barlow	Statewide Small Business Organization
Fadi Mourad	Public Utilities
James Clift	Statewide Environmental Organization
David Maness	Oil and Gas Industry
Tyler Ernst	Statewide Agricultural Organization
Mark Fowler	Local Governments
Helen Taylor	Statewide Land Conservancy
Grant Trigger	Public at Large
Robert Nederhood	Public at Large
Eric Pessell	Public Health Professional

Non-Voting Members – DEQ, DHHS, MDARD, DNR, Science Advisor selected by DEQ, Science Advisor selected by DHHS



# Three Primary Environmental Rules Review Committee Steps

- Does the rule need to go before the ERRC?
- How does the ERRC recommend the rule move forward?
- Does the ERRC support the rule submission to Joint Committee on Administrative Rules (JCAR)?

# Does the rule need to go before the ERRC?

- ORR submits request for rule-making to ERRC
- Within 14 days, chair and vice-chair may notify members that no further action is needed
- Within 14 days of receipt of notification, three members of committee may request a vote (seven votes needed to override the chair and vice-chair's recommendation)

# How does the ERRC recommend the rule move forward?

- ERRC makes initial determination within 35 days
  - Rule shall proceed under normal rulemaking (off-ramp)
  - Rules may proceed to public hearing
  - Criteria are not met or ERRC needs more time to decide
- Proceed with public hearing or providing additional information
- Within 120 days of public hearing, DEQ shall provide ERRC with summary of public hearing



From ERRC's determination to summary of public hearing – approx. 6 months

# Does the ERRC support the rule submission to JCAR?

- Within 120 days of receiving the Agency Report (summary of public comments and rule changes), the ERRC recommends whether to submit rule
  - ERRC sends recommended modifications or rejection to Director and Governor
    - DEQ can resolve issues
    - Governor can direct DEQ to move forward or withdraw request
  - ERRC approves rule and ORR submits to JCAR

ERRC final determination – up to 4 months from meeting

# Emergency Rule

- Rules that are necessary for the “preservation of the public health, safety, or welfare” may be issued outside the rules process with Governor concurrence and are effective for up to six months
- One six-month extension allowed

# Environmental Permit Review Commission (EPRC)

- Housed within DEQ
- Fifteen members for the Environmental Permit Review Commission (four-year terms)
- Three of the commission members selected by the Director to serve on the Environmental Permit Panel for disputes
- First meeting – TBD

# Environmental Permit Review Commission Members

Name	Expertise
Dennis Bittner	Licensed Engineer
Jamie Buckingham	Geologist
Mark Henne	Hydrogeologist
Dana Kirk	Bioenergy
Mark Prein	Licensed Engineer
Tony Anthony	Environmental Consultant
Theodore Bornhorst	Geology
Dirk Mammen	Attorney
Evan Pratt	Civil/Environmental Engineer
Jeffery King	Wetlands Consultant
Bryan Burroughs	Environmental Science
Matthew Germane	Environmental Engineer
David Hamilton	Aquatic Invasive Species
Lori Myott	Civil/Environmental Engineer
Bradley Venman	Environmental Health

# Environmental Permit Review Commission Requirements

- Advise the Director on permit applications
- Make final decision on permit appeals



# Permit Application Appeal Process

- Hold Environmental Permit Panel meeting within 45 days of receiving the dispute
- Environmental Permit Panel decision within 45 days of meeting
- Director's decision within 60 days of receiving the panel's recommendation

Maximum Time for Decision – 5 Months

# Permit Contested Case Process

- Administrative Law Judge (ALJ) makes decision
- Parties to contested case may seek review by the Environmental Permit Panel within 21 days of receiving the final decision
- Environmental Permit Panel cannot consist of same members involved in application process and meets within 45 days of receiving dispute
- Environmental Permit Panel adopts, amends, or reverses ALJ decision

Maximum Time for Decision – 2 Months

# Environmental Science Advisory Board

- Housed within DTMB
- Nine Members (three-year terms)
  - Lauren Brown
  - Kimberlee Kearfott
  - Lawrence Lemke
  - John Matonich
  - Dianne McCormick
  - Ashley Moerke
  - Steven Pernecky
  - Joan Rose
  - George Wolff
- First Meeting – TBD

# Environmental Science Advisory Board Requirements

- Advise the Governor and State Departments on issues affecting the protection of the environment or the management of natural resources
- Shall not provide advice on permit applications

# Questions

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