

Summary Environmental Rules Board
Indiana Government Center South
Conference Center Room A
Zoom Meeting
Indianapolis, Indiana
Wednesday, August 9, 2023

A. Call to Order

Chair Gard called the meeting to order at 1:31 p.m. A quorum was present.

Members present: Beverly Gard, William Etzler, Dr. Joanne Alexandrovich, Calvin Davidson, Dr. Ted Niemiec, Chris Horn, Ken Rulon, Carrie Kozyrski, Dan Bortner, Jaime Brown, John Ketzenberger, Emily Totten, Ric Zehr, and Brian Rockensuess.

Chair Gard welcomed Jaime Brown and Ric Zehr to the Board. Ms. Brown is representing manufacturing and Mr. Zehr is representing construction.

B. Approval of Meeting Summary of June 14, 2023

Chair Gard called for approval of the June 14, 2023, meeting summary, which was approved after the amendments were approved.

C. IDEM Reports

Commissioner's Report

Mr. Brian Rockensuess, Commissioner, said that Drake Abramson and Parvonay Stover are traveling around the state meeting legislative leaders to talk about the issues in their areas and provide information to them about what IDEM does as an agency, how IDEM differs from EPA, and the relationship with EPA.

Mr. Rockensuess talked about the new rulemaking bill, HB 1623 and the changes for the rulemaking process and the Environmental Rules Board. IDEM has a plan and will be checking with the Attorney General's Office to make sure they agree with IDEM's plan for future rulemakings.

Mr. Rockensuess talked about the topic of wetland and Waters of the United States (WOTUS). The meetings with the Builders Association, consultants, and the IDEM wetland staff went well, and discussions regarding the isolated wetlands statues and who will be regulating the wetlands was productive. Legislation will be coming next session to clarify some of these things and hopefully move forward with little resistance.

Mr. Rockensuess talked about the staffing for IDEM. IDEM is hiring 15 new Drinking Water staff because of duties that IDEM is taking over from Homeland Security. Also, IDEM is hiring 3 more people in the Excess Liability Trust Fund due to the change in statute.

Mr. Rockensuess announced that MaryAnn Stevens retired from IDEM after 47 years. She was given the Distinguished Hoosier award for her years of service.

Mr. Rockensuess stated that IDEM will be drafting new rules regarding penalties, which have always been through a nonrule policy document in the past. Mr. Rockensuess will have this approved through the Budget Committee by the end of 2023. Nothing will be changed in the policy, and it hasn't had any issues over the years, so he is hopeful that the Committee will get it approved quickly.

Chairman Gard asked if there will be any changes to how the Board will be doing business in the new spectrum. Mr. Rockensuess said the number of hearings the Board will conduct may change, but most of the changes will be on the rulemaking end of things.

Ms. Kozyrski asked about the transfer of responsibilities of underground storage tanks from Homeland Security to IDEM. Mr. Rockensuess clarified the details of the meeting between IDEM and Homeland Security, and it was determined that IDEM should be overseeing the underground storage tanks now.

Mr. Rulon asked for an update regarding the situation with the people in Carmel, Indiana. Mr. Rockensuess said that IDEM has been back to inspect the area and did not find any issues and has not heard back from them since the initial contact. He requested that they contact IDEM regarding any further issues.

Dr. Alexandrovich asked about the new rulemaking process and whether there will be a way to encourage more public participation in meetings. Mr. Rockensuess said that all meetings across the state will be live streaming.

Rules Update

Ms. Chris Pedersen, Chief, Rules Development Section (RDS), Office of Legal Counsel (OLC), spoke on the rulemakings. At this time there are no rules that could be coming before the next Environmental Rules Board meeting, which is to be determined. The board had no questions.

D. Rules

1. Title V Permitting Fees

Chair Gard opened the discussion for final adoption of the Title V Permitting Fees rule. Mr. Seth Engdahl, Rule Writer, RDS, OLC, spoke for the agency. Mr. Engdahl requested that the board consider preliminary adoption of amendments to rules at IAC 326 2-1.1-7. This rule is statutorily mandated and increases the annual base fee for two permit types: Title V Operating Permits and Federally Enforceable State Operating Permits. Approximately 1,100 sources in Indiana would be impacted by this increase. Specifically, the annual base fees for these permits would increase from the current fee of \$2,381, to \$6,100. This will result in an increase in revenue of roughly \$4.3 million per year to support the Title V permitting program.

There were no questions or board discussion. There were no commenters.

Mr. Rulon moved to final adopt the rule and Mr. Bortner seconded. By a roll-call vote, the rule was final adopted.

2. Wastewater Treatment Plant Operator Certification

Chair Gard opened the discussion for the final adoption of amendments to 327 IAC 5-23 for the Wastewater Treatment Plant Operation Certification rule. Ms. Krystal Hackney, Rule Writer, RDS, OLC, spoke concerning the rule. This rulemaking repeals the existing rule at 327 IAC 5-22 and replaces it with 327 IAC 5-23. It addresses state statutory requirements made in 2015 and 2018 that affect IC 13-18-11. These statutory changes allow electronic examination through a third-party administrator, add certification examination fees, require proof of compliance with continuing education requirements submitted with certificate renewal applications, update the renewal cycle for operator certificates from two years to three years, and add reciprocity for certified operators from other states or U.S. Territories applying for certification in Indiana.

This rule also reorganizes and restructures sections and updates sections with necessary changes. A clarification was made at 327 IAC 5-23-10(b) and (c) to word them similarly because they have the same intention. No additional changes were made to this rulemaking since preliminary adoption. IDEM will present a non-rule policy document concerning the education and experience substitutions to the board.

Mr. Ketzenberger moved to adopt IDEM's suggested changes and Ms. Kozyrski seconded.

By a roll-call vote, the changes were adopted.

Mr. Ketzenberger moved to final adopt the rule and Ms. Kozyrski seconded. By a roll-call vote, the rule was final adopted.

F. Non-Rule Actions

1. Non-Rule Policy Documents

Chair Gard opened the discussion for the presentation and Mr. Jason House, in the Office of Water Quality, presented the non-rule policy document on Wastewater Operator Certification Allowable Substitutions, Water -020-NPD.

Ms. Kozyrski asked if IDEM would be approaching any of the trade associations for discussion regarding the substitutions. Mr. House stated that he worked with the trade associations during the rulemaking process and during development of the nonrule policy document, so they were involved in those discussions for developing the substitution outlines.

G. Other Matters

1. Open Forum

Chair Gard opened the discussion. Chairman Gard asked a question about the 96th Street gravel pits. Nancy King said that a one-page guideline document on how to submit a citizens' petition to the board would be useful and help to determine whether or not the issue is devoid of merit. Ms. King will work on a draft to send out to the board for feedback before the next board meeting.

Dr. Alexandrovich proposed the idea of a permit requirement that trucks be covered before they go through the weigh station. If they are not covered, perhaps there could be some kind of enforcement action on these trucks.

Chairman Gard said that it was a good thought to consider.

2. Tentative Date and Location of Next Meeting

The next meeting is to be determined, Indiana Government Center-South, Conference Room A, 10 North Senate Avenue, Indianapolis, Indiana.

H. Adjournment

Chair Gard adjourned the meeting at 2:23 p.m.

CHAIRPERSON

The summary is derived from Rules Development Branch staff members' notes. A typewritten transcript of the entire meeting is on file in the Office of Legal Counsel, Indiana Department of Environmental Management and will be made available on the IDEM rules website. To view approved summaries, you may go online to <http://www.in.gov/idem/legal/2355.htm>.