Summary
Environmental Rules Board
Indiana Government Center South
Conference Center Room 22
Indianapolis, Indiana
Wednesday, January 10, 2018

1. CALL TO ORDER
Chair Beverly Gard called the meeting to order at 1:30 p.m. A quorum was present.

Members present: Commissioner Bruno Pigott; Calvin Davidson; Dr. Joanne Alexandrovich; Chris Horn; William Etzler; Dr. Ted Niemiec; Devin Hillsdon-Smith; Gail Boydston; Ken Rulon; Angelique Collier; Karen Valiquette; Mike Mettler; Jeffrey Cummins; and Chief of Staff Brian Rockensuess.

2. APPROVAL OF MEETING SUMMARY
Chair Gard called for approval of the October 11, 2017, meeting summary, which was approved as presented.

3. REPORTS
Commissioner’s Report
Commissioner Pigott spoke about the Governor’s 2018 agenda. He said in the Governor’s State of the State speech, he made reference to the environmental work IDEM is doing, especially water and wastewater infrastructure, which is part of the Governor’s agenda. Commissioner Pigott said other IDEM priorities are getting permits completed on time (no backlogs), reducing completion time of inspection reports, and gain control over the Federal 404 program. Mr. Hillsdon-Smith asked what is needed to take over all of the 404 permits process. Commissioner Pigott answered that if IDEM had authority over the 404 program, there would be additional costs, including more staff to effectively issue permits and do compliance and enforcement work. He announced the new U.S. EPA Region V Administrator, Ms. Cathy Stepp. Commissioner Pigott explained the $41M Volkswagen settlement and said a board led by Senator Gard had been assembled. He said several meetings will be held around the state. Dr. Alexandrovich asked if there are limitations on distribution of the money. Commissioner Pigott replied in the affirmative that the requirements are specifically to reduce NOx emissions.

Legislative Update
Chief of Staff Brian Rockensuess gave an update on the 2018 legislative session. He said the two bills are SB 274, Red Tag Underground Storage Tanks subject to delivery prohibition, and HB 1233, Environmental Management or annual clean-up bill, which encompasses several areas.

Rules Update
Ms. Chris Pedersen, Section Chief, Rules Development Branch (RDB), Office of Legal Counsel (OLC), spoke on the rulemakings that would come before the next Environmental Rules Board (ERB) meeting, probably April 11, 2018, which will be held in Conference Center Room A. She introduced new Rule Writer Krystal Hackney. Ms. Boydston asked about the Status of Active Environmental Rulemakings document provided to the board members. Ms. Pedersen explained the reason for using the current report.

4. RULEMAKING ACTIONS
Lawrenceburg Township, Dearborn County Ozone Redesignation Emergency Rule
Chair Gard opened the discussion for adoption of the Lawrenceburg Township, Dearborn County Ozone Redesignation Emergency Rule. Ms. Keelyn Walsh, Rule Writer, RDB, OLC, spoke for the agency and explained that this rule temporarily revises 326 IAC 1-4-16 to redesignate Lawrenceburg Township in Dearborn County to attainment for the 2008 eight-hour ozone standard until the regular rulemaking is completed. Ms. Walsh stated this emergency rule would allow affected sources to be permitted under the prevention of significant deterioration (PSD) program under 326 IAC 2-2, instead of the more restrictive emission offset program under 326 IAC 2-3.

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

Dr. Niemiec moved to adopt the emergency rule and Mr. Cummins seconded. The emergency rule was adopted unanimously.

LSA #17-432, Lawrenceburg Township, Dearborn County Ozone Redesignation and other Updates
Chair Gard opened the discussion for final adoption of the Lawrenceburg Township, Dearborn County Ozone Redesignation and other Updates Rule at 326 IAC 1-4-16. Ms. Keelyn Walsh, Rule Writer, RDB, OLC, said redesignating Lawrenceburg Township to attainment for the 2008 8-hour ozone standard will have a positive impact on Dearborn County's economy and administrative updates to several other attainment statuses will ensure that they are consistent with federal regulations.

There were no questions and no board discussion. There were no commenters. Dr. Niemiec moved to final adopt the rule and Mr. Hillsdon-Smith seconded. With a roll call vote, the rule was adopted unanimously.

LSA #17-442, Drinking Water Cleanup
Chair Gard opened the discussion for adoption of amendments to 327 IAC 8-2.1, IAC 8-2.4, and IAC 8-2.6, Drinking Water Cleanup rules. Ms. MaryAnn Stevens, Rule Writer, RDB, OLC, spoke for the agency and said U.S. EPA review and approval of adopted rules and changes made to state drinking water standards rules is required in order for the state to maintain primacy to conduct the drinking water programs under the Safe Drinking Water Act (SDWA). She said by completing these revisions as requested by U.S. EPA, the state rules will be as stringent as the federal rules and acceptable to U.S. EPA. She said there was a change in 327 IAC 8-2.4-1(a) where the reference to the Code of Federal Regulations is updated from 2015 to 2016.

Devin Hillsdon-Smith asked a formatting question, which Ms. Stevens answered.

There was no board discussion and no commenters. The hearing was concluded.

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

LSA #17-278, Title 327 CFR Update and Administrative Revisions
Chair Gard opened the hearing for preliminary adoption of Title 327 CFR Update and Administrative Revisions. Ms. Keelyn Walsh, Rule Writer, RDB, OLC, spoke for the agency. She said the reference to the Code of Regulations at 327 IAC 1-1-2 indicates the yearly edition of the CFR that is applicable to federal regulations that have been incorporated by reference throughout 327 IAC, unless a previous edition is identified in the specific rule. Ms. Walsh said updating from the July 1, 2004 version to the
July 1, 2016 version of the CFR will incorporate applicable federal requirements that have become effective during that time. She said at the time this rule was initiated, the 2017 version of the CFR was not available, and therefore, this rule does not include federal revisions that became effective during that time with the exception of a significant revision from 2017 that is included through a reference update to the Federal Register citation. She said in addition to updating references to the CFR, IDEM is updating citations in several sections of Title 327 and making administrative changes to correct mistakes, update information, and ensure consistency with the rule writing format. She said this update provides consistency between Indiana rules and federal regulations.

There were no commenters. There was no board discussion. Chair Gard concluded the hearing.

Mr. Cummins moved to final adopt the rule and Mr. Hillsdon-Smith seconded. By a roll call vote, the rule was adopted unanimously.

**LSA #16-204, Underground Storage Tanks**
Chair Gard opened the hearing for final adoption of amendments to 329 IAC 9, Underground Storage Tanks. Dan Watts, Rule Writer, RDB, OLC, spoke for the agency. He said this rulemaking will update the standards and requirements for underground storage tanks to be at least as stringent as the recently amended federal Underground Storage Tanks (UST) rules that were promulgated in a U.S. EPA final rule published on July 15, 2015. Mr. Watts explained how IDEM must maintain requirements that are no less stringent than the federal UST standards and that the state must submit an updated state program approval to U.S. EPA by October 13, 2018.

There were no commenters. Chair Gard concluded the hearing.

Mr. Horn moved to adopt IDEM’s suggested changes and Mr. Rulon seconded. By a voice vote, IDEM’s suggested changes were adopted. Mr. Etzler moved to final adopt the rule as amended, and Mr. Horn seconded. By a roll call vote, the rule was final adopted unanimously.

**LSA #15-427, Volatile Organic Liquid Storage Tanks**
Chair Gard opened the hearing for preliminary adoption of amendments to 326 IAC 8-9, Volatile Organic Liquid Storage Tanks. Jack Harmon, Rule Writer, RDB, OLC, spoke for the agency. He said this rulemaking affects owners and operators of large storage vessels that contain volatile organic liquids (VOL) in Clark, Floyd, Lake and Porter counties. He said this rulemaking addresses inspection methods used in routine inspections required for each storage tank. He said this rulemaking allows for an affected source to request an alternative inspection method while the tank is in service. He said IDEM has had discussions with U.S. EPA regarding the proposed alternative method, and U.S. EPA agreed there would be fewer emissions. He said IDEM was notified before today’s meeting that the applicability section of the rule at 326 IAC 8-9-1 is inaccurate, and after internal discussion, IDEM proposes to review and correct the language prior to final adoption of this rule.

Mr. Horn moved to preliminarily adopt the rule, and Mr. Cummins seconded. With a voice vote, the board voted unanimously.

**LSA #15-414, NOx Emissions from Large Affected Units**
Chair Gard opened the hearing for preliminary adoption of amendments to 326 IAC 10 and 326 IAC 24, NOx Emissions from Large Affected Units. Jack Harmon, Rule Writer, RDB, OLC, spoke for the agency. He said this rulemaking affects owners and operators of large affected units that were
previously regulated under the NO₂ Budget Trading Program and the Clean Air Interstate Rule (CAIR). He explained the SO₂ and NOₓ requirements for electric generating units (EGUs) at power plants under CAIR have been replaced by the Cross State Air Pollution Rule (CSAPR) and were addressed through a separate state rulemaking (LSA #16-209). Mr. Harmon said during the two public comment periods, several affected sources had concerns for several parts of the draft and reviewed the main comments. He also reviewed the monitoring requirements exemption proposed in the Second Notice of the Public Comment Period.

There were no commenters. There was no board discussion. Chair Gard concluded the hearing. Mr. Cummins moved to preliminarily adopt the rule, and Mr. Hillsdon-Smith seconded. With a voice vote, the board voted unanimously.

5. **OPEN FORUM**
   Mr. Cummins asked if there were any environmental rules for revocation per Presidential Executive Order. Commissioner Pigott replied “no”.

6. **ADJOURNMENT**
   The next meeting is tentatively scheduled for 1:30 p.m. on April 11, 2018, at the Indiana Government Center South Conference Room A. Chair Gard adjourned the meeting at 2:35 p.m.

[Signature]

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/ideem/legal/2355.htm](http://www.in.gov/ideem/legal/2355.htm).