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; Chris Smith for Cameron Clark; Mike Mettler; R. T. Green; Jeffrey Cummins; and Chief of Staff Brian Rockensuess.

Chair Gard asked the three new members to introduce themselves: Angelique Collier, representing public utilities, Karen Valiquette, representing environmental interests, and R. T. Green, representing the public.

2. APPROVAL OF MEETING SUMMARY
Chair Gard called for approval of the July 12, 2017, meeting summary, which was approved as presented.

3. REPORTS
   Commissioner’s Report
Commissioner Pigott announced staff changes: Julia Wickard has been promoted to Assistant Commissioner, Office of Program Support (OPS); Niles Parker will serve as Health and Safety Director, OPS; Bob Lugar, Deputy Assistant Commissioner, OPS; Kim Diller, Chief Financial Officer, and Josh Potter, Controller, Finance Division. There were no questions from the Board. Chair Gard addressed the new board members and told them to feel free to ask questions they may have regarding the board and the rulemaking process.

   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 January 10, 2018, which will be held in Conference Center Room A. She reviewed the updates for the Environmental Rules Board (ERB) Information Packet that were provided to the current members as well as complete updated packets for the new members. She said that the Air Permitting Report was provided in members’ board packets and there was staff available for questions with the Office of Air Quality (OAQ). Board members had questions about the Air Permitting Report which were answered by Matt Stuckey, Deputy Assistant Commissioner, OAQ, and Commissioner Pigott.

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 was temporarily revised in 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 that 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.

Mr. Rulon moved to adopt the emergency rule and Mr. Hillsdon-Smith seconded. The emergency rule was adopted unanimously.

**LSA #17-282, U.S. Steel SO₂ Revisions**

Chair Gard opened the discussion for adoption of the U.S. Steel SO₂ Revisions at 326 IAC 7-4.1-20. Ms. MaryAnn Stevens, Rule Writer, RDB, OLC, said the U.S. Steel-Gary Works has sulfur dioxide emission limitations under 326 IAC 7-4.1-20 that are applicable to the facility’s coke plant, which includes the coal handling facilities, coke oven batteries, coke byproducts recovery plant, coke oven desulfurization facility, and the No. 2 plant boiler house. She said the coke plant facility permanently ended operating as of March 30, 2015. Ms. Stevens said with the permanent shutdown of the coke plant, the sulfur dioxide emission limitations are not necessary. She said this rulemaking is being conducted under statute at IC 13-14-9-8 that allows for an abbreviated rulemaking process when IDEM’s Commissioner determines that there is no reasonably anticipated benefit to either the environment or persons regulated or otherwise affected by the proposed rule from not having a second public comment period or more than one public hearing.

Mr. Rulon asked if U.S. Steel-Gary Works wanted to reopen the facility, would they have to reapply for permits. Mark Derf, Section Chief, Programs Branch, OAQ, replied “yes”.

There were no commenters. Mr. Davidson moved to adopt the rule and Mr. Green seconded. With a roll call vote, the rule was adopted unanimously.

**LSA #16-332, Outdoor Hydronic Heaters**

Chair Gard opened the discussion for final adoption of amendments to 326 IAC 4-3, Outdoor Hydronic Heaters. Ms. Keelyn Walsh, Rule Writer, RDB, OLC, spoke for the agency and explained the purpose of the heaters which can emit thick smoke and high-particulate emissions such as carbon dioxide and volatile organic compounds if operated improperly. She said on March 16, 2015, U.S. EPA published a new source performance standards (NSPS) in the Federal Register to regulate outdoor hydronic heaters. This rule was effective on May 15, 2015, and applies to manufacturers and retailers of outdoor hydronic heaters. As of the effective date, all new outdoor hydronic heaters were required to meet particulate matter emission limits. All requirements of the federal NSPS have been adopted in the state rule in 326 IAC 12. Indiana’s current Outdoor Hydronic Heater Rule at 326 IAC 4-3, effective May 18, 2011, relied on U.S. EPA’s voluntary program to qualify and label new installations. Upon publication of the NSPS in 2015, however, installations of outdoor hydronic heaters previously regulated under the state rule became subject to the requirements of the NSPS at 40 CFR 60, Subpart 4Q. She said the purpose of this rulemaking is to amend Indiana’s current Outdoor Hydronic Heater Rule at 326 IAC 4-3 to incorporate the requirements of the NSPS at 40 CFR 60, Subpart 4Q for outdoor hydronic heaters. She said this rulemaking amends additional language as necessary to remove the homemade unit exemption, as well as units manufactured are now regulated by the federal NSPS.
There was no board discussion and no commenters. Chair Gard concluded the hearing and asked for a motion to adopt IDEM’s suggested changes. Mr. Davidson moved to adopt IDEM’s suggested changes and Mr. Rulon seconded. By a voice vote, IDEM’s suggested changes were adopted.

Dr. Niemiec moved to final adopt the rule as amended, and Mr. Hillsdon-Smith 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 shows 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. Updating Indiana rules to the July 1, 2016 version of the CFR will provide the latest federal requirements to the regulated entities with the exception of those federal regulations more recently published in the Federal Register. Ms. Walsh gave a chronological history of U.S. EPA rule publications. She said in addition to updating references to the CFR, IDEM is updating citations in several sections of Title 327. She said IDEM is also making administrative changes to remove obsolete language, correct mistakes, update information, and ensure consistency with the rule writing format. She said on April 25, 2017, U.S. EPA published a notification postponing certain compliance dates for the effluent limitations guidelines and standards for the steam electric power generating point source category, which is included in the draft rule.

There were no commenters. There was board discussion. Chair Gard concluded the hearing. Dr. Alexandrovich asked about updating to the July 1, 2017 version of the CFR. Ms. Walsh and Ms. Pedersen responded that the official 2017 version is not available until later in the year.

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

LSA #16-204, Underground Storage Tanks
Chair Gard opened the hearing for preliminary 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 no less stringent than the recently amended federal Underground Storage Tanks (UST) rules. He stated that U.S. EPA promulgated a final rule on July 15, 2015, which made comprehensive changes to the federal UST standards at 40 CFR 280 and 40 CFR 281, including amending some requirements to be more stringent than previous requirements. 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. He said IDEM is proposing the direct incorporation by reference of many subparts of 40 CFR to replace state rules that are currently written out as full text at 329 IAC 9 and described those sections. He said IDEM is also proposing to maintain some sections of Article 9 that include state specific requirements and are no less stringent than the analogous federal requirements. He said IDEM is proposing amendments that make corrections to the rules and improve the rule language.

Dr. Alexandrovich asked questions about capitalization, definitions, and assessment reviews by IDEM. She also inquired about permanent tank closure requirements, and Mr. Tom Newcomb, Section Chief, UST, Office of Land Quality (OLQ), addressed those issues.
There were no commenters. The hearing was concluded.

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

5. **HEARING**  
**LSA #17-271 and LSA #17-273, IC 13-14-9.5-1.1 2017 Hearing on Non-Expiring Rules**  
Chair Gard opened the hearing on rules that do not expire under IC 13-14-9.5 for Title 326 and Title 327. She stated that the non-expiring rules were not subject to the sunset provisions of IC 13-14-9-5 and discussed how these rules are required every seven years to be public noticed for comments before coming to the board. She said a notice was published in the Indiana Register with a request for written comments, and no comments were received for any of the rules listed in the notices.

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

Chair Gard explained that the Board must determine whether any of the listed rules needed to be reviewed under the regular rulemaking process, and called for a motion on rulemaking. Mr. Horn moved that there be no further action on these rules and Mr. Green seconded. By a voice vote, the Board unanimously voted to take no further action on these rules.

6. **NON-RULE POLICY DOCUMENT PRESENTATION**  
Chair Gard asked Martin Yeates, Technical Environmental Specialist, Compliance and Enforcement Branch, OAQ, to present the non-rule policy document regarding Revocation of Air Construction and Operating Permits. He said the purpose of this non-rule policy is to allow IDEM OAQ to maintain a more accurate listing of air permits inventory and records concerning the air emission sources within the State of Indiana. He said the Air Permits Branch, OAQ, normally revokes construction or operating air permits upon a request from the source. He said the intent of the policy is that when OAQ receives information that a source has abandoned a permitted site and stopped operating permanently or their contact is no longer valid, the agency should attempt to verify source closure, and if it is verified, initiate permit revocation. He said the Air Compliance Branch will compile a quarterly list of sources for which a permit revocation has been proposed. He said it is then submitted to IDEM’s Media and Communication Services (MACS) for public view, and if there are no objections, appropriate forms are submitted to the Permits Administration and Support Section.

Mr. Hillsdon-Smith asked if a source is permanently closed and later another company wants to start up this facility, if it creates a problem for that company. Mr. Yeates replied that it would be considered another source, and they would apply for their own operating permit.

7. **OPEN FORUM**  
There were no questions for the open forum. Chair Gard asked a question about the process of initiating rules. Ms. Nancy King, General Counsel, OLC, explained the process, and said the Governor’s Office has been considering what to do about the rule moratorium that was required under the Pence administration. She said they have been gathering comments from agencies on whether to keep the moratorium as is or amend it. She explained that IDEM has a different rulemaking process under Title 13 as opposed to other agencies under Title 4. Ms. King said IDEM submits a request explaining how this rule meets the exceptions within the moratorium which goes to the Office of Management and Budget. Prior to that, IDEM has to submit to the Governor’s Office an explanation
of what IDEM is intending to do. Ms. King said it is difficult to put a time frame on the length of the process. Chair Gard asked about the effect of U.S. EPA directives slowing down IDEM’s rulemaking process. Ms. King replied that it does slow down the process, especially in IDEM’s Air program, and gave several examples of requirements and other issues that can slow the rulemaking process. Chair Gard inquired as to whether U.S. EPA Region V has a new Administrator. Ms. King answered that Mr. Bob Kaplan is the Acting Administrator. Ms. King commented that if Board members have a question about an upcoming rule, they should feel free to contact the rule writer, Chris Pedersen, or herself before it comes before the Board. Mr. Rulon asked about U.S. EPA’s stringency and asked if we can be more stringent. Ms. King explained the no-more-stringent-than bill which was passed in the last legislative session. Dr. Niemiec asked if it applies to a rule that is already in place. Ms. King answered no.

8. ADJOURNMENT

The next meeting is tentatively scheduled for 1:30 p.m. on January 10, 2018, at the Indiana Government Center South Conference Room A. Chair Gard adjourned the meeting at 2:45 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.