

Summary  
Environmental Rules Board  
Indiana Government Center South  
Conference Center Room A  
Indianapolis, Indiana  
Wednesday, January 8, 2020

**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, Ken Rulon, Karen Valiquett, Cal Davidson, Chris Horn, Katie Nelson, Bruno Pigott, Cameron Clark, Mark Wasky, Angelique Collier, Michael Schuler, Paul Gilson and Dr. Ted Niemiec.

Chair Gard welcomed Katie Nelson to the board. She replaces Jeff Cummins as proxy for the Lt. Governor's office.

**B. Approval of Meeting Summary of November 13, 2019**

Chair Gard called for approval of the November 13, 2019, meeting summary, which was approved.

**C. IDEM Reports**

Commissioner's Report

Commissioner Pigott talked about the 2020 303(d) list of impaired waters that IDEM expects to publish in the Indiana Register sometime this month. There will be more details on the list that will be presented at a future board meeting. The key changes from the 2018 303(d) list are that IDEM has identified fifteen previously identified impaired waters now meet water quality standards. The impairments have been removed from the list based on recent data or other information that became available since U.S. EPA approval of IDEM's 2018 303(d) list. IDEM also has added eighteen impaired waterbodies to the 2020 303(d) list based on new or revised assessments in the Upper Illinois River basin which was sampled in 2017 and the Great Lakes basin which was sampled in 2018. Most of the newly listed impairments are for E. coli and impaired biotic communities

Rules Update

Ms. Chris Pedersen, Chief, Rules Development Section (RDS), Office of Legal Counsel (OLC), spoke on the rulemakings that could come before the next Environmental Rules Board meeting, possibly April 8, 2020, which will be held in Conference Center Room A.

**D. Rules**

1. Lake and Porter Counties Ozone Reclassification Emergency Rule

Chair Gard opened the discussion for adoption of the emergency rule for designations in Lake, Porter, and Vigo counties. Ms. Krystal Hackney, Rule Writer, RDS, OLC, spoke for the agency and said this emergency rule was previously adopted on November 13, 2019. Adoption of the emergency rule is necessary to maintain the current federal designations for Lake County and Porter County as nonattainment for the 2008 eight-hour ozone standard, and two townships in Vigo County as attainment for the SO<sub>2</sub> standard until the regular rulemaking is completed.

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

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

2. Emission Reporting Revisions LSA #19-409

Chair Gard opened the discussion for final adoption of amendments to 326 IAC 2-6-1. Ms. Keelyn Walsh, Rule Writer, RDS, OLC, spoke regarding amendments to emission reporting requirements to add Clark and Floyd counties and to remove LaPorte County and Lawrenceburg Township in Dearborn County for consistency with current federal designations and associated requirements.

There were no commenters and the hearing was concluded.

**Dr. Niemiec moved to final adopt rules and Mr. Davidson seconded. By a roll-call vote, the rule was final adopted.**

### 3. Indiana Harbor Coke Company and Cokenergy SO2 Revisions LSA #19-388

Chair Gard opened the discussion for final adoption of amendments to rules at 326 IAC 7-4.1 regarding SO<sub>2</sub> emission limitations for coke oven facilities at Indiana Harbor Coke Company and Cokenergy. Mr. Dan Watts, Rule Writer, RDS, OLC, spoke for the agency. He said the rule revises sulphur dioxide emissions limitations for Indiana Harbor Coke Company and Cokenergy to address a federal consent decree.

There were no commenters and the hearing was concluded.

**Mr. Rulon moved to final adopt the amendments to 326 IAC 7.4-1 and Ms. Collier seconded. By a roll-call vote, the rule was final adopted.**

### 4. Transfer Station Reporting, LSA #19-424

Chair Gard opened the discussion for preliminary adoption of amendments to 329 IAC 11-13.5-13. Ms. Krystal Hackney, Rule Writer, RDS, OLC, spoke regarding the removal of the annual reporting requirement and moving the remaining record keeping requirements to 329 IAC 11-13.5-13, making 329 IAC 11-13.5-17 obsolete. The rulemaking also amends 329 IAC 11-13.5-1 to be consistent with the changes being made to 329 IAC 11-13.5-13.

There were no commenters and the hearing was concluded.

**Mr. Davidson moved to preliminarily adopt the rule, and Mr. Wasky seconded. By a roll-call vote, the rule was preliminarily adopted.**

### 5. Cold Cleaner Degreasing Alternative, LSA #18-542

Chair Gard opened the discussion for preliminary adoption of amendments to 326 IAC 8-3-1, 8-3-2, 8-3-3, 8-3-4, and 8-3-8, to allow for the use of an add-on control device for solvents with a higher vapor pressure in order to control emissions from cold cleaning degreasing activities for users currently required to use a low vapor pressure solvent to comply with the state rule. Ms. Keelyn Walsh, Rule Writer, RDS, OLC, spoke for the agency. Additional changes to the rule language included updating language in each section to ensure rule clarity and consistency, and exempting spray gun cleaners at 326 IAC 8-3-1 from the control equipment, operating, and material requirements of cold cleaner degreasers.

There were no commenters and the hearing was concluded.

**Mr. Rulon moved to preliminary adopt the amendments to 326 IAC 1, 7.1, 10, 11 and 13 and Ms. Collier seconded. By roll-call vote, the rule was preliminary adopted.**

### 6. CWA-Authority, Inc.-Indianapolis CSO Wet Weather Limited Use Designation. LSA Document #19-510

Chair Gard opened the discussion for final adoption of amendments to rules at 327 IAC 2-1-3.1 and a new rule 327 IAC 2-1-11.5 to establish a combined sewer overflow (CSO) wet weather limited use subcategory of the recreational use designation. Ms. MaryAnn Stevens, Rule Writer, RDS, OLC, spoke for the agency. She said these are authorized under the Clean Water Act and federal regulations at 40 CFR 131.10.

The CWA Authority, Inc., (CWA) owns and operates the City of Indianapolis's wastewater treatment and sewer system. CWA conducted a use attainability analysis (UAA), which was approved by IDEM. The UAA demonstrated that, even after full implementation of the long-term control plan (LTCP) for the elimination of CSO, there may still be several stream reaches impacted by CSOs during severe wet weather events. CWA entered into a Consent Decree with U.S. EPA and IDEM to allow for a CSO wet weather limited use subcategory designation to apply to seven stream reaches for up to four days following the date that a CSO discharge ends. The limited use subcategory is not available to CWA until it has achieved full implementation of the LTCP, which is estimated to be in 2025.

The commenters were Jill Hoffmann, Executive Director for the White River Alliance (WRA), Bill Blomquist, of WRA, Julie Rhodes, Collective Impact Director for Reconnecting to Our Waterway, Joe Sutherland, Citizens Energy Group, and John Trypus, Director of Citizens Energy Group Underground Construction Program. They each gave their presentation to the board.

The hearing was concluded.

**Mr. Etzler moved to final adopt rules and Ms. Collier seconded. By a roll-call vote, the rule was final adopted.**

### **E. Other Matters** Citizen's Petition

Chair Gard opened the discussion regarding the Citizen's Petition relating to the adoption of 2012 Federal Recreational Water Quality Criteria. Ms. Nancy King, OLC addressed the board regarding the statutory requirements to determine if the petition has merit and the next steps the board will take. Chair Gard thinks that petition does have merit for discussion. Chair Gard asked for a formal motion on the petition.

**Mr. Rulon moved for discussion on the petition and Mr. Davidson seconded. By voice call, the board agrees the petition is not plainly devoid of merit.**

Open Forum

The next meeting is tentatively scheduled for 1:30 p.m. on April 8, 2020, at the Indiana Government Center South Conference Room A. Chair Gard adjourned the meeting at 3:24 p.m.

**F. Adjournment**

A handwritten signature in black ink, appearing to read "Beverly J. Gard", is written over a horizontal line.

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>.