

Summary Environmental Rules Board
Indiana Government Center South
Conference Center Room A
Teams Meeting
Indianapolis, Indiana
Wednesday, December 11, 2024

A. Call to Order

Chair Gard called the meeting to order at 1:29 p.m. A quorum was present.

Members present: Beverly Gard, William Etzler, Dr. Joanne Alexandrovich, Calvin Davidson, Dr. Ted Niemiec, Chris Horn, R. T. Green, Carrie Kozyrski, Dan Bortner, Jaime Brown, Ric Zehr, John Ketzenberger, Matt Jaworowski, Katherine Nelson, and Parvonay Stover.

B. Approval of Meeting Summary of October 9, 2024

Chair Gard called for approval of October 9, 2024, meeting summary, which was approved.

C. IDEM Reports

Commissioner's Report

Ms. Parvonay Stover, Chief of Staff, said the Commissioner apologizes but he is at the Great Lakes Commission meeting. The only change has been that Jeremy Chenevert, IT Director, has left to take on another role with a different agency. We are looking at our options to figure out how to fill his role but waiting to see how the administration changes will affect things.

We just wrapped up our intern class and had about 25 to 28 interns for the summer. They have returned to their respective colleges. Many of them are hired full-time after they graduate to fill some of the vacancies here at IDEM.

We are also ramping up recruitment efforts at the job fairs around the state. We have started sending school alumni back to schools having job fairs to help build connections and talk about the benefits of state employment. We're collecting a lot of resumes and are hoping that we can give the students experience through our internships and working full-time for us.

We are keeping busy preparing for the upcoming 2025 legislative session and are hoping to focus on cyber security. Due to the cybersecurity attack on a wastewater facility that occurred in Tipton, Indiana, in April of this year, we are taking steps to better our communication on a state level and provide resources to facilities who have been hit with security attacks to triage the situation while the federal government conducts their protocols. We are going to be presenting a plan to the legislature at the upcoming session. We're also realizing cyber hygiene is an issue, with easily breakable passwords that make us easy targets for bad foreign actors. We want to conduct some type of vulnerability analysis to pursue better cyber hygiene practices.

This next legislative session will also be a budget session, so we'll be seeking more funding for our IT modernization project. We've received five and a half million for the last budget cycle and are now seeking seven million to continue those efforts.

Dr. Alexandrovich had a question. Her question was answered by IDEM staff.

Rules Update

Ms. Billie Franklin, Chief, Rules Development Section (RDS), Office of Legal Counsel (OLC), spoke on the rulemakings. She advised the Board of an administrative language change to the Emergency Affirmative Defense Provisions (EADP) rule that was updated since the board packet went out. She mentioned that the preliminary adoption of the Coal Combustion Residuals rulemaking will be moved to the December ERB meeting to allow for the incorporation of new federal rule language and ensure we are addressing all comments based on the extended comment period. She also requested that the Board advise Karla Kindrick of their Board terms. For the December 11, 2024, ERB meeting, the EADP and Kaiser Aluminum rulemakings will be presented for final adoption, and we should have several rules ready for preliminary adoption. We will also have a non-rule policy document to present concerning water quality review standards.

The EADP rulemaking will be presented today for preliminary adoption. We have three rules for final adoption today which includes three readoptions. This will be our only opportunity to present these rules to have them finalized by the December 31st deadline.

Our next Environmental Rules Board meeting is tentatively scheduled for December 11, 2024.

Ms. Kozyski asked Ms. Franklin to repeat the list of anticipated rules. The board had no questions. Chair Gard reminded the Board that their on-line ethics training deadline was coming up soon and that they should be sure of complete that.

D. Rules

1. Title 326 Readoption

Chair Gard opened the discussion for final adoption of Title 326 readoption rules under Indiana Code 4-22-2.6. Ms. Franklin explained that with the implementation of House Enrolled Act 1623, a rule expires on January 1st of the fifth year after the year in which a rule takes effect. Due to the elimination of exemptions in IC 4-22-2.5, there are no longer any rules that do not expire, also known as forever rules. We decided to readopt our rules as a whole package to avoid having them expire on January 1, 2025, and so that this rule and others will be on the same schedule for readoption every five years to ensure that no rules inadvertently expire. Ms. Franklin asked that the Board approve the Title 326, Title 327, and Title 329 rules in their entirety without amendments to avoid running the risk of our agency rules expiring.

Dr. Niemiec moved to adopt the rule and Ms. Kozyski seconded. By a roll-call vote, the rule was final adopted.

2. Title 327 Readoption

Chair Gard opened the discussion for final adoption of Title 327 readoption rules under Indiana Code 4-22-2.6. Ms. Franklin explained that with the implementation of House Enrolled Act 1623, a rule expires on January 1st of the fifth year after the year in which a rule takes effect. Due to the elimination of exemptions in IC 4-22-2.5, there are no longer any rules that do not expire,

also known as forever rules. We decided to readopt our rules as a whole package to avoid having them expire on January 1, 2025, and so that this rule and others will be on the same schedule for readoption every five years to ensure that no rules inadvertently expire.

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

3. Title 329 Readoption

Chair Gard opened the discussion for final adoption of Title 329 readoption rules under Indiana Code 4-22-2.6. Ms. Franklin explained that with the implementation of the House Enrolled Act 1623, a rule expires on January 1st of the fifth year after the year in which a rule takes effect. Due to the elimination of exemptions in IC 4-22-2.5, there are no longer any rules that do not expire, also known as forever rules. We decided to readopt our rules as a while package to avoid having them expire on January 1, 2025, and so that this rule and others will be on the same schedule for readoption every five years to ensure that no rules inadvertently expire.

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

Dr. Niemiec and Ms. Kozyrski had questions. Their questions were answered by IDEM staff.

4. Title 326 Emergency Affirmative Defense Provisions Rule

Chair Gard opened the discussion for preliminary adoption of the Emergency Affirmative Defense Provisions (EADP) rule. Ms. Keelyn Walsh, Rule Writer, RDS, OLC, spoke for the agency. Ms. Walsh requested that the board consider the preliminary adoption of the EADP rule. U.S. EPA requires each state with a Part 70 program to submit a program revision. IDEM submitted and received approval by U.S. EPA for an extension until August 21st, 2025. This rulemaking proposes to revise rule language at 326 IAC 2-7-16 and 326 IAC 2-8-12 to remove the EADP provisions from Indiana's Title V program to be consistent with the federal rule's removal of those provisions. This rule will also remove those provisions from IDEM's FESOP program, as well as removing definitions related to the provisions in 326 IAC 2-7-1 and 326 IAC 2-7-5. Finally, this rule amends the malfunction rule at 326 IAC 1-6-1 to ensure regulatory continuity with the reporting and recordkeeping requirements being removed by the repeal of the emergency provisions.

Dr. Alexandrovich and Ms. Kozyrski had questions. Their questions were answered by IDEM staff.

Mr. Etzler moved to adopt the rule and Dr. Niemiec seconded. By a roll-call vote, the rule was preliminarily adopted.

F. Non-Rule Actions

1. Non-Rule Policy Documents

Chair Gard opened the discussion for the presentation and Ms. Martha Clark-Mettler, Assistant Commissioner from the Office of Water Quality, presented the non-rule policy document on Permitting for the Placement of Fill Material into Isolated Wetlands, Water 0021-NPD-R0. This NPD eliminates a bureaucratic step in IDEM's rules that required a letter from the Army Corps

on whether the waterway was a state or federal waterway before permitting could move forward. Since so many waters are state jurisdictional now, this requirement is unnecessary and eliminating it allows IDEM to proceed with permitting in a more expedited way.

Mr. Ketzenberger and Dr. Alexandrovich had questions. Their questions were answered by Ms. Mettler. This NPD presentation was information only and required no board action.

G. Other Matters

1. Open Forum

No discussion

2. Tentative Date and Location of Next Meeting

The next meeting is tentatively scheduled for December 11, 2024, at the Indiana Government Center-South, Conference Room A, 10 North Senate Avenue, Indianapolis, Indiana.

H. Adjournment

Chair Gard adjourned the meeting at 2:08 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>.