

Summary Environmental Rules Board
Indiana Government Center South
Conference Center Room A
Teams Meeting
Indianapolis, Indiana
Thursday, October 16, 2025

A. Call to Order

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

Members present: Dr. John Graham, William Etzler, Dr. Joanne Alexandrovich, Calvin Davidson, Dr. Ted Niemiec, Ken, Rulon, Chris Horn, Carrie Kozyrski, Jaime Brown, John Ketzenberger, R.T. Green, Eli Elliot, David Bausman, and Clint Woods.

Chair Graham had the board members introduce themselves and briefly describe what their position is on the board.

B. Approval of Meeting Summary of June 11, 2025

Chair Graham called for approval of June 11, 2025, meeting summary, which was approved.

C. IDEM Reports

Commissioner's Report

Mr. Clint Woods, Commissioner, began his report with the introduction of Dr. John Graham as the new Chairman of the Environmental Rules Board and representative for the General Public. We also have a new Lieutenant Governor proxy, David Bausman joining our Environmental Rules Board. I would also like to welcome our Secretary of Energy and Natural Resources, Suzie Jaworowski. IDEM is part of the Energy and Natural Resources vertical that includes ten state agencies and has the goal of eliminating communication and information silos between agencies ultimately to better serve Hoosiers.

The state legislative session concluded as of a few weeks ago and there were challenges that the Assembly faced regarding the budget. IDEM is funded through three main sources, a small part comes from state general appropriations, federal grant money, and the largest source comes from permitting fees. IDEM is looking at ways to monitor costs and look at opportunities to save costs.

SEA 459 passed and dealt primarily with water cybersecurity to provide a minimum of baseline protection from malicious persons intending to harm human health through the overtaking of the water treatment facilities. Steps are already being taken state-wide to ensure this law is implemented amongst local governments, utilities, and in conjunction with the Indiana Office of Technology. Lastly, this bill provided authority to the Board to potentially set future standards for water reuse, which will likely be an upcoming critical issue.

Legislation has also been passed to address the inspection frequency and air quality standards regarding Confined Feeding Operation Permitting in Northwest Indiana impacting Lake and

Porter Counties who are still in nonattainment status for the National Ambient Air Quality Standards set forth on a federal level.

Governor Braun's executive orders are coming into effect but the one that was given the spotlight covers the review of excessive environmental regulation and report IDEM's findings multiple times a year to the Legislative Council and the Governor's Office. The review of these regulations will be to determine if they are unduly burdensome or not grounded in the best law or best available science or are not environmentally friendly.

The board and Commissioner Woods had some back and forth regarding federal funding and the uncertainty about what direction that funding will be going when it comes to the state's dependence on federal grants.

Dr. Graham had a question. His question was answered by the Commissioner.

Rules Update

Ms. Billie Franklin, Chief, Rules Development Section (RDS), Office of Legal Counsel (OLC), spoke on the rulemakings. A quick notice was provided to board members of the upcoming request for member preferences on method of receipt of the board packet prior to meetings. Our next Environmental Rules Board meeting is tentatively scheduled for August 13, 2025. We anticipate presenting NOxRACT and Lead and Copper Amendments for final adoptions.

Ms. Kozyrski had a question. Her question was answered by Ms. Franklin.

D. Rules

1. Title 326 NOxRACT

Chair Graham opened the discussion for the preliminary adoption of amendments to 326 IAC 10-7 for NOxRACT. Ms. Keelyn Walsh, Rule Writer, RDS, OLC, presented this rule. The rulemaking currently under consideration is federally required under the Clean Air Act (CAA). In October 2022, U.S. EPA changed the nonattainment status for the Chicago area—which includes the northern portions of Lake and Porter counties in Indiana—from “marginal” to “moderate” nonattainment for the 2015 8-hour ozone NAAQS. The CAA requires States with moderate nonattainment areas to implement reasonably available control technologies—or “RACT”—for nitrogen oxides—or “NOx,”—gases. The CAA requires NOx RACT to be applied to sources that have the potential to emit 100 tons of any pollutant per year. NOx gases are most often produced during the combustion of fossil fuels and are precursor emissions to ozone.

In October 2023, U.S. EPA determined that Indiana failed to submit NOx RACT for major sources in the Chicago area, which encompasses the northern townships of Lake and Porter counties. U.S. EPA requires that IDEM make this SIP submission within 18 months of November 17, 2023. If IDEM fails to amend the SIP by this deadline, U.S. EPA will impose what is known as an “offset sanction” that requires a 2:1 ratio of emission reductions to be achieved within the nonattainment area to offset emissions from new or modified major facilities. If the SIP is not appropriately amended within six months of the offset sanction, then U.S. EPA will impose highway sanctions

which would withhold an average of \$183.7 million annually in federal transportation funding from Lake and Porter counties.

In response to this situation, IDEM began consulting with every major stationary source in the affected region. In general, IDEM relied on affected sources to conduct their own analysis of RACT using this cost-effectiveness threshold of \$5,000 per ton to \$14,000 per ton of NO_x reduced, which is the most conservative threshold approved by U.S. EPA. Those studies were provided to IDEM in mid-2024, and the agency relied on them to determine RACT limits for the units assessed.

Ultimately, only two affected sources would be required to apply new controls under the draft rule: W.R. Grace and Cleveland Cliffs. W.R. Grace already planned to replace the burners for its sodium silicate furnace and this draft rule would simply accelerate this timeline by less than one year. Cleveland Cliffs Indiana Harbor would be required to install low-NO_x burners for one of its boilers. It should be noted that Cleveland Cliffs does not oppose this requirement because the affected boiler is part of the iron production plant that has been idled for over a decade and may be retired because it is not essential to Cleveland Cliffs' operations.

Overall, this rulemaking puts in place an enforceable mechanism that would satisfy U.S. EPA's requirements and prevent the imposition of highways sanctions. The rule would impose RACT requirements for NO_x emissions from major stationary sources in the northern counties of Lake and Porter counties. The RACT requirements on all sources fall within \$5,000 to \$14,000 per ton of NO_x reduced cost threshold and therefore, only two sources are required to implement new control technologies.

Additionally, during the First Notice of Comment Period, IDEM received a number of comments and questions from the regulated community seeking further clarification, and those have been resolved with no major changes to the rule language. IDEM has also been consulting with U.S. EPA throughout the development of the First Notice to ensure consistency with federal requirements and to ensure approval of this rule into its State Implementation Plan.

Finally, a request was submitted by environmental organizations around the state for IDEM to provide the opportunity to review the technical support documents that are required to be included in the SIP submission for this rule. These documents are not typically made available for public review prior to a SIP submission because they are not finalized until after the conclusion of the underlying rulemaking action. However, IDEM has agreed to this request, and IDEM provided a link to these documents in its response to comments on the website.

Therefore, IDEM requests that the Board preliminarily adopt this rule as presented, and program staff or I are happy to answer any other questions that you have.

Ms. Kozyrski, Mr. Rulon, Mr. Ketzenberger, Ms. Brown, and Dr. Alexandrovich had questions. Their questions were answered by IDEM staff.

Dr. Halline, Mr. Oles, Ms. Thomas, Ms. Torres, Ms. Lewis, Mr. Steagall, Ms. Talevski, and Ms. Wachala had comments. Their comments were taken into consideration and answered by IDEM staff.

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

F. Non-Rule Actions

No discussion

G. Other Matters

1. Open Forum

No discussion

2. Tentative Date and Location of Next Meeting

The next meeting is tentatively August 13, 2025, Indiana Government Center-South, Conference Room A, 10 North Senate Avenue, Indianapolis, Indiana.

H. Adjournment

Chair Graham adjourned the meeting at 3:26 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

<https://www.in.gov/idem/legal/rulemaking/environmental-rules-board-packets/>.