

Summary Environmental Rules Board
Indiana Government Center South
Conference Center Room A
Teams Meeting
Indianapolis, Indiana
Thursday, December 18, 2025

A. Call to Order

Chair Graham called the meeting to order at 2:29 p.m. A quorum was present.

Members present: Dr. John Graham, William Etzler, Dr. Joanne Alexandrovich, Calvin Davidson, Dr. Ted Niemiec, Chris Horn, Carrie Kozyrski, John Ketzenberger, Ric Zehr, Brianna Schroeder, R.T. Green, Eli Eckhart, Ryan Mueller, 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

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

C. IDEM Reports

Commissioner's Report

Commissioner Woods began his report by saying that there are some exciting things happening in IDEM. We have seven IDEM experts that will be serving on various EPA federal advisory committees.

IDEM is working with other agencies on energy and natural resource issues. Another work group will be meeting to discuss enforcement and compliance issues for consistency of inspections, notices of violations, and civil penalty development.

We are putting together an Extended Leadership Team to better prepare our staff for the upcoming retirement of many current IDEM employees and the succession process moving forward. This group is meeting in the next month for a two-day symposium on collaboration and deep dive into leadership training.

We have announced the improvements and significant development in the Grand Calumet River in northern Indiana with the use of GIS mapping. The Clean Water Act on nonpoint source was a success story for IDEM and had more success stories than any other state in the country. Lastly, the completion of the DigIndy project, Citizens Energy Group completed an investment into the infrastructure for nearly all combined sewer overflows in Central Indiana.

The last item is an update on the Federal Advisory Committee which impacts the shaping of EPA regulations. IDEM is working on comments to EPA for different rules that could, upon federal interpretation, supersede some of our state rules.

Rules Update

Ms. Billie Franklin, Chief, Rules Development Section (RDS), Office of Legal Counsel (OLC), spoke on future rulemakings. Our next Environmental Rules Board meeting is tentatively scheduled for December 18, 2025. We anticipate presenting CCR (Coal Combustion Residuals) for final adoption. We also plan to discuss legislative updates, ERB policies and the Office of Air Quality will provide their annual report.

D. Non-Rule Actions

Ms. Briony Towler, Chief Financial Officer, spoke on the IDEM funding that is made up of three categories: general funding, dedicated funding, and federal funding. General funding is from the state general fund and makes up roughly 26 percent of IDEM's funds. Dedicated funding is from the agency revenue-generating activities and makes up roughly 59 percent of IDEM's funds. Federal funding is from the Federal Government through grants and cooperative agreements and makes up roughly 15 percent of IDEM's funds.

Mr. William Anthony, General Counsel, spoke on the permitting and fee structures in different programs areas within IDEM pertaining to the codes that provide guidance and authority. Indiana Code Section 13-16-1-4 requires the board to review and adjust environment fees while Indiana Code Section 13-16-1-6 sets forth limitations and parameters on those fee adjustments by the Board.

Ms. Hilary Alderete, Chief of Staff, spoke on the Title V Fee Increase. Title V of the Federal Clean Air Act, in which states are required to develop and implement a major source of income that would fund all activities related to this program as well as face an annual assessment of reported emissions.

In October 2022, EPA issued IDEM a letter expressing concerns on the state Title V funding deficiency, with suggestions that IDEM remedy the issue or face formal action from EPA with the possibility of losing the program. IDEM made changes to a cost-of-service study company, Crowe, which showed that increasing the base fee would provide revenue stability and not impact the sources overall.

In 2023, IDEM worked with legislators to have Senate Bill 155 introduced, which would let IDEM increase the annual base fee for Part 70 and FESOP permits for Title V. This bill was signed into law in April 2023.

Mr. Andrew Pappas, Deputy Assistant Commissioner with the Office of Land Quality, spoke on project management billing rates. We are working on increasing the bill rate from \$75 to \$100 dollars an hour and have worked closely with the regulated community to ensure that this increase is reasonable to the impacted parties.

Thomas Kreke, Branch Chief with Office of Land Quality Permit Branch, spoke on the program fees. There are multiple application fees and management and disposal fees, with roughly 100 applications processed annually. There are roughly 2,600 active permits at any given point which

generates nearly 4.8 million dollars in annual fees. Currently working on increasing permit program renewal timelines from every 5 years to every 10 years.

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

Ms. Martha Clark Mettler, Assistant Commissioner in the Office of Water Quality, spoke on the fees for roughly 70 programs in OWQ. The one program used as an example due to its familiarity was the wastewater discharge permitting program which is split between municipal dischargers and industrial. NPDES (National Pollution Discharge Elimination System) is a nominal fee of only a hundred dollars. The fee is split into two parts, the annual fee (base fee) and operational fee based on the discharge.

Commissioner Woods presented the Executive Order Overview that created opportunities through reduction of excessive environmental regulation. IDEM will be focusing on the Office of Water Quality as the first step of three in reviewing the regulatory costs throughout the Administrative Code with the next steps being a look through the office of Land and Air.

The motion was to consider IDEM's request for the ERB to conduct review of various fees and feedback on potential IDEM regulations through review of executive orders.

Motion was presented by Chairman Graham and second by Mr. Etzler. Voice voting was approved.

Mr. Matt Prather, IDEM Drinking Water Branch Chief, spoke on the updates on the Lead and Copper Rule from EPA. This is a complex Drinking Water Rule that we have implemented. EPA published revisions of this rule back in 2021 as the Lead and Copper Rule Revision (LCRR), then in 2024, EPA made even more changes and published Lead & Copper Rule Improvement (LCRI). There are two significant changes to the LCRI, one is the aggressive approach of replacing lead lines within ten years and the other changes are to the lead action level from 15 parts per billion to 10 parts per billion. As the results of these aggressive changes to LCRI, the American Water Works Association, which is the national representation of water operators, has filed a lawsuit against the EPA. In August, EPA announced its defense of the Biden Administration LCRI changes against AWWA's lawsuit. IDEM expects EPA to make changes for more flexibility and regulatory clarity for water systems.

Ms. Lori Freeman, Compliance Branch Chief of Office of Land Quality, spoke on Coal Combustion Residuals update. This rule was preliminarily adopted at the December 11th, 2024, meeting. There were revisions made after preliminary adoption to address the comments made during the preliminary adoption process as well as the comments from OMB.

Ms. Gabby French, OWQ spoke on the overview of Aquatic Life Methodology and updates on the rule that is being worked on.

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

E. Rules

1. Title 327 Lead & Copper Amendments

Chair Graham opened the discussion for the final adoption of amendments to 327 IAC 8 for Drinking Water Reference Updates; Lead and Copper rulemaking. Ms. Krystal Hackney, Rule Writer, RDS, OLC, presented this rule. U.S. EPA published a final rule on January 15, 2021 (86 FR 4198), to revise the lead and copper rule at 40 CFR 141. These revisions require all community water systems to conduct lead-in-drinking-water testing and public education in schools and childcare facilities as well as provide accelerated lead service line replacements. On June 16, 2021, U.S. EPA published an update to the lead and copper rule to delay the rule's effective date from January 16, 2024, to October 16, 2024. IDEM's rulemaking amends Indiana's drinking water rule to be consistent with the 2021 federal rule. On October 30, 2024, U.S. EPA published a new final rule called Lead and Copper Rule Improvements (LCRI). IDEM's current rulemaking has been revised to be consistent with a provision in the LCRI that addresses what requirements apply to community water systems and nontransient noncommunity water systems. Systems will now be complying with certain portions of the LCRR rule.

This rulemaking also includes replacing the current full text language in 327 IAC 8 with equivalent incorporation by reference to the federal drinking water regulations. The purpose of this change is to ensure consistency and to allow for faster rule updates when the federal rules change. Lastly, this rulemaking also updates references to the Recommended Standards for Water Works and the AWWA standards that are cited in 327 IAC 8 to the versions in place as of December 31, 2023. By updating these standards to the more current editions, this rulemaking will ensure that 327 IAC 8 is consistent with the design, engineering, and testing standards that public water systems are already implementing.

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

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

2. Title 326 NOxRACT

Chair Graham opened the discussion for the final adoption of amendments to 326 IAC 10-7 for NOxRACT. Mr. Seth Engdahl, 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, IDEM consulted 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 NOx 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 at Indiana Harbor. 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 at Indiana Harbor would be required to install low-NOx 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 Cliff’s operations.

Overall, this rulemaking puts in place an enforceable mechanism that would satisfy U.S. EPA’s requirements and prevent the imposition of highway sanctions. The rule would impose RACT requirements for NOx 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 NOx 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(SIP).

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.

Mr. Ketzenberger, Mr. Davidson, and Dr. Alexandrovich had questions. Their questions were answered by IDEM staff.

Mr. Oles, Ms. Wachala, and Ms. Dumas had comments. Their comments were taken into consideration and answered by IDEM staff.

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

F. Other Matters

1. Open Forum


No discussion

2. Tentative Date and Location of Next Meeting

The next meeting is tentatively December 18, 2025, Indiana Government Center-South, Conference Room A, 10 North Senate Avenue, Indianapolis, Indiana.

H. Adjournment

Chair Graham adjourned the meeting at 4:38 p.m.

A handwritten signature in black ink, appearing to be "H. Graham", is written over a horizontal line.

VICE 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/>.