

BEFORE THE STATE OF INDIANA
ENVIRONMENTAL RULES BOARD

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PUBLIC MEETING OF OCTOBER 16, 2025

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PROCEEDINGS

before the Indiana Environmental Rules Board,
Dr. John Graham, Chairman, taken before me,
Lindy L. Meyer, Jr., a Notary Public in and for
the State of Indiana, County of Shelby, at the
Indiana Government Center South, Conference
Center, Room A, 402 West Washington Street,
Indianapolis, Indiana, on Thursday, October 16,
2025 at 2:29 o'clock p.m.

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1 APPEARANCES:

2 BOARD MEMBERS:

3 Dr. John Graham, Chairman
4 William Etzler
5 Carrie Kozyrski
6 Ric Zehr
7 Dr. Ted Niemiec
8 Dr. Joanne Alexandrovich
9 Brianna Schroeder
10 Chris Horn
11 John Ketzenberger
12 Calvin Davidson
13 R. T. Green
14 Ryan Mueller, Proxy, Indiana Department of
15 Natural Resources
16 Eli Eckhart, Proxy, Indiana Economic
17 Development Corporation
18
19 Clint Woods, IDEM Commissioner
20 (Nonvoting)

12 IDEM STAFF MEMBERS:

13 Billie Franklin
14 Briony Towler
15 Bill Anthony
16 Hilary Alderete
17 Andrew Pappas
18 Thomas Kreke
19 Martha Clark Mettler
20 Matt Prather
21 Lori Freeman
22 Gabby French
23 Krystal Hackney
Seth Engdahl
Scott Deloney
Kevin Bump
Karla Kindrick

PUBLIC SPEAKERS:

21 Connie Wachala 117
22 Monica Dumas 121
23 Mike Oles 123

- - -

2:29 o'clock p.m.
October 16, 2025

- - -

CHAIRMAN GRAHAM: Good afternoon,
everyone. I think we're about ready. The
October 16th, 2025 meeting of the Indiana
Environmental Rules Board will come to order. I
will now call on Board members to indicate their
attendance at this meeting.

Mr. Zehr.

MR. ZEHR: I'm present.

CHAIRMAN GRAHAM: Mr. Davidson.

MR. DAVIDSON: Yes, sir.

CHAIRMAN GRAHAM: Dr. Niemiec.

(No response.)

CHAIRMAN GRAHAM: Mr. Horn.

MR. HORN: Present.

CHAIRMAN GRAHAM: Mr. Eckhart.

MR. ECKHART: Present.

CHAIRMAN GRAHAM: Mr. Mueller.

MR. MUELLER: Here.

CHAIRMAN GRAHAM: Mr. Green.

MR. GREEN: Here.

CHAIRMAN GRAHAM: Dr. Alexandrovich.

1 DR. ALEXANDROVICH: Here.

2 CHAIRMAN GRAHAM: Ms. Kozyrski.

3 MS. KOZYRSKI: Here.

4 CHAIRMAN GRAHAM: Mr. Ketzenberger.

5 MR. KETZENBERGER: Here.

6 CHAIRMAN GRAHAM: Ms. Schroeder.

7 MS. SCHROEDER: Here.

8 CHAIRMAN GRAHAM: Mr. Etzler?

9 MR. ETZLER: Here.

10 CHAIRMAN GRAHAM: And I am here, so
11 we have a quorum. Now I would like to ask Kevin
12 Bump to give us some guidance.

13 Kevin.

14 MR. BUMP: Thank you, Chair Graham.
15 Good afternoon to those attending the meeting
16 on-line.

17 All participants will be muted when they
18 join the meeting, but participants will be able
19 to address the Board during the Open Forum
20 portion of this meeting towards the end. We do
21 ask that you identify yourselves when speaking.
22 Participants must only send messages to the host.

23 For those joining us via Teams, if you

1 have a question or a technical issue during the
2 meeting, please use the raised hand or chat
3 feature. To access the raised hand or chat
4 feature, at the top of your screen, depending on
5 your device, you will see a menu bar. You may
6 have to touch your screen for the menu bar to pop
7 up on a mobile device.

8 At the beginning of that menu, there is a
9 chat icon which you can click on to show the chat
10 dialogue box. You should also see a raised hand
11 option. Please utilize the raised hand option or
12 chat features if you have any questions or
13 comments, and you will be called upon at the
14 appropriate time.

15 If any members of the press have joined us
16 via Teams, please utilize the chat feature or
17 e-mail media@idem.in.gov if you have any
18 questions.

19 If you wish to speak during the rulemaking
20 hearing portion of today's meeting, please fill
21 out a speaker card using the forms link provided
22 in the chat. You will be called upon at the
23 appropriate time to give a brief testimony.

1 Please specify in the comments box on this form
2 which rule you wish to speak to: The NO_x RACT
3 Rule or the Copper Lead Rule. Only meeting
4 attendees who have filled out the form will be
5 called upon to speak.

6 For those in the room today, I would
7 remind Board members to please speak up so that
8 everyone attending the meeting on-line are able
9 to hear. For those who may be answering
10 questions in today's meeting, please repeat
11 questions prior to providing a response.

12 I will now turn the meeting back over to
13 our Board Chair.

14 CHAIRMAN GRAHAM: Thank you very
15 much, Kevin.

16 MR. BUMP: You're welcome.

17 CHAIRMAN GRAHAM: You keep us on
18 track. We appreciate it.

19 Okay. Our first order of business today
20 is approval of the summary of the June 11th, 2025
21 Board meeting. Are there any additions or
22 corrections to the summary as presented?

23 DR. NIEMIEC: This is Ted Niemiec. I

1 have a correction suggested for members present.
2 Instead of saying "Eli Elliot," it should say
3 "Eli Eckhart."

4 CHAIRMAN GRAHAM: Very good. So
5 noted.

6 Are there any other edits or changes?

7 DR. ALEXANDROVICH: Yes. This is
8 Joanne Alexandrovich. There's still an issue
9 with how the dates are entered into the meeting
10 summary. So, for instance, this one that we're
11 approving shows that we approved the meeting
12 summary of June 11th on June 11th, so -- which we
13 actually approved the meeting minutes for
14 March 12th.

15 So, I think part -- and this has happened
16 for three meetings in a row. I think perhaps the
17 problem might be, as we look at the top of the
18 page, it shows that it's the summary of the Rules
19 Board blah-blah-blah-blah for Thursday
20 October 16th, 2025. Well, that summary that
21 we're reading was actually for June 11th, 2025.
22 So, the dates every month are not correct, and
23 confused.

1 CHAIRMAN GRAHAM: Okay. So, do you
2 have a correction proposal?

3 DR. ALEXANDROVICH: Well, yeah.
4 Approval of the meeting summary is March 12th,
5 2025, not June 11th.

6 CHAIRMAN GRAHAM: Okay.

7 DR. ALEXANDROVICH: And -- and you
8 might specify at the top somewhere that this is
9 the meeting summary of the June 11th meeting.

10 CHAIRMAN GRAHAM: Okay.

11 Any other corrections or changes?

12 (No response.)

13 CHAIRMAN GRAHAM: Okay. Do I have a
14 motion to approve?

15 MR. DAVIDSON: So moved.

16 CHAIRMAN GRAHAM: Do I have a second?

17 MR. HORN: So moved.

18 CHAIRMAN GRAHAM: All those in favor?

19 (Board members responded, "Aye.")

20 CHAIRMAN GRAHAM: Okay. Approved as
21 amended.

22 IDEM Reports. Sir Woods, you are on the
23 floor.

1 COMM. WOODS: Well, thanks so much,
2 Chairman Graham. I appreciate it.

3 And thanks, everybody, for being here. I
4 just wanted to thank you all and not -- I know
5 we've got a full agenda, and it looks like there
6 may be a preview of a couple of things that we're
7 going to do that are a little bit different.

8 I also wanted to thank you for the time
9 and expertise in reviewing the two rules that we
10 have today, and welcome Brianna Schroeder, I
11 think our new Environmental Rules Board member.
12 We're very excited to have Gov. Braun's
13 appointment to serve, representing agriculture,
14 to add a whole lot of value to the Board.

15 And thanks for your flexibility. I know
16 we've changed the timing of this meeting, and I
17 really appreciate you all's taking a close look
18 at some of the actions that we're presenting to
19 you.

20 I wanted to give you a few quick updates
21 from IDEM. We've got some really exciting things
22 happening with our team, including we've got lots
23 of exciting roles and responsibilities we're

1 trying to fill right now. And so, if you know of
2 anybody who wants to take the challenge of public
3 service and take a pay cut and get yelled at a
4 lot and have a .gov e-mail address, we've got
5 some really exciting roles on our Web site where
6 we're looking to hire key positions throughout
7 our agency. I'm really excited about that.

8 Also, we've just -- lest you think that we
9 take your service on this Board for granted, I'm
10 really excited to share with you -- I think I
11 shared earlier this year that we were looking at
12 some opportunities here -- but we actually have
13 seven IDEM experts who have thrown their hat in
14 the ring to serve on various EPA federal advisory
15 committees, one that I think Dr. Graham's
16 familiar with, the Science Advisory Board, as
17 well as the Clean Air Science Advisory Committee.
18 So, we're hopeful that our colleagues at U.S. EPA
19 will recognize the value of having state -- state
20 experts on those boards, and waiting to hear back
21 on those nominations.

22 We've had, I think we've shared
23 previously, from -- between transitions happening

1 at the federal level, which continue to be a
2 little bit bumpy between government shutdowns and
3 a little bit of uncertainty, but also transitions
4 here in the state, executive orders, a very busy
5 legislative session, a pretty full plate.

6 And that's including not only some
7 high-priority projects in terms of rules and
8 major permits and thinking through things like
9 that, but also items like getting our staff back
10 to the office as of July 1st. And so, I think we
11 really appreciate their patience as we work
12 through that process. Fortunately they're
13 returning to, you know, largely effective office
14 space that, in many cases, have been fully
15 renovated, so there five days a week.

16 We've also implemented a flexible
17 alternate work schedule that a lot of folks have
18 taken advantage of, to try to get the benefits of
19 a hybrid schedule while also recognizing the
20 value of collaboration and energy we have from
21 the in-office work. But that's been a challenge
22 for the 800 or so employees we have at IDEM, but
23 I'm really proud of them making sure that we're

1 meeting the mark, continuing to serve the public
2 in a very positive way.

3 I'm also saying we have several folks
4 throughout our agency who have taken on the
5 challenge of serving in leadership roles with
6 various intergovernmental associations, where we
7 get together with other state environmental
8 agencies on air, water and land issues, and I'm
9 really excited that folks have been willing to
10 help be thought leaders and share our talents and
11 experience with other states. And so, that's
12 something that's really exiting for me from my
13 perspective.

14 And then just a couple of things I wanted
15 to mention, one being we've, I think, seen some
16 really good opportunities to -- under
17 Gov. Braun's leadership, with our vertical
18 structure, we're doing even more collaboration
19 with other agencies, working on energy and
20 natural resource issues. So, good opportunities
21 within IDEM to also get people together.

22 So, we've started with some -- a work
23 group around enforcement and compliance issues to

1 try to compare notes, where we have some
2 opportunities to learn from each other to be a
3 little bit more consistent in how we do
4 inspections or notices of violations or civil
5 penalty development, things that we are doing
6 every day to make sure that we are, you know,
7 clearly following the law and being consistent
8 and communicating, sometimes overcommunicating,
9 about how we carry out those activities, and I
10 think we've seen some early benefits from that
11 sort of collaboration.

12 And then finally, I'll just mention that
13 we -- we've put together this group, and I may
14 have talked about it before, but our Extended
15 Leadership Team, many of whom are here today.
16 We've got a good crowd from IDEM, but about a
17 hundred key leaders at our agency, from our
18 Assistant Commissioners to Branch Chiefs and
19 Section Chiefs to Senior Technical Leads that
20 tend to be mentors for folks in their
21 subject-matter expertise.

22 And brought them together to really pull
23 back a little bit and do some long-term planning,

1 things like how we plan for succession and, you
2 know, the chance that one of our many, many
3 capable but retirement eligible employees were to
4 depart, and how do we plan for the future and how
5 do we develop skills in effective management,
6 effective meetings, how to communicate better,
7 how to think about customer service. I'm really
8 excited.

9 So, all hundred of those folks are going
10 to come together in this building early next
11 month to do a two-day symposium, to really talk
12 about various leadership trainings, things that
13 we want to learn and share successes on. So, I'm
14 really excited about that as an excellent tool
15 that I think will be very helpful, because we're
16 integrating a lot of new people at IDEM. I think
17 we've had about 20 or so start in the last month
18 at the agency, so a lot of new fresh set of eyes
19 and folks that we need to get on board quickly
20 and help with on-the-job training, but I think
21 that will allow us to be an agency that we're
22 proud of in the future.

23 I just had maybe three other things I was

1 going to mention real briefly, one being, you may
2 have seen if you're signed up for our press
3 releases or our social media accounts, we've been
4 really undertaking a pretty concerted effort in
5 the last month or so that we'll continue in the
6 future to help communicate with the public, and I
7 think that our goal not only as regulators and
8 permittees and enforcers of our environmental
9 laws, but really as folks who could help provide
10 messages about the multi-detailed progress and
11 environmental success in the State of Indiana.

12 And so, we've focused initially on some
13 water quality successes, so three -- three
14 important announcements we've made in the last
15 month, one being we have a really cool story map
16 that uses a GIS and looks at really significant
17 developments and improvement in the Grand Calumet
18 River up in Northwest Indiana, concerted efforts
19 in the area of concern.

20 Secondly, we did a press release and kind
21 of announced to the world that in fact we have
22 more Clean Water Act bottom-up nonpoint source
23 impairment success stories than any other state

1 in the country. So, we work closely with EPA's
2 Office of Water and we work with local
3 communities around the state, and have, I think,
4 seven published success stories in the last year
5 or so, which is about five more than any other
6 state. So, we're really excited about helping to
7 share those successes that we've been involved
8 in, but also it's been -- you know, taken a
9 village in terms of that collaboration.

10 And then most recently, last week, with
11 the completion of the DigIndy project, where
12 Citizens Energy Group has completed a really
13 important infrastructure investment of about two
14 billion dollars to address nearly all combined
15 sewer overflows in Central Indiana. So, a really
16 long-term project under the Clean Water Act and
17 their long-term control plan.

18 We use it as an opportunity to also
19 highlight the successes that we've had in CSO's,
20 or combined sewer overflow reduction in the State
21 of Indiana, where we have more CSO communities
22 than any other state in the country. We also
23 have more successful approved long-term control

1 plans, and statewide I've seen about a 70-percent
2 reduction over the last 20 years in these events
3 that have a really significant impact on the
4 water quality that Hoosiers experience.

5 So, we're going to keep trying, and we've
6 been really excited to see that other folks have
7 kind of picked up that -- that mantle and helped
8 to share those stories, local news stories, and
9 we'd really appreciate it if you see those
10 opportunities to help share, in light of your
11 role on the Board, that success that we've seen
12 over time, and that we're going to keep -- keep
13 trying to pound the table, because sometimes it
14 takes probably 10 or 20 times the effort to get
15 the good news out as opposed to the bad, but
16 really proud of the partnerships that we've had
17 to lead to that success.

18 And then the last item, other than maybe a
19 quick preview, is we want to give you an update.
20 We have been carrying out what we told you
21 earlier this year, which is a really concerted
22 effort to engage our federal counterparts. I
23 mentioned the Federal Advisory Committee as an

1 opportunity to shape EPA regulations on the front
2 end. We've also been filing a lot of comments on
3 various EPA proposals, and several are in the
4 works now, and some issues that we haven't always
5 weighed in on in the past.

6 So, right now I think we're working on
7 comments to U.S. EPA, for example, on the Toxic
8 Substances Control Act Risk Evaluation Framework
9 Rule, which, depending upon how EPA interprets
10 it, could, in many ways, supersede some of our
11 rules as a state environmental agency, and to
12 weigh in on how -- how you should consider
13 unreasonable risk of chemicals and pollutants.

14 But also things like effluent limitation
15 guidelines for the steam, electric, or power
16 sector, where EPA has proposed changes in
17 deadlines, and then several others that we're
18 expecting to see a number of other EPA rules,
19 like Waters of the United States that provides a
20 definition in light of Supreme Court decisions,
21 and several other topics here in the coming
22 weeks, and so, we've been very active there.

23 I had an opportunity a few weeks back to

1 go to D.C. and testify to the House Energy and
2 Commerce Committee on some opportunities for
3 updating the Clean Air Act and helping to oversee
4 continued environmental progress in air quality
5 success while also looking at opportunities to
6 reduce unnecessary permit burdens.

7 And so, I had a perceptive audience as
8 some other state and industry and other
9 stakeholders engaged, and I think there was a
10 fair amount of bipartisan consensus, which isn't
11 always the case, but it was a good opportunity to
12 also brag on the success that we have in terms of
13 permitting efficiency and air quality successes
14 over the last couple of decades.

15 And then the last thing I was just going
16 to mention is we, I think, one, are looking ahead
17 to the 2026 legislative session. We'll provide
18 some more details in an upcoming meeting about
19 what that looks like, but we have been very
20 steadfastly implementing some of the recent laws
21 passed in the 2025 session, one being the Senate
22 Enrolled Act 459, so this was our agency bill
23 related to water cyber security, so we're working

1 a lot with localities and water systems to help
2 make sure they have baseline cyber security
3 protections.

4 That bill also authorized this Board to
5 potentially look at rulemaking around industrial
6 water reuse in the future, and so, we -- we'll
7 look forward to working with you all there. Also
8 Senate Enrolled Act 103, which tasked us with
9 developing a plan to try to address the long-term
10 nonattainment issues for ozone in Northwest
11 Indiana, which I know is the subject of one of
12 the rules today. So, doing a lot of work in that
13 space.

14 The last thing I'll mention -- sorry for
15 being longwinded -- is today -- I know we have a
16 lengthy meeting agenda, but you'll see under
17 "Non-Rule Actions" we're trying to do a couple of
18 new things that I think will be helpful. One is
19 to give you a little bit of a preview of coming
20 attractions, so we'll have key team members
21 giving you some updates on some upcoming rules
22 that will be coming your way, some federal
23 changes that may result in us needing to do some

1 things at IDEM, and then kind of a couple of big,
2 gnarly questions that are more on the essay form
3 where we can use your advice.

4 So, one's going to be we're going to have
5 a group of different folks, from our Chief
6 Financial Officer and Chief of Staff, our General
7 Counsel, and then a number of subject-matter
8 experts providing some opportunities where we
9 have various fees that IDEM charges for permits
10 and cleanup and disposal fees that haven't been
11 updated in a long time, and under Title 13 of the
12 Indiana Code, this Board is tasked with
13 periodically reviewing those things.

14 And so, we want to give you -- tee up some
15 of those issues and then ask you to maybe think
16 about providing us some advice or recommendations
17 on if any of those need to be modernized, and
18 that may not just be higher or lower, it may be
19 the structure of permits, how long those permits
20 last, and maybe what is an application fee versus
21 an operating fee, it may be, you know, looking at
22 other states, and there's some pretty good
23 criteria in the law for that task, but we want to

1 kind of give you a glimpse into some of those
2 fees, and we've had some successes to build on,
3 and so, Hilary Alderete, our Chief of Staff, will
4 be talking about it.

5 And then secondly is kind of
6 implementation of various executive orders, but
7 in particular, I wanted to tee up one other kind
8 of essay question for you, which is -- we'll talk
9 a little bit more about it. I think that one
10 they'll kick to me, but to talk a little bit
11 about Executive Order 25-38 that the Governor
12 signed, where we decided to take -- solicit
13 public comments on IDEM regulations that were in
14 need of potentially being revisited because they
15 are unnecessary or overly burdensome or don't
16 improve the environment.

17 We got a lot of public feedback, and we've
18 got a few ideas of things that we think make
19 sense that we'll likely be bringing to the Board
20 in the not-too-distant future, but also wanted to
21 ask you for what you think, and not necessarily
22 at this meeting, but thought it may be a really
23 good topic, as you all have obviously a lot of

1 experience working with IDEM and from your
2 viewpoint from the Board.

3 So, I wanted to tee up those as kind of
4 outside-the-box essay questions, less about
5 approving a final rule and more about trying to
6 get some feedback and really benefit from the
7 great representative viewpoints that we have on
8 this Board.

9 So, with that, I'll close, but also happy
10 to answer any questions that folks may have.

11 CHAIRMAN GRAHAM: Sure.

12 Questions from the Board for the
13 Commissioner?

14 (No response.)

15 CHAIRMAN GRAHAM: I'll start. I do
16 have one. At our last meeting, there was some
17 concern about whether there would be funding
18 issues at U.S. EPA that could ripple and affect
19 IDEM, and can you give us any update on what has
20 happened in Congress? Have they passed
21 appropriations for EPA, or what's happening in
22 that area?

23 COMM. WOODS: They are not. So, part

1 of the shutdown is -- you know, so they -- we
2 have an annual dance that -- it can become a
3 little bit more pronounced to where the President
4 presents a budget that is usually dead on
5 arrival, the House and Senate will sometimes go
6 through an appropriations process, and then what
7 has usually happened for the past decade-plus is
8 that Congress agrees they're not going to agree
9 on anything, they'll just pass a continuing
10 resolution to fund the executive branch of
11 government for a couple of months or a year.

12 So, the inability to pass a continuing
13 resolution is what has led to the government
14 shutdown right now. Now, if that was to pass,
15 the continuing resolution, for EPA it would leave
16 those state categorical grants for Clean Air Act,
17 Clean Water Act, the Drinking Water Act, RCRA,
18 the key responsibilities at IDEM to carry out, at
19 the same level, which may not be the right
20 number, but at least at the same number as last
21 year, which provides a bit of certainty.

22 So, I think that is where folks have
23 settled. It is not looking at some of the

1 President's budget requests that have pretty
2 significant reductions in those funds, but also
3 state revolving funds, for example. And so, the
4 latest update is everything keeps going as it did
5 before. Most of EPA is still figuring out
6 exactly who is furloughed.

7 Most of our counterparts in Region V, for
8 example, in Chicago are still working, so we do
9 have counterparts. The day-to-day work of our
10 work is happening in real time, but there still
11 is a new element of uncertainty with the
12 government shutdown, but I think a little bit
13 more certainty on the likelihood that those key
14 state grants will likely continue if Congress can
15 get their act together and pass that continuing
16 resolution.

17 CHAIRMAN GRAHAM: Thank you for that
18 clarification.

19 Are there other questions from Board
20 Members?

21 (No response.)

22 CHAIRMAN GRAHAM: Okay. So, now
23 we'll proceed to Billie to give us our rulemaking

1 report.

2 MS. FRANKLIN: Good afternoon. My
3 name is Billie Franklin. I am the Chief over the
4 Rules Development Section within the Office of
5 Legal Counsel.

6 Currently, we have our next Board meeting
7 scheduled for December 18th, 2025. At this time,
8 we plan on presenting CCR, also known as the Coal
9 Combustion Residuals Rule, for final action. We
10 also plan to discuss any legislative updates and
11 ERB policies, and the Office of Air Quality will
12 also be providing a report.

13 That is all I have for now. Is there any
14 questions?

15 CHAIRMAN GRAHAM: Questions for
16 Billie?

17 (No response.)

18 CHAIRMAN GRAHAM: Okay. Thank you so
19 much.

20 Non-Rule Actions, Modernizations, Updates,
21 and Right-Sizing of IDEM Permits, Clean-Up and
22 Disposal Fees.

23 Briony, are you here? You may take the

1 floor, and I will count on you to introduce your
2 colleagues as necessary.

3 MS. TOWLER: So, my name is Briony
4 Towler, and I am the Chief Financial Officer for
5 the Indiana Department of Environmental
6 Management. Today we'll have multiple
7 colleagues. I'll let them introduce themselves
8 as they join as well at the podium.

9 So, just an overview today for IDEM's
10 funding and just kind of our financials in
11 general. So, IDEM's funding is made up of three
12 categories, which are general funds, dedicated
13 funds, and federal funding. Of those categories,
14 we are 26 percent general fund, roughly 59
15 percent general fund -- or dedicated funds, and
16 15 percent of federal funding.

17 General funds are the funds that many know
18 as the appropriations from our state general fund
19 from the legislature.

20 Dedicated funding is comprised of our
21 revenue that is received from our agency's
22 revenue-generating activities, like fees, cost
23 recovery fines, penalties, permits, all of the --

1 all of those -- everything under that umbrella
2 there. And the amount that is allowed to be
3 spent is displayed in the budget bill of the
4 state through the appropriations. So, it is
5 capped technically, as far as the expenses.

6 Federal funding, of course, is received
7 from the Federal Government, in which we receive
8 most of our funding through grants and
9 cooperative agreements.

10 For our state funding, during the 2025
11 legislative session the majority of state
12 agencies saw a decrease in general funding by
13 five percent for the current biennium '26-'27
14 budget bill. In addition to that change, they
15 also mandated that the State Budget Agency hold a
16 five-percent reserve on general funds. This
17 change was originally prompted by the April 2025
18 revenue forecast, in which they -- which included
19 a decrease of roughly 400 million for that
20 current fiscal year of 2025 in projected or
21 remaining flack for 2026 and 2027.

22 The year-to-date general fund revenue for
23 September was reported by the State Budget

1 Agency -- and this is the state overall general
2 fund revenue, to be clear -- was reported by the
3 State Budget Agency as 4.9 percent higher than
4 the monthly estimate that was based on that
5 April 2025 forecast.

6 I do want to note, as it has been in the
7 news, that there has been higher than expected
8 sales, income tax and insurance revenue than was
9 included in that original April 2025 forecast;
10 however, it is still in the fiscal year and tax
11 deadlines are coming -- are a factor to that.

12 In regards to our federal funding, federal
13 funding uncertainty has been the hot topic of the
14 year. Nearly all of our federal funding as an
15 agency is derived from categorical or State and
16 Tribal Assistance Grants, also known as STAG.

17 These funding levels are directly tied to
18 the lines appropriated to EPA in the federal
19 budget bill, and many of these funding levels for
20 these grants have not changed in many years,
21 though the cost to run the program has increased
22 and often does not cover the cost to execute the
23 requirements anymore. Due to this, any further

1 decreases in these funds would deeply affect the
2 execution of these programs, and we have been
3 watching it closely.

4 As demonstrated on the PowerPoint, there
5 is a comparison that leads to the base committee
6 markups that came out of the House and the
7 Senate. The thought process is that the
8 categorical and the STAG, which is where we
9 mostly are affected -- or would be affected
10 nationally, all of our fellow agencies is
11 projected to stay the same or roughly the same.

12 There are some aspects that between 2024
13 and 2025 saw decreases in which we have already
14 realized basically at that point. However, we
15 expect to at least stay steady from the 2025
16 numbers.

17 In regards to our dedicated funding, so
18 our dedicating funding being a revenue -- and as
19 notated by it being nearly 60 percent of our
20 funding as a whole, it's really important to the
21 maintenance of the agency to us being able to
22 carry out activities regardless of what is
23 happening around us, whether it's state funding

1 or federal funding.

2 And so, we have been evaluating practical
3 methods for increasing our dedicated revenue as
4 an agency to further mitigate any funding risk to
5 our agency operations and ensure responsible
6 stewardship of our agency's revenue. Some of
7 that is, as I mentioned, the federal funding.
8 Most of those -- most of the actual dollar
9 amounts that we receive for much of that has not
10 changed for many, many years. Some has always
11 basically been the same formula.

12 And so, because of that, as costs go up
13 naturally, just from either economical changes or
14 things like that, we have absorbed those costs of
15 the agency to ensure that we are meeting all of
16 the activities that we are supposed to in
17 carrying out of our programs and ensuring that we
18 are being mindful of what needs to be done and
19 what we provide out to our citizens.

20 As an agency, for the last year and a
21 half, we have also had an ongoing internal
22 project for revision and review of our agency's
23 collection policy and procedures. Due to the

1 majority of our revenue sources being from the
2 agency-generated revenue, it is important that we
3 collect our invoiced funds, and we will continue
4 to monitor and innovate in that area while being
5 mindful of the citizens and the industries that
6 we serve.

7 It is likely that in the future, some of
8 the results of that may be seen as a presentation
9 also to the ERB in the future. However, most of
10 this is not necessarily a new process; however,
11 it is streamlining our internal process to ensure
12 that there's transparency to those that we
13 invoice, as well as transparency internally to
14 what is going on from finance down to the
15 programs and back.

16 So, that concludes my report.

17 CHAIRMAN GRAHAM: Thank you so much.

18 Now, are we going to hear from Hilary?

19 MS. ALDERETE: No, from Bill.

20 MR. ANTHONY: Actually from me.

21 CHAIRMAN GRAHAM: Okay.

22 MR. ANTHONY: Thank you, Chairman
23 Graham, members of the Board. My name is Bill

1 Anthony. I am the General Counsel for IDEM.

2 The presentations that are going to follow
3 me will focus primarily on permitting and fee
4 structures within the different programs of IDEM,
5 so my part of the presentation is to essentially
6 set kind of the framework under which we're
7 operating by statute.

8 So, Kevin?

9 So, first is Indiana Code
10 Section 13-16-1-4. I won't recite the whole
11 thing, but basically what it does is requires the
12 Board to regularly review and adjust
13 environmental fees to ensure the fee is necessary
14 and appropriate.

15 As you can see in subsection (b) there,
16 I -- it places a responsibility on IDEM to sort
17 of piece together the information and present it
18 to the Board, relying on different sources, and
19 then the Board -- once IDEM presents that to the
20 Board, the Board can then direct IDEM to initiate
21 a rulemaking. So, IDEM views this as an
22 important review that's long overdue here at the
23 ERB, and it will help inform important next steps

1 of the agency.

2 So, if you want to hit the next slide.

3 So, bearing in mind Section 4, we'll turn
4 our attention to Indiana Code Section 13-16-1-6,
5 which essentially sets forth limitations on fee
6 adjustments by the Board. The Board cannot set
7 or charge a fee more than once in five years, and
8 the change in fees, should one be changed, they
9 cannot be increased by more than ten percent at a
10 time, so -- based on the amount the fee is that's
11 currently charged.

12 That's all I've got for you. Those are
13 really the parameters under which the Board will
14 be working under as they are asked to look at
15 fees and the permitting structures of IDEM.

16 So, with that, I will turn it to the Chief
17 of Staff, Hilary Alderete.

18 MS. ALDERETE: Good afternoon. My
19 name is Hilary Alderete. I'm the Chief of Staff.
20 I'll be presenting our Title V Fee Increase Case
21 Study. For those of you who weren't around
22 in 2023, this is just to illustrate a success
23 story that we had in regards to our Title V

1 Permit Program.

2 Pursuant to the Title V of the Clean --
3 Federal Clean Air Act, states were required to
4 develop and implement a major source permitting
5 program. This permitting program was required to
6 be in place by December of 1996. As part of this
7 permit program, states were required to establish
8 fees that would fund all activities related to
9 this program.

10 This Title V Permit Program must be funded
11 exclusively by this fees and cannot rely on
12 general funds or federal grants. In addition,
13 federal -- these federal provisions require that
14 fees be assessed based on emissions reported each
15 year.

16 Title V fees were established as a part of
17 the initial program in 1996. These included a
18 dollar-per-ton portion and base fee for each
19 source permitted under this program. The
20 original base fee was \$1500.

21 Next slide, please.

22 So, here's some good news. Since 1986
23 we've had the statewide emissions reduced in all

1 of the different -- we've got fine particulate
2 matter by 70 percent; carbon monoxide, again by
3 70 percent; nitrogen oxides dropped by 81
4 percent; and overall, we've seen emissions
5 decline by 82 percent since 1986.

6 The bad news, though, is revenues that run
7 the air program have decreased suddenly as a
8 result of the decline in emissions, and there's
9 been an increase in the workload for the permit
10 program over the same period. This program saw a
11 growing fund deficit in the early 2000's due to
12 declining emissions.

13 In response, the fees were increased
14 in 2006 by 25 percent. Fees were increased again
15 in 2019 by 27 percent, but by then emissions had
16 decreased so much that the increase in fees had
17 little impact on the funding deficit, which had
18 reached nearly two million dollars by 2021. And
19 just for comparison, in 2020 -- in 2014, total
20 billable emissions were over 550,000 tons;
21 in 2018, they were just over 250,000 tons; and
22 in 2020, they had dropped less -- to less than
23 200,000 tons.

1 From 2018 to 2020, the EPA Office of
2 Inspector General conducted an evaluation of
3 Title V funding programs across the country.
4 They identified Title V fee issues in 31 states
5 and local Title V programs, including Indiana.
6 EPA is required to apply sanctions specified in
7 Section 179B of the Clean Air Act if they
8 determine that IDEM or any agency is not
9 adequately administering or enforcing its Title V
10 program.

11 Consequences of this finding include loss
12 of highway funding, removal of the Title V
13 program authority, which includes EPA taking over
14 the Title V permit program, including permitting,
15 inspections, and enforcement actions.

16 In October of 2022, the EPA issued IDEM a
17 letter expressing concerns related to Indiana's
18 Title V funding deficiency and suggested that if
19 it was not remedied, EPA would have to take
20 formal action.

21 Next slide, please.

22 So, what did IDEM do to address the issue?
23 In response to the budget shortfall and concerns

1 related to the EPA sanctions, IDEM determined
2 that it would be more effective to raise the base
3 fee for Title V and FESOP sources rather than
4 increasing fees by a fixed percentage. The base
5 fee in 2022 was \$2,381.

6 IDEM contracted with Crowe to conduct a
7 cost of services study to support the proposal to
8 increase fees for the Title V program. Given the
9 relative consistency in the number of sources,
10 which is approximately 1100, increasing the base
11 fee provided revenue stability and has less
12 impact on sources overall.

13 The Indiana General Assembly revised the
14 Code in 2019 to limit the frequency, as Bill had
15 mentioned, in which the agency could increase
16 fees, so we're still -- as a reminder, we're
17 currently limited to fee increases to once every
18 five years and only up to ten percent.

19 The Crowe study was completed in January
20 of 2023, and their independent analysis showed an
21 increasing deficit for permit fees in the Office
22 of Air Quality. During the 2023 legislative
23 session, IDEM worked with legislators to initiate

1 Senate Bill 155, which allowed IDEM to move
2 forward with an increase as an exception to the
3 statute due to the urgency of the situation.

4 In addition, what helped to make this bill
5 very successful, we worked with industry groups
6 to make sure we garnered support for the bill,
7 and helped everyone understand what was going to
8 happen with the impact, from the per tonnage to
9 the base fee structure, as changing the entire
10 fee structure was something we had to work
11 through with everybody.

12 In April of 2023, Senate Bill 155 was
13 signed into law to allow IDEM to propose an
14 increase to the annual base fee for Part 70 and
15 FESOP permits for Title V. Following the
16 enactment of the bill, a proposal was brought
17 before the ERB in 2023 to raise the base fee for
18 Title V and FESOP sources from the amount
19 of 2,381 to 6100.

20 This proposal included the required rule
21 amendments to implement the change. The ERB
22 approved the revision, and the new fee structure
23 took place in late 2023. This fee adjustment

1 marks a significant step towards ensuring
2 sustainable funding for air quality programs, and
3 it serves as a model we aim to replicate across
4 other programs that will allow the agency to
5 better insulate its operations from economic
6 uncertainty, and ensure that resources are
7 incentivized to continue our mission.

8 Thank you.

9 CHAIRMAN GRAHAM: Thank you so much.

10 Comments or questions from the Board
11 there?

12 (No response.)

13 CHAIRMAN GRAHAM: Okay. Thank you.

14 COMM. WOODS: Thomas, I think we've
15 got you up next.

16 CHAIRMAN GRAHAM: So, do we have Bill
17 or Mallory to say anything? No?

18 COMM. WOODS: Oh.

19 MR. PAPPAS: Go on to the next slide,
20 please. Hello. I'm Andrew Pappas, Deputy
21 Assistant Commissioner with the Office of Land
22 Quality. I'm talking about some of the fees we
23 have in our office, and then I'll hand it off to

1 one of our staff for the next one. And I'll be
2 specifically talking about the project management
3 billing rates.

4 So, the Office of Land Quality is a
5 remedial services branch and provides services,
6 project management services, to facilities and
7 companies that have had releases. We currently
8 have a bill rate of \$75 dollars, and we'll be
9 working that bill rate up to a hundred dollars in
10 January. This is to keep up with market rates.

11 On the right-hand side, you can see a
12 graph that shows back in 2011 we had a rate that
13 was very close to that. It was billed or
14 reimbursed through the ELTF fund as part of the
15 petroleum programs. And so, we have kept flat
16 over greater than a decade.

17 As that fund -- that rate has been able to
18 ratchet up over time. As they do have a market
19 rate adjustment, they are able to do so in an
20 effort to bring ourselves in line with the
21 current market rates that we see from consultants
22 as they bill to the ELTF, and as their -- those
23 claims are paid out, we do need to come back up a

1 little bit to be able to be sustainable.

2 So, I'm going to hand it over next to
3 Thomas Kreke, who will talk about some of our
4 permit programs and the fees and rates related to
5 those programs. Before I do, is there any
6 questions?

7 (No response.)

8 MR. PAPPAS: All right.

9 Thomas, please.

10 MS. KOZYRSKI: Well, I did have a
11 question. How did you arrive on a hundred
12 dollars per hour? I'm seeing on the graph that
13 you're still well below the market rate.

14 MR. PAPPAS: Yeah, thank you for the
15 question. A hundred dollars an hour is coming up
16 to be an increase in market rate that seems to be
17 reasonable with what we're seeing in the market.
18 While it is considerably lower, in my opinion,
19 than what we do have in place for petroleum
20 programs, our folks that we work with on the
21 commercial side, those responsible parties that
22 will be paying it, we do not foresee a dramatic
23 increase to the cost of doing business with the

1 agency.

2 We do want to make sure, though, that we
3 are doing -- getting, to some extent, equitable
4 with what we are seeing for other reimbursement
5 rates from the third-party markets that are doing
6 work -- similar work on the same behalf and on
7 similar lines.

8 MS. KOZYRSKI: Thank you. So, a
9 follow-up question: Are you trying to cover a
10 deficit or a delta, or is this just an extra fee?

11 MR. PAPPAS: No. One of the things
12 that we are looking to do to -- kind of how the
13 sausage is made, we've been holding back some
14 positions to forward and make sure we have
15 revenues as they come in. We have seen some
16 issues with some collections in folks that have
17 nonpayment, and we are working through those, and
18 then we are also just generally seeing the cost
19 of doing business come up.

20 So, a couple of years ago, the State
21 Personnel Department did do a competition and
22 equity survey that basically increased the cost
23 of our personnel to us without giving us the

1 opportunity to right size beforehand. So, we do
2 see that delta over time collapsing and us
3 turning into the red if we don't take action.

4 And like I said, we are seeing growth in
5 the quality of people that are coming into the
6 agency, and so, this money will afford us to
7 continue to hire the best and the brightest to
8 the agency.

9 MS. KOZYRSKI: Thank you.

10 MR. PAPPAS: I see another question.

11 MR. KETZENBERGER: You answered it.

12 MR. PAPPAS: Thank you, sir.

13 MR. KREKE: Okay. Thank you, Andrew.

14 My name is Thomas Kreke. I'm the Office
15 of Land Quality Permits Branch Chief, and I'm
16 going to continue the discussion for the Office
17 of Land Quality on our program fees.

18 So, the Office of Land quality administers
19 a wide range of permit programs. I've listed
20 some of the ones we administer there. It's not a
21 complete list, but just some of the highlights.
22 Each one of those permit programs can have
23 multiple types of applications that we process.

1 They can be new permits, renewals, various types
2 of modifications, depending on the program area.
3 We process roughly a hundred of those
4 applications a year, and those fees associated
5 with those applications are roughly \$600,000 a
6 year. It's important to note, 85 percent of our
7 applications do not have an application fee.

8 We also assess annual fees, and we have
9 2,600 active permits at any one time, roughly
10 that, and depending on the year, it's about 4.8
11 million dollars from the annual fees assessed
12 every year on those active permits. Also in that
13 case, there's 30 percent of those permits that do
14 not have an annual fee.

15 You can go to the next one.

16 Another type of fee for the Office of Land
17 Quality is our disposal and management fees.
18 Those are very similar fees. They're both fees
19 assessed when a waste handler disposes of solid
20 waste at a final disposal location, either a
21 landfill or an incinerator, and the first one is
22 a disposal fee. That's ten cents per ton at
23 landfills and five cents per ton at incinerators.

1 The management fee is very similar.
2 It's -- but it's fifty cents per ton at both
3 landfills and incinerators, so combined, that's a
4 fifty-cents-per-ton fee at landfills. So, that
5 generates about 6.5 million dollars from 12.5
6 million tons of solid waste disposed of annually.
7 So, as the amount of solid waste disposal goes up
8 and down, that changes the amount collected.

9 As you can see from that map there, I've
10 listed our fee compared to neighboring states.

11 And can you go to the next slide?

12 The Office of Land Quality is also
13 exploring increasing our permit length from five
14 years to ten years. That can potentially reduce
15 the amount of personnel costs and paperwork costs
16 for our permittees, to only have to do -- go
17 through the renewal process once every ten years
18 instead of twice every ten years for the
19 five-year renewal cycle.

20 And then it can also potentially reduce
21 the burden on our permit staff, as they process a
22 large amount of permit applications. Though with
23 a ten-year permit, it increases the likelihood

1 that we may see more modifications, so that can
2 add back into that permit load.

3 And then also that would decrease our
4 renewal fees that we assess by half. I think the
5 statute currently allows for ten-year permits.
6 This would just be a little change to allow us to
7 do that.

8 Any questions? Yeah.

9 MR. KETZENBERGER: Under Section 5,
10 it indicates the various costs per state, and
11 Indiana handles 12 and a half million tons, I
12 believe. How does that compare with other states
13 in terms of the amount of tonnage annually?

14 MR. KREKE: I'll have to get you that
15 number. I don't know the number for each
16 surrounding state. It may be that some of the
17 solid waste is coming from out of state into our
18 state, so it may be a higher per capita. I'm not
19 sure.

20 MR. KETZENBERGER: That's what I was
21 curious about.

22 MR. KREKE: Yeah, uh-huh.

23 MR. KETZENBERGER: And then in your

1 first slide, you talked about the applications
2 that don't have a fee. Why are some of them
3 without fees?

4 MR. KREKE: Some of them could
5 potentially be smaller programs that have a high
6 volume of permits, or they just historically have
7 not had a fee, or -- yeah.

8 MR. KETZENBERGER: Will those --

9 MR. KREKE: So, different reasons.
10 There's multiple different permit programs that
11 don't have fees, so there's different reasons for
12 each one.

13 MR. KETZENBERGER: Okay. I just
14 wondered if that would be part of the calculation
15 or consideration in the entire fee package,
16 implementing a fee where there hasn't been one
17 historically.

18 MR. KREKE: I think it's possible.
19 That may be a good question.

20 MR. KETZENBERGER: Thank you.

21 MR. KREKE: Uh-huh.

22 Further questions?

23 DR. ALEXANDROVICH: Joanne, and I do

1 have one question about the tipping fees. I
2 noticed our solid waste districts get money, and
3 so do the surrounding states. Have you
4 considered all of that to see if our numbers are
5 comparable or not? Because our numbers seem kind
6 of low.

7 MR. KREKE: Is it a question about
8 how much the solid waste districts themselves
9 assess?

10 DR. ALEXANDROVICH: Right. Because I
11 don't -- like, for instance, I know how Minnesota
12 has solid waste districts that get money from
13 disposal.

14 MR. KREKE: Yeah, it's a good
15 question. I don't know that -- that answer.
16 We'll have to get that as part of the analysis.
17 I know when we worked -- went out further, some
18 other states, like Louisiana and some other
19 examples, they assess per county at like state
20 levels. So, there's -- probably each state has
21 its own unique way of doing things, so it's not
22 really apples to apples, but it's a pretty good,
23 close estimation.

1 DR. ALEXANDROVICH: Okay. So, you
2 think that this chart is more apples to apples?

3 MR. KREKE: Yeah, pretty close.

4 DR. ALEXANDROVICH: I -- okay. I was
5 just wondering if the differences in county solid
6 waste district fees might make a difference. So,
7 that's my question.

8 MS. KOZYRSKI: Yeah, I had one
9 additional question, and it's along the lines of
10 my previous question about whether the agency is
11 looking to fund a projected gap with a change in
12 fee structure, or if there is an imminent gap,
13 and what kind of considerations will you employ
14 to -- but this -- this looks like a beginning of
15 a benchmark exercise, so how will you land on the
16 correct revised fee if you decide to raise the
17 rates?

18 MR. KREKE: I think that's where
19 we'll seek your input on that question, how we
20 need to get there.

21 Maybe can you, Clint?

22 COMM. WOODS: Yeah, I was just going
23 to add I think that's a very good question, and

1 one resource that I know Hilary mentioned, the
2 Crowe analysis that we had, they had done a
3 similar analysis for the -- and some of this is
4 actually in Title 13, some of the criteria by
5 which the Board can evaluate independent
6 analysis, so things like how much does it cost to
7 administer a program, how competitive or how
8 consistent are those fees with other states in
9 the region or around the country. So, we've got
10 a lot of information there, and I think there are
11 some important pieces where we could really use
12 your help.

13 I think some of this -- and I think
14 Brianna did a really good job, you know,
15 buttressing this against, you know, one, there's
16 separate questions about some of those dedicated
17 funds are really limited in the ability to spend
18 the funds in certain ways. There may be
19 legislative changes in the future, but also all
20 of this happens against the backdrop of, you
21 know, relative on certain people for federal and
22 state appropriations.

23 So, while the biggest piece, that orange

1 piece of the pie is the largest one that we have
2 the most control over, I think there is a ton of
3 value that we get from the Board in looking at
4 things like the cost of administering the
5 program, what we are spending per program, and
6 then the ability for those funds to be used to
7 make sure that we're right sized, and in many
8 cases maybe a reduced fee or a change in
9 structure in fees. We saw the Title V, where the
10 base fee is much more important than emissions,
11 because we reduced all of the emissions. So, I
12 think some of those questions --

13 MS. KOZYRSKI: Reduced emissions,
14 uh-huh.

15 COMM. WOODS: -- are -- could be very
16 helpful.

17 MS. KOZYRSKI: All right. Very good.
18 Thank you.

19 MR. KREKE: No more questions?

20 (No response.)

21 MR. KREKE: I think I'll hand it off
22 to Martha, or I --

23 MS. METTLER: Yeah. Thank you.

1 Good afternoon. It's good to see some of
2 you I haven't seen for a while. So, I'm Martha
3 Clark Mettler. I'm the Assistant Commissioner in
4 the Office of Water Quality. My presentation is
5 much simpler.

6 So, just a few significant points. I did
7 go back to the Crowe study, which said, "Oh, OWQ,
8 your money coming in is not covering the cost of
9 the work you need to get done." And so, that is
10 still true, so the gap question is yes, we're
11 trying to fill the gap.

12 And we've got about 70 programs or so that
13 we implement in the Office of Water Quality, but
14 I grabbed for an example the one that I think is
15 probably the most familiar with people, which is
16 our wastewater discharge permitting program,
17 which is split between municipal dischargers and
18 industrial. So, our NPDES, that's National
19 Pollution Discharge Elimination System, permit
20 application fee is nominal; it's only a hundred
21 dollars. And just the cost of processing that is
22 more than a hundred dollars.

23 Our fees are split into two parts.

1 There's an annual fee, a kind of base fee, and
2 then operational fees based on the flow of the
3 discharge. So, looking at that and comparing to
4 other states, they kind of -- it's hard to get
5 that apples and apples, because they kind of lump
6 and split how they group and where they cut off
7 flow, change -- differences in the fees.

8 So, the next slide shows some comparison
9 that I did kind of with nearby states that can
10 kind of show the difference in what they charge
11 versus what we charge, broken down between those
12 municipal and industrial permittees. I also did
13 some math on what it costs for us to pay the
14 salaries of the permit writers in each of those
15 programs.

16 That does not include all of the other
17 support staff that we need to have to make sure
18 there are -- the permits are being complied with.
19 We've got inspectors, we've got data reviewers
20 and all kinds of other people that we need to
21 ensure this program is operating correctly. It's
22 a delegated program, so we are obligated to do
23 that instead of EPA. We could, I guess, back out

1 and have EPA come do it, but I don't think you
2 want that.

3 So, it's pretty basic information. You
4 might need some time to process the numbers, but
5 if there's any questions, I can try to answer.

6 (No response.)

7 CHAIRMAN GRAHAM: Thank you so much.

8 MS. METTLER: Okay. If not, I'm
9 going to take an opportunity here to commend my
10 colleague, Gabby French, who will be presenting
11 here in a little bit. She's waded through some
12 technical information and going to try and help
13 you understand before we ask you to pass a rule.
14 So, upcoming preview.

15 CHAIRMAN GRAHAM: Okay.

16 DR. ALEXANDROVICH: Thank you.

17 CHAIRMAN GRAHAM: You're up next?
18 Okay. Comm. Woods on the opportunity to revisit.

19 COMM. WOODS: Yes. So, I would maybe
20 just make a couple of quick comments just on
21 those presentations. Thank you for letting us
22 try to tee up a few of these things. I think
23 we've got some additional more detailed

1 information, including that analysis we
2 mentioned, some comparison of other states, some
3 other resources that I think are probably
4 helpful.

5 As you heard from several folks, our fees
6 are in some cases created by statute and the
7 General Assembly specifies those things, and many
8 which haven't been updated in decades. Some are
9 specified by rule, and in which case, if there
10 are any changes, they would be coming to the
11 Board anyway. And then some are like labor
12 rates, where it's more of a policy that we've
13 adopted that is designed to be a little bit more
14 flexible.

15 And so, we have -- we want to put
16 everything on the table for you to have that
17 periodic review to help inform us and, you know,
18 let you look under the hood. So, I really
19 appreciate that, you know, not all of those
20 decisions will necessarily be in the Board's
21 hands, but I think the advice that you would give
22 us about how to make sure we've got a modern
23 system of revenue that provides certainty

1 amongst -- I have to say other states, as they
2 face the uncertainty we've talked about, have
3 been thinking about de-delegating programs and
4 sending their air and water programs, their key
5 permitting programs, back to EPA and saying,
6 "Good luck."

7 I will just say from my perspective, I
8 don't think that would serve Indiana well, so we
9 want to make sure that we, you know, one, provide
10 great customer service, and two, that any of our
11 fee programs are serving their purpose, which
12 allows us to hopefully administer great programs
13 to help continue air, land and water progress.
14 So, we really appreciate you all being willing to
15 take a closer look at some of those issues.

16 And then the second essay question that we
17 wanted to tee up for you all, and we've talked
18 about it a little before, Kevin, I think on the
19 next slide we've got -- I want to -- I apologize
20 for the small font, and we'll get these slides
21 out to everybody, but wanted to cover a few
22 different executive orders that we've been
23 looking at implementing, some of which we've been

1 on some public actions, but one in particular
2 being Executive Order 25-38, which Gov. Braun
3 signed in March.

4 It directed environmental agencies or
5 agencies with environmental regulations,
6 including IDEM, to "identify state -- let's see
7 "-- state environmental regulations that are
8 unduly burdensome, significantly raise the cost
9 of living for Hoosiers, are not supported by
10 current law and the best available science, or do
11 not benefit Indiana's environment." And we are
12 to report back to the Governor's Office by
13 July 1st.

14 And then you'll see similarly some
15 additional language that's -- if there are rules
16 that are more stringent or burdensome than
17 federal requirements, we have an additional
18 reporting requirement to report back what we can
19 do, if there's any changes that need to be made
20 in any of those rules.

21 We do have some programs that are almost
22 exactly identical, as you all know, to the
23 federal program. We have a few others that are

1 unique, like our confined feeding operation
2 program, our isolated wetlands statute, that are
3 not identical to -- equivalent to the federal
4 requirement.

5 So, we took on this task and said, "We've
6 got a few months," and while we think most of our
7 rules generally follow the trends of being good,
8 common sense, we don't have too many words, they
9 generally match up with the federally
10 incorporated rules, that we have delegated
11 authority from EPA. We don't know everything, so
12 we're going to do some thinking and we're going
13 to take suggestions from our staff. We're also
14 going to seek feedback from the public, and so,
15 we'll talk a little bit about what we heard back.

16 But on the next slide I want to mention
17 this happens against the backdrop of several
18 other executive orders, and sorry for the small
19 font on this, but suffice it to say executive
20 orders are in vogue here in Indiana, but also in
21 D.C. There's been a lot signed by Pres. Trump
22 and Gov. Braun.

23 But simple in that they ask us to do

1 things: To collaborate with other agencies, as
2 with the creation of the Office of Energy and
3 Natural Resources and our Secretary of Energy and
4 Natural Resources, Sue Jaworowski, who calls on
5 agencies to collaborate, to look for common-sense
6 opportunities to reduce regulation or to address
7 longstanding issues.

8 Executive orders about specific issues
9 like climate and energy policies and the social
10 cost of carbon that asks us to look at potential
11 federal regulations that don't serve Indiana
12 well. Specific sectors looking, for example, at
13 the future for coal and natural gas, as well as
14 opportunities for things like rare earth recovery
15 in certain sites, or next generation nuclear
16 development.

17 And then a handful of executive orders
18 that dealt with the opportunities to eliminate
19 unnecessary regulation or develop more common
20 sense in modern regulations kind of across the
21 board, wherever agencies face a similar
22 directive. For us some of those don't exactly
23 apply, because many of our existing IDEM rules

1 have recently been readopted by this Board, in
2 the last couple of years, but we still are
3 complying with the spirit of those executive
4 orders.

5 So, I'll just mention, you know, for that
6 one where every agency has been asked to look at
7 the competitiveness of the regulations,
8 opportunities to eliminate unnecessary
9 requirements, we're really taking a -- I'll say a
10 three-step process. One, I'll talk a little bit
11 about some specific rules that we either got
12 feedback on from the public or that we've
13 identified as, we think, good opportunities for
14 common-sense elimination of red tape that will
15 continue environmental progress.

16 Second is we're taking a close look at
17 Title 13, so the General Assembly's Code related
18 to environmental matters. So, we've been working
19 closely with the chairs of the Environmental
20 Affairs Committee in the House and Senate,
21 looking at potential introduction of a bill to
22 really clean up that statute.

23 So, there's a lot of stuff in there that

1 hasn't been updated in years. There's some, you
2 know, outdated requirements, some reporting
3 requirements that we don't think add a whole lot
4 of value, maybe some opportunities to make sure
5 our boards and commissions like this one are
6 operating and cooperating in a transparent way
7 and that match with the opportunities to
8 administer.

9 So, that's another effort where we'll be
10 looking at potential legislative changes that, I
11 think, will really help people so they don't have
12 to slog through the thousand pages that currently
13 make up Title 13, and maybe 700 or so can get the
14 job done, while also maintaining important
15 protections for air, land and water in the
16 programs that we operate.

17 And then a third is really a crosscutting
18 one, which is Executive Order -- I believe this
19 is 25-17, around reducing regulatory costs and
20 really directing agencies like ours to commit to
21 a target of reduced burden, which is kind of
22 broadly defined.

23 But I'll say in that space what we haven't

1 really talked about a whole lot publicly, but
2 what we've committed to doing is really, over the
3 next three years, to taking really big chunks of
4 our Administrative Code, and we're starting with
5 water, and then soon after, land and air, where
6 we have our implementation of the General
7 Assembly's direction on our various environmental
8 matters.

9 And we're doing the same thing there, and
10 saying, "Hey, are there unnecessary requirements
11 for us or for the regulated industry or for folks
12 who want to appear at public hearings? Are there
13 opportunities for us to be more consistent,
14 either with, you know, Title 13 or with federal
15 law? Is there something that's just outdated?"
16 And I think that if we started to look under the
17 hood, we think there's some tremendous
18 opportunities.

19 So, with that comes probably some pretty
20 complex potential rulemakings that we're going to
21 be bringing to you in the next three years, so I
22 wanted to warn you of that, but I think it's also
23 an exciting one, because we're really saying --

1 starting from a basis of "Let's get back to
2 basics. Let's look at what the General Assembly,
3 what Congress, under our federal environmental
4 laws, asked us to do, and leaving no stone
5 unturned." And so, we welcome the public and the
6 Board as we kind of oversee that. So, I wanted
7 to give you kind of a sense of what that looks
8 like.

9 On the next slide, I did want to give you
10 a few examples. So, I mentioned July 1st we had
11 a deadline to report to the Governor's Office on
12 the environmental regulation executive order, so
13 we decided, as I mentioned previously, to ask the
14 public for comments. We got a lot. We got about
15 1444 pages of public comments to an e-mail
16 account that we'd set up.

17 Most of them were very productive and
18 people had really good ideas. Some of them we
19 made a debate whether or not we wanted to keep
20 the curse words in there or not, but a lot of
21 feedback, including some passionate feedback
22 about the underlying executive orders, about the
23 state of various things that aren't necessarily

1 within IDEM's control, but a lot of suggestions
2 of things that we can do well or programs that
3 people like, including some that are different
4 from federal.

5 So, we got a lot of feedback, and I think
6 our folks have been kind of poring over that for
7 our respective programs, but then a day later we
8 had to report to the Governor's Office, so we
9 quickly put our report together that we'll get
10 out to you all that really provided some
11 background on some of these issues.

12 Talked a little bit about why a lot of our
13 programs generally match up with federal
14 requirements, identified some opportunities that
15 we've discussed for weighing in with the Federal
16 Government, where we think there's a lot of bang
17 for the buck if we're looking for reduced burden.

18 Oftentimes when people get mad at us, we
19 usually say, "Well, that's an EPA thing. You
20 know, we have to do that. That's in -- either in
21 the Clean Air Act, or maybe in a grant agreement,
22 or maybe it's, you know, a rule that they have
23 that we have to implement though our NPDES or

1 Title V permits."

2 But if we agree that that's an unnecessary
3 requirement that doesn't improve the environment,
4 what are we doing about it? So, that is a piece
5 of that report.

6 And then we did two other things. One, we
7 highlighted some excerpts of some of the really
8 impactful comments we got from the public, from a
9 variety of sectors and throughout the state, none
10 of the ones with curse words, but the ones that
11 had specific suggestions that we wanted to just
12 say, "Hey, there's some really good ideas here,"
13 and we're going to be looking at those.

14 And then we included an appendix that had
15 ten items that our folks had come up with as they
16 thought about this challenge, and on the next
17 couple of slides I've just got some examples of
18 those. And I won't belabor the point because
19 we'll get you a copy of this report, but it's
20 things like notification forms for underground
21 storage tanks, where we realized we receive these
22 forms and we put them in a stack, and no one ever
23 looks at them.

1 And someone could submit an annual report
2 instead of every modification of an underground
3 storage tank that is -- that only creates red
4 tape and paperwork and doesn't necessarily do
5 anything to improve the environment.

6 Things like prior approval for our first
7 responders to do fire training, open burning,
8 where we have a pretty good process that we think
9 covers all of those situations. They shouldn't
10 need to ask us every time there's a specific fire
11 training.

12 Things like opportunities to make sure
13 that we're enabling a next-generation business
14 like biomass digesters, where there's some -- a
15 little bit of confusion in the underlying statute
16 about what is an appropriate feedstock to use in
17 a biodigester in parts of the state, where we
18 were excited to take on that challenge to try to
19 develop some rules that ultimately will come to
20 you all.

21 And then I think on the next page, Kevin,
22 we have a few other examples that kind of match
23 with some of the things that folks talked about

1 previously, some certifications we've had to do
2 in the past for tax deductions, where, as far as
3 we know, we're not adding any value to people
4 getting some renewable energy and other tax
5 credits, and we'd much rather have somebody else
6 who has some expertise in that area.

7 I mentioned before some flexibility in
8 certain funds. For example, our electronic waste
9 fund, where we receive fees from manufacturers of
10 electronics that then ultimately come to us for
11 extended user responsibility take-back programs.
12 But we found that we don't have enough authority
13 to spend the money on an annual basis, so we
14 usually have a six-figure balance there, and we
15 think if we collaborated more with localities and
16 solid waste management districts, we could do a
17 lot more good. And so, there may be some
18 legislative changes in spaces like that.

19 And you'll see a couple of others there,
20 including the last one, which is some nonrule
21 policy documents that are a little bit outdated
22 that we think could be rescinded that would help
23 provide clarity. We, in some cases, have adopted

1 those things in rule, going through the ERB, but
2 that those, you know, are outdated and may not
3 need to exist, and then we can clean up some of
4 our work through some of those actions.

5 So, we identified ten things, and not all
6 of them are huge, big-ticket items, but I think
7 for some of the affected folks, where they don't
8 have to submit an unnecessary report, or where,
9 you know, we're not getting a lot of value, I
10 think we're excited, but each of these are a
11 little bit different in how we will need to
12 tackle them, but there's probably several more.

13 And so, we would love to get you all's
14 feedback on this, you know, using the public
15 feedback we got, the underlying executive order,
16 what we've put together in terms of ideas is to
17 get maybe -- there may be some other areas that
18 we should be tackling in the coming years.

19 So, just wanted to kind of give you an
20 update on what we've been doing there. I think
21 we've been trying to be as open as possible with
22 folks about this, and I really, really
23 appreciate, one, you all taking this challenge,

1 and two, the public really weighing in for this
2 really open-ended question and to tell us how we
3 can do better in terms of the IDEM regulations
4 that have a big impact on Hoosiers.

5 So, I wanted to kind give you an update on
6 that end, but also issue a little bit of a
7 challenge, to see if you all could help and guide
8 us moving forward, because a lot of that work
9 will end up coming to the Board.

10 And the last thing I'll just say is I've
11 been involved in environmental regulation at the
12 federal and state level for way too many years,
13 and I think one thing that I think folks in this
14 room totally understand but isn't always apparent
15 is rescission of a regulation you think could
16 happen really quickly, but usually it takes the
17 state more time than promulgating a regulation.

18 In Indiana, that means multiple
19 opportunities for public hearings, coming and
20 talking to you all multiple times, and you
21 learned with the last one, there's a ton of value
22 in that, but the executive process will need to
23 take place for the vast majority of these

1 actions, but in some cases it may require
2 legislative action.

3 So, we do recognize it's a long-term
4 effort and -- you know, but I really appreciate
5 you all being able to help guide us as we move
6 forward in implementing the Governor's vision for
7 that executive order. And so, I wanted to kind
8 of give you a glimpse of how that works on the
9 federal level.

10 CHAIRMAN GRAHAM: Questions for the
11 Commissioner on that? There's a lot there.

12 (No response.)

13 CHAIRMAN GRAHAM: I thought -- you go
14 ahead.

15 MR. DAVIDSON: Commissioner, you
16 offered copies to the Board. Could we get copies
17 of all of those slides? It's a lot to eat and
18 digest and sleep on, or put you to sleep. No, it
19 wouldn't.

20 (Laughter.)

21 COMM. WOODS: Definitely.

22 MR. DAVIDSON: Thank you all for --

23 CHAIRMAN GRAHAM: And I just want to

1 clar -- get clarification. Is most of this
2 statutory, or is most of it that we can do this?

3 COMM. WOODS: It's a little bit of
4 each, and in some cases it's a double suspenders,
5 where a statutory change would help provide
6 without a -- without any doubt that we have the
7 authority to do certain things. So, there may be
8 value in having the legislature weigh in, but
9 that's also, you know, not always a sure bet,
10 and, you know, we help to provide technical
11 assistance to the General Assembly.

12 A lot of these are going to be on rule
13 changes or things that are changes in policy, and
14 as you may recall, in addition to us needing to
15 come to you with rules or the rescission of
16 rules, we also have a requirement under Title 13
17 to notify you and sort of present for nonrule
18 policies, some of which we look to change.

19 So, it's probably almost evenly in those
20 three buckets of: This definitely is a statutory
21 change; this definitely is a regulatory change
22 that the Board will have to approve; and then
23 some of those nonrule policy changes that might

1 be able to be done a little bit more swiftly.

2 CHAIRMAN GRAHAM: Okay.

3 Other comments or questions?

4 (No response.)

5 CHAIRMAN GRAHAM: All right. We'll
6 move to Coal Combustion Residuals.

7 (Discussion off the record.)

8 CHAIRMAN GRAHAM: Oh, the motion.
9 The motion is considering IDEM's request for the
10 ERB to conduct a review of various fees, as well
11 as the opportunity to provide feedback on
12 potential IDEM regulations through review of the
13 executive orders that the Commissioner mentioned.

14 I'd like to make a motion that we break
15 into a couple of work groups in order to take a
16 closer look at these ahead of the ERB meetings
17 later this year and in early 2026. And there's a
18 suggested list of work group participants from
19 the public members of the ERB. One will be the
20 Fees Work Group and one will be the Executive
21 Order 25-38 Work Group. So, I have a motion on
22 the table then.

23 MR. ETZLER: Second.

1 CHAIRMAN GRAHAM: Thank you. Voice,
2 all those in favor?

3 (Board members responded, "Aye.")

4 CHAIRMAN GRAHAM: Opposed?

5 MR. ETZLER: Aye.

6 CHAIRMAN GRAHAM: Okay. We are done
7 with that. We're moving to Coal Combustion
8 Residuals Rule Update, Lori Freeman, please.

9 MR. PRATHER: Lead & Copper is up
10 next, Chair, with Matt. Sorry.

11 (Discussion off the record.)

12 CHAIRMAN GRAHAM: Oh, they switched
13 order? Okay. We can live with that.

14 MR. PRATHER: Thank you. Good
15 afternoon, everyone. My name is Matt Prather.
16 I'm IDEM's Drinking Water Branch Chief. Thanks
17 to the Commissioner and Board members for
18 allowing us to present here today and provide
19 these updates. I think it's really important for
20 all of you to hear about these recent updates
21 that EPA has been doing with the Lead & Copper
22 Rule especially, and all of our rulemaking
23 efforts around it.

1 IDEM has been implementing the Lead &
2 Copper Rule since it went into effect back
3 in 1991. The Lead & Copper Rule is one of the
4 most complex Drinking Water Rules we have to
5 implement. There are a number of challenges with
6 implementing the rule, but our Compliance Section
7 Chief, led by Stacy Jones, does an excellent job
8 helping water systems understand the current rule
9 requirements and what systems need to do to
10 prepare for the upcoming rule changes.

11 For example, when EPA published the
12 Rule -- Lead & Copper Rule revisions back
13 in 2021, there was a requirement for water
14 systems to complete service line inventories and
15 submit those to IDEM by October 16th of last
16 year. And as of today, 98 percent of the water
17 systems have submitted a complete service line
18 inventory to IDEM.

19 So, after publishing the Lead & Copper
20 Rule revisions in 2021, EPA made even more
21 changes to that rule and published the Lead &
22 Copper Rule Improvements in 2024, also known as
23 the LCRI.

1 We do want to point out two significant
2 changes in the LCRI. There's an aggressive
3 approach to replace lead lines by requiring most
4 public water systems to do that, to replace their
5 lead lines, within ten years. And there's also a
6 change to the lead action level from 15 parts per
7 billion to 10 parts per billion. So, these
8 proposed rule changes make it critical for water
9 utilities to have a robust lead service line
10 replacement plan.

11 As a result of these aggressive changes to
12 the Lead & Copper Rule, the American Water Works
13 Association, also known as AWWA, which represents
14 water operators throughout the nation, they filed
15 a lawsuit against EPA. In August of this year,
16 EPA announced it will defend the Biden
17 Administration's LCRI against the AWWA's lawsuit.

18 We expect the EPA's administration to make
19 changes to the rule that will allow for more
20 flexibility and regulatory clarity for water
21 systems, and we should be hearing more updates
22 about the rule here soon.

23 I just want to note: Later in today's

1 meeting, Krystal Hackney will be presenting
2 testimony to incorporate the applicable federal
3 rule language by reference, and by incorporating
4 the federal rule language by reference, we'll be
5 prepared to adopt new federal rules such as PFAS,
6 the Consumer Confidence Report Rule, also known
7 as CCR, and any changes EPA decides to make to
8 the Lead & Copper Rule Improvements.

9 And that's it. I'll take questions if
10 there are any.

11 CHAIRMAN GRAHAM: Questions or
12 comments?

13 (No response.)

14 CHAIRMAN GRAHAM: Okay.

15 MR. PRATHER: I think Lori Freeman's
16 up.

17 CHAIRMAN GRAHAM: Lori's up now?
18 Okay.

19 MS. FREEMAN: Hello. My name's Lori
20 Freeman. I'm the Compliance Branch Chief for the
21 Office of Land Quality, here to talk to you about
22 Coal Combustion Residuals.

23 We drafted a -- our draft rule language is

1 intended to comply with IC 13-19-3-3, which wa --
2 which states that we cannot be different than --
3 or more stringent than the Federal Government as
4 it pertains to Coal Combustion Residuals. Those
5 rules were preliminarily adopted in the
6 December 11th, 2024 meeting. We have made
7 revisions since then to accommodate comments made
8 during the preliminary adoption process, as well
9 as comments by OMB.

10 We anticipate bringing the draft -- or the
11 rule to the Board for final adoption in the
12 December 2025 meeting, and after that, we will
13 begin working on our application to seek
14 authorization from the EPA to implement this
15 rule. The application cannot go in until our
16 rule is adopted and they can review the
17 regulations to make sure that they are compliant
18 with the federal rule.

19 That's the update on the CCR Rule. If you
20 have any questions, I'd be happy to answer them.

21 CHAIRMAN GRAHAM: Questions?

22 (No response.)

23 CHAIRMAN GRAHAM: Okay. Thank you.

1 MS. FREEMAN: Thank you.

2 CHAIRMAN GRAHAM: And now we'll go to
3 Gabby.

4 MS. FRENCH: Good afternoon. My name
5 is Gabby French, and I'm here to give an overview
6 of our Aquatic Life Methodology and why we like
7 to do updates to the Aquatic Life Methodology
8 that we currently have in our rules.

9 You should be able to see the slide in a
10 moment, but some of you already know in Indiana
11 our waters quality standards -- we have two sets
12 of water quality standards right now, and one
13 that pertains to the watershed that lies outside
14 of the Great Lakes Region -- go to the next
15 slide. Thank you -- outside of the Great Lakes
16 Region, and we call that Downstate for shorthand,
17 so you'll hear me say "Downstate" quite a bit
18 during this overview.

19 And we also have a set of standards that
20 apply to the Great Lakes Region, and we have
21 differences right now between those two sets of
22 rules, and one of our kind of overarching goals
23 for the water quality standards program is to

1 have consistent standards for the whole state
2 when it makes sense to do so.

3 And one of the items that is quite
4 different right now between the two basins is
5 this the methodologies that are placed right now
6 to derive criteria for substances where we have
7 not adopted a number through this board, and we
8 use these methodologies to look at dischargers
9 with NPDES discharges to see if we have to limit
10 a plume that might cause harm to aquatic life.

11 Next slide.

12 So, at a high level, Office of Water
13 Quality plans to propose a rulemaking to update
14 our Downstate Aquatic Life Methodology. Those
15 procedures that we use to calculate Aquatic Life
16 Criteria for substances for which U.S. EPA has
17 not published a Nationally Recommended Criteria
18 and we don't have a number in our rules, so this
19 update, we are planning to apply the Great Lakes
20 Aquatic Life Methodology statewide.

21 And so, by doing this, this would update
22 our methodology and to conform with U.S. EPA's
23 current guidance on this, and conform to the

1 latest science available on calculating criteria
2 when you have a limited toxicity data set, and
3 this will also allow us to proceed with
4 permitting and use a more appropriate method to
5 come up with water quality criteria, you know,
6 when we're dealing with a substance or a chemical
7 where we don't know a lot of information, but
8 could adversely impact aquatic life.

9 And so, with our water quality standards,
10 you know, we often think of our numeric standards
11 for things like ammonia and copper, but our
12 narrative standards are quite important as well,
13 so our Downstate and our Great Lakes water
14 quality standards both have almost identical
15 narrative statements that protect Indiana's water
16 bodies from substances in amounts that could be
17 acutely or chronically toxic to aquatic life.

18 And so, in order to protect our designated
19 uses and implement these narrative standards, we
20 have to have a way to translate that or come up
21 with a numerical expression that's actually
22 implementable.

23 And so, our Aquatic Life Methodologies

1 really serve that purpose. They serve layout and
2 procedure and rules so we can come up with a
3 number for a pollutant of concern and use that to
4 kind of screen and evaluate discharges and see if
5 we need to limit that pollutant or not.

6 Next slide.

7 And so, one of the reasons we wanted to
8 come in front of the Board to talk about this,
9 our need to update this before we have language
10 in front of you, is it's a little confusing when
11 you go into the two parts of the rule, because
12 they're structured quite differently and there's
13 different terminology involved. So, we tried to
14 outline this on this graphic.

15 So, if you look first on the left for the
16 Downstate Aquatic Life Methodology, it's split up
17 between doing an acute calculation, how you come
18 up with an acute criteria, and how you come up
19 with a chronic criteria.

20 And then underneath each of those
21 brackets, there is a Method 1 that deals with
22 what do you do if you have a full or complete
23 toxicity data set, and then Method 2 and 3 that

1 you see on the screen handle how to deal with a
2 limited toxicity data set.

3 But if we turn to the Great Lakes Rule,
4 we -- there's different terms used here, so it's
5 actually split up first between whether you have
6 a complete toxicity data set and whether you have
7 a limited toxicity data set, and the key takeaway
8 here is we use the term "Tier I," or you can
9 think like premier or top tier for when you have
10 a complete toxicity data set.

11 And then we use the term "Tier II," you
12 may have heard before, Tier II or secondary, for
13 cases where we have -- don't have a lot of
14 information on the toxicity. And so, each of
15 those, Tier I and Tier II, has instructions on
16 how to come up with an acute and chronic number.
17 So, I know that was a lot, and this will be a
18 reference hopefully for later, but different
19 terms between those two rules.

20 But you might be wondering why we even
21 have different methodologies right now for
22 aquatic life, and so, to understand a little bit,
23 we have to bring up U.S. EPA's 1985 Guidelines

1 for Deriving Aquatic Life Criteria. This is
2 U.S. EPA's main guidance document still for
3 deriving their Nationally Recommended Criteria,
4 so it's stood the test of time so far, and the
5 procedures are designed to protect 95 percent of
6 aquatic life organisms in the stream.

7 And they're based on short-term, acute,
8 and long-term toxicity tests typically done in
9 the lab setting. But the important thing to
10 note, though, is even though this is sort of been
11 considered the Bible of Aquatic Life Criteria, if
12 you will, they do not -- the guidelines do not
13 really address what to do if you don't have a lot
14 of toxicity information.

15 Next slide, please.

16 And one -- so, one important component of
17 the 1985 Guidelines is the definition of what we
18 mean of a complete toxicity data set. And so,
19 you know, we can't test every aquatic life
20 organism in the stream, that's just not possible.
21 So, EPA sort of defined these eight minimum data
22 requirements. You see those pictures are kind of
23 representations of the eight main groups.

1 So, you can see there's some sensitive
2 species up there, like our cold water fish,
3 there's salmonids, planktonic crustaceans, those
4 definitely are acute that you've definitely
5 probably seen before, and other aquatic insects.
6 So, overall, if you have toxicity data from these
7 eight groups, we consider that a complete
8 toxicity data set, and you can come up with a
9 sort of Tier I, you know, aquatic number.

10 And this is just an image of what we mean
11 by like basic acute toxicity tests. You can see
12 the series of beakers here with their varied
13 concentrations of a chemical, and if you look at
14 where that blue arrow is pointing, the 50
15 micrograms per litre, about half of the fish die
16 in that beaker, so we call that the LC_{50} or lethal
17 concentration. It's like the very standard acute
18 test, and there's -- it's only 48 or 96 hours
19 long. And so, that number, that 50, is an
20 acquired number in overall calculation to come up
21 with an aquatic criterion, and that's the level
22 we don't want to exceed in the stream to protect,
23 you know, aquatic life from lethal effects.

1 And chronic toxicity tests are also done
2 in the lab setting typically, but they're much
3 longer than the acute tests, because we're
4 looking for things like survival end points,
5 reproductive effects, growth end points. And so,
6 they are actually more expensive than acute tests
7 because there are certain fluids that's very hard
8 to get chronic toxicity information.

9 So, a common thing that is done for --
10 with some labs is to run an acute and chronic
11 test at the same time with the same species and
12 the same dilution water, and you can come up with
13 a very simple acute-to-chronic ratio, and we
14 always say ACR is the shorthand for that, and
15 that number can be used to help us come up with a
16 chronic criterion.

17 And so, another piece of the story of why
18 we have such a different methodology right now in
19 our two basins is the Great Lakes Initiative. As
20 some of you may know, in 1995 U.S. EPA came out
21 with the Great Lakes Water Quality Guidance, so
22 that had a set of requirements that the Great
23 Lakes states and Canadian provinces had to adopt

1 at that time, and one of the items of that was
2 the Great Lakes Aquatic Life Methodology.

3 Next slide, please.

4 And so, the Great Lakes Aquatic Life
5 Methodology retained the core procedure of
6 the 1985 Guidelines that we just mentioned, so
7 the Tier I procedure of the Great Lakes
8 Methodology is almost identical to the 1985
9 Guidelines, so they're virtually the same.

10 What was new about the Great Lakes
11 Methodology is they added that Tier II procedure
12 to help handle situations where we have a limited
13 data set, you know, how we're going to, you know,
14 figure out what might be, you know, harmful to
15 aquatic life, and this was based on some
16 statistical analysis EPA did at the time, and it
17 did go through the Scientific Advisory Board
18 Committee at the time and the Federal Register
19 rulemaking process.

20 And so, that Tier II procedure has a very
21 specific, you know, procedure for coming up with
22 the derived acute and chronic value. We call
23 those Tier II -- Tier II values. And there --

1 the Tier II procedure is essentially based on
2 applying like the protective adjustment factor
3 that kind of -- that accounts for the uncertainty
4 in terms of how acutely and commonly toxic a
5 chemical is to certain species.

6 Next slide.

7 And so, to look -- now we can sort of
8 compare the Downstate and Great Lakes
9 Methodology. So, this is not an exhaustive list,
10 but I wanted to just share the main differences
11 and why we want to apply the Great Lakes
12 Methodology statewide.

13 So, first, I mean if we're thinking about
14 top tier, sort of Tier I, you know, we have a lot
15 of information about the pollutant. The U.S.
16 EPA's, you know, guide -- national guidelines and
17 the Great Lakes Methodology require data from
18 those eight minimum data requirements, the eight
19 aquatic life families, and three acute-to-chronic
20 ratios for the chronic derivation.

21 But our Downstate Methodology right now
22 only requires data from five aquatic life
23 families and we only require one acute-to-chronic

1 ratio, so we're not in line right now even with
2 the 1985 EPA Guidelines, and so, those numbers
3 are there on the chart for just comparison. So,
4 we're missing, you know, information from
5 families of aquatic organisms that are typically
6 considered sensitive to toxic pollutants, like
7 those aquatic insects.

8 If we look then at Tier II, so now we're
9 in a situation where, you know, it's a chemical
10 where we don't have a lot of -- there's not a lot
11 of research out there. The Great Lakes
12 Methodology uses an adjustment factor based on
13 how many of those eight families you have
14 represented.

15 Our Downstate Methodology does use
16 adjustment factors, but it's only based on the
17 presence of whether you have rainbow trout in the
18 data set, and in a minute you'll see -- I'll
19 show -- well, there's a table that shows you the
20 different -- you know, how the numbers shake out
21 between the two.

22 But if we have no chronic data available
23 at all, the Downstate Methodology uses a dividing

1 factor of 45, which is quite high, so it adds
2 quite a bit of conservatism into the calculation.
3 The Great Lakes Method uses a factor of 18, so
4 that difference alone sometimes actually allows
5 for a less stringent chronic number under the
6 Great Lakes Methodology.

7 And if you go to the next slide, just very
8 quickly, this is a table that just shows you the
9 differences and the adjustment factors when
10 you're doing this Tier II, sort of secondary,
11 calculation. So, you can see in blue the Great
12 Lakes, it really matches those eight minimum data
13 requirements. They're almost -- you've got a
14 lower number the more data you have, which sort
15 of makes sense, we know a lot more about the
16 chemical and how it's impacting aquatic life.

17 But our Downstate number, we only have
18 five and ten as the two options right now, so
19 it's a little bit different, where, you know, the
20 Great Lakes is really tied to the guidelines on
21 those eight big groups of aquatic fam -- life
22 families.

23 And so, in addition -- so, right now,

1 because of all of those differences, we have
2 certain pollutants that have different numbers
3 based on which basin we're in, and we said, "That
4 doesn't make a whole lot of sense to do that."
5 And so, we want to adopt the Great Lakes
6 Methodology statewide.

7 But another benefit that we see is the
8 Great Lakes Methodology has very detailed
9 instructions on what kind of laboratory tests are
10 acceptable, what kind of dilution water, how long
11 the test should run, other kind of testing
12 conditions, and we feel like this would be
13 beneficial to have not just for IDEM, but for our
14 permit holders so they know exactly what kind of
15 criteria we're using when we're judging the
16 laboratory test reports and how we come up with
17 these numbers for permitting purposes.

18 So, just to bring all of this sort of full
19 scale after all of that history, so in 1985 EPA
20 came out with those guidelines that are still
21 used today for the national program. You know,
22 in 1990 is when IDEM underwent the major
23 rulemaking for Downstate, outside the Great

1 Lakes, but we chose to adopt a downsized version
2 of the '85 guidelines at that time, and we
3 actually borrowed from some other states at the
4 time for that Tier -- secondary, sort of Tier II
5 procedure. So, we're not in line with the '85
6 guidelines currently.

7 And then 1995, the Great Lakes Water
8 Quality Guidance came out, and that's where that
9 Tier I and Tier II terminology sort of came --
10 you know, was born.

11 And then in 1997 IDEM underwent the Great
12 Lakes rulemaking, so major water quality
13 standards rulemaking, and we did have -- we had
14 to adopt that for the Great Lakes Region at the
15 time, but you can see it's been about 35 years
16 since we've updated the Downstate Aquatic Life
17 Methodology, and we feel like it's time to do
18 that and have a consistent approach statewide.

19 And so, with our derived criteria we have
20 right now, you might be wondering kind of what
21 would happen if we recalculate them under this --
22 the Great Lakes Methodology, and it really
23 depends on each situation. So, some of the

1 derived criteria would become less stringent
2 actually, and then some of them would become a
3 little more stringent. So, it really depends on
4 how toxic is the pollutant, how many aquatic life
5 families do we have in the data set, and do we
6 even have -- do we have chronic data available?

7 And I do want to note that this procedure
8 is designed to revisit the calculation if you
9 have more information available. So, if we get
10 more toxicity information, you know, we can sort
11 of revisit that and try to come up with
12 another -- you know, a new number.

13 And we're reviewing right now the
14 permitting impact of, you know, adopting the
15 Great Lakes Methodology, and we do have a few
16 permit limits that are based on a derived aquatic
17 life criterion, but the number of those permits
18 is relatively small right now.

19 And so, to summarize before closing, so
20 this update by applying the Great Lakes Method
21 statewide will help us fulfill our kind of charge
22 to prevent toxics in toxic amounts in Indiana's
23 water bodies and protect our aquatic life use, as

1 I mentioned.

2 And I just want to stress that we are not
3 proposing a brand new framework. We're really
4 trying to just update what we already have in our
5 Downstate part of the rule, but to more
6 appropriately address situations where we don't
7 have a lot of toxicity data for our chemical or
8 pollutant.

9 And we feel like this is in line with the
10 Executive order 25-38 that talks about how rules
11 should be grounded in best available science and
12 benefit the environment. And so, we think that
13 applying the Great Lakes Methodology statewide
14 will not only allow us to have consistency across
15 the state, but help us make sound permitting
16 decisions for our NPDES and permit holders.

17 So, that's all I have. I really
18 appreciate you guys listening to this even ahead
19 of rule language in front of you. It's a little
20 bit complicated, with the history behind the
21 Aquatic Life Methodology. My contact information
22 is there, but I'm happy to take any questions now
23 or any time after.

1 Thank you.

2 Yes.

3 MS. SCHROEDER: I do have a quick
4 question. What would happen to a permit holder
5 who would be in compliance with the derived
6 criteria now, but if the criteria changed and
7 they no longer met the Great Lakes Criteria if
8 they were in the Downstate Region? How would we
9 handle that?

10 MS. FRENCH: Yeah. So, if it were to
11 change, and that's sort of what we're looking at,
12 that small -- and so, basically it's a small list
13 we've made of how many were -- might become more
14 stringent, but if that were to happen, you know,
15 this would only come up at permit renewal, at
16 like the next renewal. They'll be able to look
17 at like a scheduled compliance, and we're
18 actually looking at some rule language to give
19 additional time if the permittee would like to
20 get more toxicity tests as well.

21 So, there would be some time to comply
22 with that, and there's also the option to get
23 more information. We've had that happen before

1 where a person will say, "Well, we'll get some
2 additional tests to see kind of what it looks
3 like," and recalculate the number. So, I hope
4 that helps a little bit, but it would be at the
5 permit renewal, like with any -- for other
6 criteria we have in the rule.

7 MS. SCHROEDER: Right.

8 MS. FRENCH: Yes.

9 MR. KETZENBERGER: Yeah, I
10 understand.

11 DR. ALEXANDROVICH: This is Joanna
12 Alexand -- oh, sorry. I have a couple of
13 questions.

14 CHAIRMAN GRAHAM: Go ahead.

15 DR. ALEXANDROVICH: Should I go --
16 should I go ahead?

17 CHAIRMAN GRAHAM: Yeah, go ahead, and
18 then we'll pick up John.

19 DR. ALEXANDROVICH: Okay.

20 I guess the first one, I don't know that
21 I def -- necessarily need an answer to, but
22 in 1990, when we -- when IDEM adopted just only a
23 partial of the '85 recommendations, I'm wondering

1 what the motivation was there. I kind of think
2 it was to make it easier for our permit holders,
3 but feel free to answer that.

4 But I have two other question that are
5 more straightforward. You say some of the
6 standards are stringent and that some are more
7 stringent. Can we get a list of that somehow? I
8 know that the rules are kind of -- the
9 methodology is rather complicated, but that
10 also -- while I understand that updating this
11 methodology would be efficient, it still -- if
12 it's more stringent, that is not in line of what
13 we're supposed to be doing is keeping things in
14 line with federal requirements.

15 And then when you say relatively small
16 number of permits, how many is that?

17 MS. FRENCH: Yeah, that's a good
18 ques -- I'll start with the last one. So, it's
19 looking right now -- we're sort of review --
20 trying to review a kind of a final time before
21 getting, you know, the package together, but it's
22 looking like probably five or six, under ten
23 permits, that really have a limit based on one of

1 these derived numbers.

2 You know, we have other permits that are
3 monitoring for some of these pollutants, you
4 know, but we're looking at, you know, how that
5 looks, but they're looking okay, you know, with
6 the discharge, the levels in the effluent.

7 And then the other thing I didn't really
8 mention in the presentation is: Technology
9 limits apply also, and that's almost a separate,
10 you know, way you could have a limit. And so,
11 after looking at all of that sort of together,
12 it's looking fairly small, basically, about -- I
13 would say probably six or seven are ones where I
14 think would probably be an impact, you know, on a
15 facility where it might be a little bit less
16 stringent at the next renewal.

17 And then I'm not really sure about the
18 rationale of why we chose the Downstate. It was
19 before my time. I think maybe a decision was
20 just made once that rulemaking was going to just
21 not conform to that, if someone might know the
22 history. So, I think we may have stayed in line
23 with other states as well at the time, and we

1 just -- we moved forward. And I don't know if
2 you asked me another question. I'm forgetting.

3 DR. ALEXANDROVICH: Oh, that --
4 that's about right. It was how many are less
5 stringent and more stringent.

6 MS. FRENCH: Oh, more.

7 DR. ALEXANDROVICH: Back to the
8 perm -- back to the permits. You said this would
9 affect five or six permits, but then I think you
10 also mentioned industries that were monitoring.
11 So, would that increase the number of permits --

12 MS. FRENCH: Not necess --

13 DR. ALEXANDROVICH: -- if they're
14 monitoring, you know, complying and monitoring?
15 You know, so I'm a little confused by that.

16 MS. FRENCH: Yeah, we have some that
17 are -- you know, might be monitoring for a couple
18 of the derived criteria we have on the list, but
19 we're trying to look at that ahead of time, and
20 they look like they run so low that even with the
21 derived criteria that will become more stringent,
22 it's not going to be an issue. So, I -- we're
23 not including that in sort of the list of where

1 we think there would be like a more major, you
2 know, impact, and we think that's --

3 DR. ALEXANDROVICH: Okay. So, it's
4 like not bad, so those ones that are monitoring
5 are included in the five or six, or additional --

6 MS. FRENCH: That's --

7 DR. ALEXANDROVICH: -- to the five or
8 six?

9 MS. FRENCH: So, the five or six, I'm
10 really focusing on the ones that have a limit
11 right now, that are based on one, and that might
12 face a more stringent limit, if that helps. So,
13 that's the five or six where it should, I think,
14 be an impact to the facility and would have to
15 think about what to do or how to comply with the
16 more stringent number. So, the monitoring is not
17 in that -- that number.

18 DR. ALEXANDROVICH: Thanks. So, if
19 you add in monitoring, because that would be in
20 the -- I assume that's in their permits, too.
21 That would increase the number of permits that
22 might be affected; right?

23 MS. FRENCH: That's true, and that --

1 we are -- we're going to try and get an estimate
2 on how many. So, we can definitely provide that,
3 you know, down the road with this kind of rule of
4 rulemaking. And then we're working on a chart,
5 and it's almost finished, on which derived
6 criteria are more stringent, which ones are less
7 stringent.

8 And sometimes the acute number actually
9 becomes, you know, less stringent and the chronic
10 is more stringent, so it really depends on each
11 like chemical in front of you and how much data
12 you have. So, it's really, you know, specific on
13 each parameter, because this is, you know,
14 methodology based on kind of how much toxicity
15 information you have on the pollutant.

16 DR. ALEXANDROVICH: Thank you very
17 much. That was a good presentation as well.

18 MS. FRENCH: Thank you for the
19 question.

20 Any other questions?

21 MR. KETZENBERGER: My question is --
22 I understand the 1985 benchmark and the 1990, and
23 then the later Great Lakes adoption, so I'm just

1 wondering if there are any -- are you aware of
2 any changes to the Great Lakes standards, or is
3 that well set and it will be the standard that we
4 can continue to have, or is that likely to
5 change?

6 MS. FRENCH: I'm not aware of any
7 changes. It seems like it's fairly set, and, you
8 know, there are some states who have gone beyond
9 on their own, you know, done some other things,
10 like Minnesota is the one that comes to mind.
11 But that hasn't changed, and I don't believe
12 there are any kind of future updates on that to
13 the actual just, you know, guidelines the way it
14 was like published in 1995.

15 The '85 guidance from EPA, there had been
16 some discussion in the past year that they were
17 thinking about "Should we look at -- you know,
18 update this?" But that has been several years
19 now, so it really has kind of remained. It's
20 possible that might -- they might add some things
21 to that, maybe even those -- Tier II or some
22 things that, you know, was not in the '85 EPA
23 guidelines, yeah.

1 MR. KETZENBERGER: So, we're looking
2 at a fairly settle standard?

3 MS. FRENCH: Fairly settled kind of
4 procedure. And I will note: Wisconsin and Ohio
5 are kind of similar to us, that they have parts
6 of their state that adjoin to the Great Lakes but
7 some that do not, and they use the Great Lakes
8 Methodology for the whole state. So, it's pretty
9 commonly used in our region.

10 MR. KETZENBERGER: Okay. It makes
11 sense. Thank you.

12 CHAIRMAN GRAHAM: Thank you very
13 much.

14 MS. FRENCH: Thank you very much.

15 CHAIRMAN GRAHAM: I recommend we take
16 a -- take a break. Ten minutes.

17 (Recess taken.)

18 CHAIRMAN GRAHAM: Okay. I think we
19 will start again. We're moving to rulemaking
20 actions. Today we have a hearing for the
21 following Board actions: Lead & Copper Rule and
22 NO_x RACT.

23 The rules being considered at today's

1 meeting were included in the Board packets and
2 are available for public inspection at the Office
3 of Legal Counsel, 13th Floor, Indiana Government
4 Center North. The entire Board packet's also
5 available on IDEM's Web site at least one week
6 prior to each Board meeting.

7 A written transcript of today's meeting
8 will be made. The transcript and any written
9 submissions will be open for public inspection at
10 the Office of Legal Counsel. A copy of the
11 transcript will be posted on the rules page of
12 the agency Web site when it becomes available.

13 If you wish to testify today at today's
14 hearings, you will need to submit your request to
15 comment. Please fill out a comment card and give
16 it to Karla Kindrick at the sign-in table. And
17 for those of you on-line, there's a form that you
18 can fill out. We will respectfully limit
19 comments to four minutes, and time will be
20 enforced.

21 So, I'm going to move to the swearing in
22 of the court reporter. Will the official
23 reporter for the cause please stand, raise your

1 right hand, and state your name?

2 (Reporter sworn.)

3 CHAIRMAN GRAHAM: Thank you, sir.

4 Okay. We'll move to the public hearing
5 and final adoption of the Lead & Copper Rule.

6 I will now introduce Exhibit A, the
7 proposed rule, into the record of the hearing,
8 and Krystal Hackney will present the rule.

9 MS. HACKNEY: All right. Good
10 afternoon, members of the Board. My name is
11 Krystal Hackney, and I'm a rule writer in the
12 Office of Legal Counsel. I will be presenting
13 the Drinking Water Reference Updates; Lead and
14 Copper rulemaking, LSA No. 24-428, for final
15 adoption.

16 As a quick recap from our last meeting,
17 this rulemaking replaces the current full text
18 language in 327 IAC 8 with equivalent
19 incorporation by reference to the federal
20 drinking water regulations to ensure consistency
21 and to allow for faster updates when the federal
22 rules change.

23 We are also updating references to the

1 Recommended Standards for Water Works and the
2 American Water Works Association (AWWA) standards
3 that are cited in 327 IAC 8 to the versions in
4 place as of December 31st, 2023. By updating
5 these standards to the more current editions,
6 this rulemaking will ensure that 327 IAC 8 is
7 consistent with the design, engineering, and
8 testing standards that public water systems are
9 already implementing.

10 U.S. EPA published a final rule on
11 January 15th of 2021, cited at 86 FR 4198, to
12 revise the Lead and Copper Rule Revisions (LCRR)
13 at 40 CFR 141. These revisions require all
14 community water systems to conduct
15 lead-in-drinking-water testing and public
16 education in schools and childcare facilities as
17 well as provide accelerated lead service line
18 replacements.

19 On June 16th of 2021, U.S. EPA published
20 an update to the lead and copper rule to delay
21 the rule's effective date from January 16th
22 of 2024 to October 16th of 2024. While IDEM was
23 working on this rulemaking to incorporate the

1 LCRR, U.S. EPA published a new final rule called
2 the Lead and Copper Rule Improvements Rule,
3 (LCRI). The compliance date for the LCRI is
4 November 1st of 2027.

5 Originally, IDEM's intent for this
6 rulemaking was to only update IDEM's rules to
7 include the 2021 LCRR, and not the LCRI.
8 However, after discussions with regulated
9 entities and U.S. EPA, IDEM is revising the
10 proposed rule to be consistent with a provision
11 in the LCRI that addresses what requirements
12 apply to community water systems and nontransient
13 noncommunity water systems between October 30th,
14 2024 and November 1st, 2027.

15 During this period, systems will largely
16 be complying with the Lead and Copper Rule and
17 only a select few provisions under the 2021 LCRR.
18 This is the most substantive change in the
19 revised rule -- revised proposed rule; excuse me.
20 Under the revised proposed rule, systems will now
21 only be complying with certain portions of the
22 LCRR.

23 Additional changes include those made in

1 response to comments by U.S. EPA that largely
2 address federal citation corrections, definition
3 clarifications, and corrections to the list of
4 exclusions to ensure consistency with the federal
5 drinking water regulations.

6 Lastly, IDEM has added additional
7 flexibility to the design criteria under
8 327 IAC 8-3-4.

9 IDEM requests that the Board final adopt
10 this rule as presented, and program staff experts
11 and myself are available to answer any questions
12 that you may have.

13 Thank you.

14 CHAIRMAN GRAHAM: Thank you so much.

15 We don't have any commenters on this one;
16 is that right?

17 MS. KINDRICK: No.

18 CHAIRMAN GRAHAM: Okay. So, the
19 hearing part is concluded. Now we'll move to
20 Board consideration of final adoption, and the
21 question is: Do we have any Board discussion of
22 the Lead & Copper Final Rule?

23 (No response.)

1 CHAIRMAN GRAHAM: Okay. Do I have a
2 motion to go to final?

3 MR. HORN: So moved.

4 CHAIRMAN GRAHAM: Okay.

5 MR. DAVIDSON: Second.

6 CHAIRMAN GRAHAM: Second; okay. I'm
7 going to go through each Board member and get the
8 votes.

9 Mr. Zehr?

10 MR. ZEHR: Aye.

11 CHAIRMAN GRAHAM: Mr. Davidson?

12 MR. DAVIDSON: Yes.

13 CHAIRMAN GRAHAM: Dr. Niemiec?

14 DR. NIEMIEC: Yes.

15 CHAIRMAN GRAHAM: Mr. Horn?

16 MR. HORN: Yes.

17 CHAIRMAN GRAHAM: Mr. Eckhart?

18 MR. ECKHART: Yes.

19 CHAIRMAN GRAHAM: Mr. Mueller?

20 MR. MUELLER: Yes.

21 CHAIRMAN GRAHAM: Mr. Green?

22 MR. GREEN: Yes.

23 CHAIRMAN GRAHAM: Dr. Alexandrovich?

1 DR. ALEXANDROVICH: Yes.

2 CHAIRMAN GRAHAM: Ms. Kozyrski?

3 MS. KOZYRSKI: Yes.

4 CHAIRMAN GRAHAM: Mr. Ketzenberger?

5 MR. KETZENBERGER: Yes.

6 CHAIRMAN GRAHAM: Ms. Schroeder?

7 MS. SCHROEDER: Yes.

8 CHAIRMAN GRAHAM: Mr. Etzler?

9 MR. ETZLER: Yes.

10 CHAIRMAN GRAHAM: And I'm a yes. So,
11 that is all. I won't count them up, but it's
12 all.

13 (Laughter.)

14 CHAIRMAN GRAHAM: Okay. This final
15 rule is approved. Now we will now move to the
16 public hearing on the final adoption of the NO_x
17 RACT Rule. This is a public hearing before the
18 Environmental Rules Board of the State of Indiana
19 concerning the final adoption of the NO_x RACT
20 Rule.

21 I'll now introduce Exhibit B, the proposed
22 rule, into the record of the hearing, and Seth is
23 going to present this rule.

1 MR. ENGDAHL: Members of the Board,
2 good afternoon. My name is Seth Engdahl, and I
3 am a rule writer in the Rules Development Section
4 within IDEM's Office of Legal Counsel.

5 The rulemaking currently under
6 consideration is federally required under the
7 Clean Air Act. In October of 2022, the U.S. EPA
8 changed the nonattainment status for the Chicago
9 area, which includes the northern townships [sic]
10 of Lake and Porter County from marginal to
11 moderate nonattainment for the 2015 eight-hour
12 ozone NAAQS.

13 The Clean Air Act requires states with
14 moderate nonattainment areas to implement
15 reasonably available control technologies, or
16 RACT, for nitrogen oxides, or NO_x. The Clean Air
17 Act requires NO_x RACT to be applied to sources
18 that have a potential to emit more than a hundred
19 tons of any pollutant per year. NO_x gases are
20 most often produced during the combustion of
21 fossil fuels and are precursor emissions to
22 ozone.

23 In October of 2023, U.S. EPA determined

1 that Indiana failed to submit NO_x RACT for the
2 northern townships the Lake and Porter Counties.
3 U.S. EPA required that IDEM make this SIP
4 submission by November 17th, 2025. If IDEM fails
5 to amend the SIP by this deadline, U.S. EPA will
6 impose highway sanctions which, according to
7 INDOT, will withhold an average of 183.7 million
8 dollars annually in federal transportation
9 funding from Lake and Porter Counties.

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

21 Ultimately, only two affected units would
22 be required to apply new controls under this
23 rule: W. R. Grace and Cleveland Cliffs at

1 Indiana Harbor. W. R. Grace already planned to
2 replace burners for its sodium silicate furnace,
3 and this draft rule would simply accelerate that
4 timeline by less than one year.

5 Cleveland Cliffs at Indiana Harbor would
6 be required to install low NO_x burners for one of
7 its boilers, but it should be noted that
8 Cleveland Cliffs does not oppose this requirement
9 because the affected boiler, while it is still
10 functioning, is part of an iron production plant
11 that has been idled and Cleveland Cliffs is
12 unsure of the plant's future.

13 Overall, this rulemaking puts in place an
14 enforceable mechanism that would satisfy
15 U.S. EPA's requirements and prevent the
16 imposition of highway sanctions. The rule would
17 impose RACT requirements for NO_x emissions from
18 major stationary sources in the northern
19 townships [sic] of Lake and Porter Counties.

20 The RACT requirements on all of those
21 sources fall within that \$5,000 to \$14,000 per
22 ton of NO_x reduced threshold, and therefore, only
23 two sources are required to implement new control

1 technologies. It should also be noted that the
2 rule establishes NO_x limits for existing units
3 without requiring the implementation of new
4 technologies.

5 The Board preliminarily adopted this rule
6 on June 10th of this year. IDEM published the
7 preliminarily adopted rule on July 30th as part
8 of the second comment period, and the agency
9 received one public comment that was signed by
10 several commenters.

11 It was brought to the agency's attention
12 that the July public comment notice lacked the
13 response to written comments from the first
14 comment period, and so, IDEM issued a
15 continuation of the second comment period to
16 remedy this omission. No comments were received
17 during the continuation.

18 IDEM requests that the Board approve this
19 rule as presented, and I'm happy to answer any
20 questions that you may have.

21 CHAIRMAN GRAHAM: Yeah.

22 MR. KETZENBERGER: I have a quick
23 clarifying question. On the Cleveland Cliffs

1 installation, will they make a decision for
2 certain at some point? I just don't understand.
3 It seems like it's rather up in the air, and if
4 they decide to idle the boiler, then it's no
5 problem.

6 MR. ENGDAHL: Uh-huh.

7 MR. KETZENBERGER: But if they decide
8 to keep using it, then they will have to make
9 improvements to comply; is that correct?

10 MR. ENGDAHL: That's -- that would be
11 my understanding, but I'm not entirely sure
12 how -- what Cleveland Cliffs' thoughts would be
13 on that. But it is required under this rule to
14 install the --

15 MR. KETZENBERGER: All right.

16 MR. ENGDAHL: -- RACT.

17 MR. KETZENBERGER: So, if the rule is
18 adopted, then they decide to keep that boiler,
19 they will have to make --

20 MR. ENGDAHL: Yes.

21 MR. KETZENBERGER: -- improvements?

22 MR. ENGDAHL: Yes.

23 MR. KETZENBERGER: Okay. Thank you.

1 CHAIRMAN GRAHAM: Do we have --

2 DR. ALEXANDROVICH: This is Joanna
3 Alexandrovich. I do have one question. If we --
4 should we finalize this rule today, will the
5 offset requirement be off the table as well as
6 the transportation sanctions?

7 MR. ENGDAHL: That's my
8 understanding. Once this is approved by the A.G.
9 and the Governor, it will be submitted into the
10 SIP. I've been working with OAQ to make sure
11 that they're on track, getting all of that stuff
12 ready to go, and then as soon as it's submitted
13 from -- into the SIP, that will stop the
14 sanctions clock.

15 DR. ALEXANDROVICH: Okay. Well,
16 my -- yes. Okay. But the offset sanctions
17 remain?

18 MR. ENGDAHL: No; right? They'll be
19 taken off as well.

20 MR. DAVIDSON: Okay. Just one quick
21 follow-up on the offset sanction. At one point
22 in the past, IDEM was putting together a database
23 of available offsets. Are those still around?

1 MR. ENGDAHL: I'm not sure on that.

2 MR. DELONEY: We never had anybody
3 actually file their offsets into catalog that we
4 were maintaining --

5 MR. ENGDAHL: Okay.

6 MR. DELONEY: -- so, after 15 years
7 of final inactivity, it was discontinued.

8 MR. ENGDAHL: Did you hear that?

9 MR. DAVIDSON: Yes. Thank you --

10 MR. ENGDAHL: Okay.

11 DR. ALEXANDROVICH: -- Scott. Thank
12 you.

13 CHAIRMAN GRAHAM: Okay. Do we have
14 public commenters?

15 MR. BUMP: We do have one on-line.

16 Ms. Connie Wachala, you may unmute
17 yourself.

18 CHAIRMAN GRAHAM: Go ahead, Connie.

19 MS. WACHALA: Yes. Can you hear me?

20 CHAIRMAN GRAHAM: Yes.

21 MS. WACHALA: All right. Thank you.

22 And I believe Monica Dumas also is on-line and
23 has a comment.

1 Hello. My name is Connie Wachala. I live
2 in Highland, Indiana, and am a third-generation
3 resident of the Calumet region. I'm here to
4 speak because Lake and Porter Counties are out of
5 compliance with the air pollution standards, and
6 one point: The state has addressed this problem
7 in the past of requiring individual car owners to
8 have their car emissions tested. Trucks are
9 exempted, so trucks driving past my house spewing
10 black smoke aren't affected.

11 But improving the air quality in our area,
12 like getting my Prius emissions tested, like I
13 have to every other year, but will help air
14 quality is for IDEM to submit a strong NO_x RACT
15 plan to the EPA, a stronger plan, that includes
16 requiring the steel companies to invest in
17 cleaner technology, like the direct reduction
18 iron, and especially if the manufacturing process
19 uses hydrogen, and especially if the hydrogen is
20 manufactured using green technology.

21 Many of us -- so, I have talked publicly
22 before to IDEM about our health effects here, and
23 I've heard comments that maybe have disparaged

1 that kind of commentary, but I do need to say
2 again that many of us who live here suffer from
3 the pollution by the mills, much more so than the
4 industry does by burdensome regulations.

5 My extended family in the Calumet region
6 has been decimated by cancers. Six cousins have
7 died of cancers. My son was diagnosed when he
8 was 21. He survives, but not without the cruel
9 disfigurements that cancers and their cures
10 perpetrate on the body.

11 If the mills switch to greener, cleaner
12 technology, it would be safer for our
13 communities, better for our environment, and it
14 would protect Northwest Indiana steel mills from
15 becoming obsolete from the old technologies still
16 in use.

17 I ask IDEM to submit a strong NO_x plan to
18 the EPA which includes the newer, cleaner
19 technologies, and I might finish -- I might close
20 by saying I heard earlier concern about the
21 permit regulations that are overburdensome, but
22 I'm not hearing concerns about your Northwest
23 Indiana residents being overburdened by

1 industrial pollution. Maybe an imbalance of
2 concern here.

3 And imagine -- I might be silly -- imagine
4 what an executive order could do implementing
5 changes to unduly burdensome pollution impairing
6 Indiana's ability to provide a clean, healthy,
7 and fair environment for Indiana residents, who
8 also contribute to the prosperity of our state.

9 Thank you.

10 CHAIRMAN GRAHAM: Thank you.

11 We also have Mike, who is going to be a
12 commenter.

13 MS. DUMAS: Well, I have a comment.

14 CHAIRMAN GRAHAM: Oh, okay.

15 MS. DUMAS: I'm sorry.

16 CHAIRMAN GRAHAM: Go right ahead.

17 MS. DUMAS: Are you speaking to me,
18 or somebody there?

19 CHAIRMAN GRAHAM: Go right ahead.

20 MS. DUMAS: Are you speaking to me,
21 Monica, or is someone in person there? I'm
22 sorry; I can't hear you.

23 CHAIRMAN GRAHAM: Monica, go ahead.

1 MS. DUMAS: Okay. Okay. My name is
2 Monica Dumas. I currently live in Porter County,
3 but I grew up in Lake County here in Indiana. My
4 friends and family, we are all dependent on the
5 steel mill financially; however, we are seeking
6 to have a healthier environment with cleaner air.

7 I'm asking this Board to do more to
8 protect our health, our communities, and our
9 jobs; however, our communities are currently
10 paying too high of a price for outdated
11 technology. Half of the biggest nitrogen oxide
12 polluters covered in the IDEM's plan are steel
13 related, including Gary Works, Indiana Harbor,
14 and Burns Harbor.

15 These plants are still using old
16 coke-based blast furnaces, which we now know are
17 among the dirtiest methods for producing steel.
18 Here in Northwest Indiana, we are falling behind.
19 Our steel mills are producing way more nitrogen
20 pollution per ton than similar plants in the
21 other states.

22 That pollution contributes to our high
23 asthma rates, heart disease, and hundreds of

1 early deaths every year right in our
2 neighborhoods. It's no wonder Gary ranks in the
3 top ten percent nationwide for asthma risk and
4 shortened life expectancy.

5 Last week we had a community meeting, and
6 one of our speakers is a survivor of tongue
7 cancer. She has never smoked a day in her life,
8 and it comes from the smoke from the steel mills.
9 She is in remission right now, thankful, and
10 doctors were able to reconstruct her tongue, but
11 it came from the smoke and smog from the steel
12 mills.

13 I personally have a mom who worked 32
14 years at U.S. Steel. The conditions were not the
15 best, and right now her health is not the best.

16 I'm asking that you will reject the
17 adoption of the 326 IAC 10-7. Thank you so much
18 for your time, and have a good day.

19 CHAIRMAN GRAHAM: Thank you for your
20 comment.

21 And then we have one -- is it Mike? Is
22 that -- I'm having trouble reading your
23 handwriting, sir.

1 MR. OLES: Sorry. Yeah.

2 CHAIRMAN GRAHAM: Go ahead, Mike.

3 MR. OLES: My mom says the same
4 thing. Sorry about that.

5 CHAIRMAN GRAHAM: Go ahead.

6 MR. OLES: Hello. My name is Mike
7 Oles.

8 I ask you to reject the final adoption
9 of 326 IAC 10-7. I am the Indiana Director of
10 Mighty Earth. They've been working on
11 decarbonization for our state. We believe that
12 our -- we believe that for Indiana to preserve
13 the long-term well-being of our steel industry,
14 that the steel industry must move quickly towards
15 sustainable steel production, and by doing so, we
16 can create new jobs, clean up our air, and keep
17 Indiana at the top of American steel production.

18 But as Hoosiers, we can either embrace
19 this view or watch our steel industry disappear
20 over the next two decades. Hyundai is already
21 committed to building a new, more sustainable
22 steel mill in Louisiana that will -- as things
23 stand, will outcompete what we have here in

1 Indiana.

2 It seems that U.S. Steel has much bigger
3 plans for its Arkansas mill than Indiana.
4 Without an -- without additional investment in
5 clean new technology, the Big River facility will
6 outcompete and outmodernize our Lake Michigan
7 steel. But yet, there are no true plans to
8 invest in Indiana steel beyond short-term
9 coal-based production.

10 Indiana primary steel production is an
11 18-billion-dollar-a-year industry for our state.
12 It's a lot of money, especially coming from three
13 mills; right? Three facilities. We produce more
14 steel than any other state in the country. We
15 should be proud of that.

16 But this gigantic sector of our economy is
17 at risk because our state leaders, our state
18 regulators, our state rulemakers, won't hold
19 Cleveland Cliffs accountable and U.S. Steel
20 accountable to the Hoosiers who built up this
21 industry and have sacrificed to build this
22 industry.

23 Not only is our economy at risk, our

1 health is at risk if we don't move towards
2 sustainable steelmaking. Coal-based steelmaking
3 in Indiana contributes up to 514 premature deaths
4 each year, over 145,000 cases of asthma -- asthma
5 symptoms; sorry -- and if you add up the
6 healthcare costs per year, it's between four and
7 seven and a half billion dollars, four and seven
8 and a half billion dollars of healthcare costs
9 that we've accrued because of our steelmaking and
10 the way we make steel.

11 So, we ask this Rules -- this Rule Board
12 making authority to stand up for Hoosiers and
13 good jobs, and not let these corporations off the
14 hook, because that's what it feels like, you're
15 letting them off the hook. Let's protect public
16 health, let's create real investment and real
17 accountability in our Indiana steel.

18 This Board has some -- has power to do
19 something, has power to be a voice for change.
20 You can help grow our steel industry, you could
21 help make sure Cleveland Cliffs and Indiana --
22 U.S. Steel come to the table and negotiate and
23 invest in Indiana and the future. That's what

1 we're trying to -- this is the movement we're
2 trying to build across the state.

3 So, I know time is late. I know this
4 is -- you know, this probably will be adopted,
5 probably by everybody, but we ask that IDEM
6 revise the Nitrous Oxide RACT Rules to include
7 modern steelmaking technologies, to stand up for
8 the people in Northwest Indiana, and to go back
9 to the drawing board as quickly as possible, and
10 reject the final -- the final version of
11 326 IAC 10-7.

12 Thank you.

13 CHAIRMAN GRAHAM: Thank you for your
14 comment.

15 Okay. No more public comments; right?

16 MS. KINDRICK: No.

17 CHAIRMAN GRAHAM: Okay. We'll move
18 to Board consideration of final adoption of the
19 NO_x RACT Rule, and the Board did have some
20 comments earlier, but I'll open it up one more
21 time to make sure. Are there any other comments
22 or questions on this final rule?

23 DR. ALEXANDROVICH: Yes, this is

1 Joanne Alexandrovich again. I always have
2 comments. I just want to make sure that IDEM has
3 run this by fully with EPA, that this meets the
4 NO_x RACT requirements.

5 MR. DELONEY: Indeed we have, yes.

6 CHAIRMAN GRAHAM: And the assurance
7 is that they have.

8 DR. ALEXANDROVICH: Thank you.

9 CHAIRMAN GRAHAM: Other comments from
10 Board members?

11 (No response.)

12 CHAIRMAN GRAHAM: Okay. So, I need a
13 motion to adopt the final adoption of the rule.
14 Do I have a motion?

15 MR. HORN: So moved.

16 CHAIRMAN GRAHAM: Do I have a second?

17 MR. ECKHART: Second.

18 DR. ALEXANDROVICH: Second.

19 CHAIRMAN GRAHAM: Okay. And I will
20 go through the list.

21 Mr. Zehr?

22 MR. ZEHR: Aye.

23 CHAIRMAN GRAHAM: Mr. Davidson?

1 MR. DAVIDSON: Yes.

2 CHAIRMAN GRAHAM: Mr. Niemiec?

3 DR. NIEMIEC: Yes.

4 CHAIRMAN GRAHAM: That was Doctor;
5 excuse me.

6 Mr. Horn?

7 MR. HORN: Yes.

8 CHAIRMAN GRAHAM: Mr. Eckhart?

9 MR. ECKHART: Yes.

10 CHAIRMAN GRAHAM: Mr. Mueller?

11 MR. MUELLER: Yes.

12 CHAIRMAN GRAHAM: Mr. Green?

13 MR. GREEN: Yes.

14 CHAIRMAN GRAHAM: Dr. Alexandrovich?

15 DR. ALEXANDROVICH: Yes.

16 CHAIRMAN GRAHAM: Ms. Kozyrski?

17 MS. KOZYRSKI: Yes.

18 CHAIRMAN GRAHAM: Mr. Ketzenberger?

19 MR. KETZENBERGER: No.

20 CHAIRMAN GRAHAM: Ms. Schroeder?

21 MS. SCHROEDER: Yes.

22 CHAIRMAN GRAHAM: Mr. Etzler?

23 MR. ETZLER: Yes.

1 CHAIRMAN GRAHAM: And I'm a yes. So,
2 that's 12 yeses and one no, so the Board decision
3 is approval.

4 I will move to Other Matters. Is there
5 anyone who wishes to address the Board today in
6 the Open Forum?

7 (No response.)

8 CHAIRMAN GRAHAM: The next meeting of
9 the Environmental Rules Board is tentatively set
10 for December 18th, 2025 at 1:30 p.m. in this
11 conference room, Indiana Government Center South.
12 The meeting date is tentative, subject to change,
13 and we will keep everyone updated when that is
14 confirmed or another date is chosen.

15 Do I have a motion to adjourn?

16 MR. DAVIDSON: So moved.

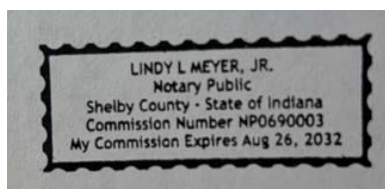
17 MR. ZEHR: Second.

18 CHAIRMAN GRAHAM: Okay. And so, we
19 are adjourned.

20 - - -
21 Thereupon, the proceedings of
22 October 16, 2025 were concluded
23 at 4:38 o'clock p.m.
 - - -

1 CERTIFICATE

2 I, Lindy L. Meyer, Jr., the undersigned
3 Court Reporter and Notary Public residing in the
4 City of Shelbyville, Shelby County, Indiana, do
5 hereby certify that the foregoing is a true and
6 correct transcript of the proceedings taken by me
7 on Thursday, October 16, 2025 in this matter and
8 transcribed by me.



Lindy L. Meyer, Jr.

Lindy L. Meyer, Jr.,
Notary Public in and
for the State of Indiana.

14

15 My Commission expires August 26, 2032.

16 Commission No. NP0690003

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