

In The Matter Of:
INDIANA ENVIRONMENTAL RULES BOARD

September 9, 2020

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BEFORE THE STATE OF INDIANA
ENVIRONMENTAL RULES BOARD

- - -

PUBLIC MEETING OF SEPTEMBER 9, 2020

- - -

PROCEEDINGS

before the Indiana Environmental Rules Board,
Beverly Gard, Chairman, taken before me, Lindy L.
Meyer, Jr., a Notary Public in and for the State
of Indiana, County of Shelby, via Zoom Conference
on Wednesday, September 9, 2020 at 1:31 o'clock
p.m.

- - -

William F. Daniels, RPR/CP CM d/b/a
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1 APPEARANCES:

2 BOARD MEMBERS:

- 3 Beverly Gard, Chairman
- 4 Dr. Ted Niemiec
- 5 Dr. Joanne Alexandrovich
- 6 William Etzler
- 7 Chris Horn
- 8 Calvin Davidson
- 9 Angelique Collier
- 10 Karen Valiquett
- 11 Katie Nelson
- 12 Michael Schuler
- 13 Paul Gilson
- 14 Dan Bortner
- 15 Bruno Pigott (nonvoting)

10

IDEM STAFF MEMBERS:

11

- 12 Christine Pedersen
- 13 Grant Geiss
- 14 Seth Engdahl
- 15 Krystal Hackney
- 16 MaryAnn Stevens
- 17 Dan Watts
- 18 Nancy King
- 19 Karla Kindrick

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PUBLIC SPEAKERS:

17

None

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1 1:31 o'clock p.m.
2 September 9, 2020

3 - - -

3 CHAIRMAN GARD: The September 9th,
4 2020 meeting of the Indiana Environmental Rules
5 Board will come to order. We welcome everyone to
6 our remote meeting. At this time, I'm going to
7 have Ryan Clem go through kind of the process,
8 and then he'll give it back to me, and I'll call
9 the roll.

10 MR. CLEM: Thank you, Chairwoman
11 Gard.

12 My name's Ryan Clem, Communications
13 Director at IDEM. So, thanks for joining us
14 today. Obviously, please remember to keep your
15 microphone muted when you're not speaking. We
16 will be taking questions and comments from the
17 public at today's meeting. At the appropriate
18 time, all participants will be able to unmute
19 themselves and ask questions or make comments.

20 If you have a technical question or a
21 question or technical issue during a
22 presentation, you can use the "raised hand" or
23 the "chat" feature, and to access the "raised

1 hand" and "chat" feature, at the bottom or top of
2 your screen, depending on what device you're
3 using, you'll see a menu bar. You may need to
4 move your mouse or touch your screen for that to
5 pop up. In the middle of that menu, there's a
6 chat icon, which you can click on that will show
7 the chat dialogue, and you should also see the
8 "raised hand" option there as well.

9 For those joining us by phone, if you have
10 a question or comment, you can also, quote, raise
11 your hand by pressing star nine, and when called
12 upon or when you want to make comments, you'll
13 need to unmute your phone by pressing star six.
14 For everyone in today's meeting, please identify
15 yourself when speaking, or members of the public
16 asking a question or making a comment, please
17 clearly state your name for the record.

18 If any members of the media have joined
19 us, please utilize that "chat" feature, or e-mail
20 media@idem.in.gov if you have any questions. The
21 meeting is being recorded and will be posted on
22 IDEM's Web site in the next day or two.

23 And with that, I'll turn it back over to

1 you, Chairwoman Gard.

2 CHAIRMAN GARD: Okay. I'm going to
3 go ahead and call the roll, so say "present" or
4 "here."

5 Mr. Etzler?

6 MR. ETZLER: Present.

7 CHAIRMAN GARD: Dr. Alexandrovich?

8 DR. ALEXANDROVICH: Present.

9 CHAIRMAN GARD: Ms. Collier?

10 MS. COLLIER: Present.

11 CHAIRMAN GARD: Mr. Davidson?

12 MR. DAVIDSON: Present.

13 CHAIRMAN GARD: Mr. Horn?

14 MR. HORN: Present.

15 CHAIRMAN GARD: Dr. Niemiec?

16 DR. NIEMIEC: Present.

17 CHAIRMAN GARD: Ms. Valiquett?

18 MS. VALIQUETT: Present.

19 CHAIRMAN GARD: Mr. Wasky?

20 (No response.)

21 CHAIRMAN GARD: Mr. Wasky?

22 (No response.)

23 CHAIRMAN GARD: Ms. Nelson?

1 MS. NELSON: Present.

2 CHAIRMAN GARD: Mr. Schuler?

3 MR. SCHULER: Present.

4 CHAIRMAN GARD: Comm. Pigott?

5 COMM. PIGOTT: Here.

6 CHAIRMAN GARD: Mr. Rulon?

7 (No response.)

8 CHAIRMAN GARD: Mr. Rulon?

9 (No response.)

10 CHAIRMAN GARD: Mr. Green?

11 (No response.)

12 CHAIRMAN GARD: And Mr. Gilson?

13 MR. GILSON: Here.

14 CHAIRMAN GARD: And I'm here, so one,
15 two, three, four -- according to my count, we
16 have 12 people here, so we have a quorum. Oh, I
17 do want to introduce a new Board member, here for
18 the first time, and it's the new Director of the
19 Department of Natural Resources, Mr. Dan Bortner.

20 Are you here, Mr. Bortner?

21 MR. BORTNER: I am, yes. Thank you.

22 CHAIRMAN GARD: Okay. Well, welcome.
23 We're glad to have you.

1 MR. BORTNER: Glad to be here. Thank
2 you so much.

3 CHAIRMAN GARD: Our first order of
4 business today is the approval of the summary of
5 the July 8th, 2020 Board meeting. Are there any
6 additions or corrections to the minutes as
7 distributed?

8 (No response.)

9 CHAIRMAN GARD: If not, do I hear a
10 motion to approve?

11 DR. NIEMIEC: So moved. That's Ted
12 Niemiec.

13 CHAIRMAN GARD: Is there a second?

14 MR. DAVIDSON: Second, Calvin
15 Davidson.

16 CHAIRMAN GARD: All in favor? Well,
17 we have to do a roll call, I think, on these
18 things, then, because of the --

19 Mr. Etzler?

20 MR. ETZLER: Yes.

21 CHAIRMAN GARD: Dr. Alexandrovich?

22 DR. ALEXANDROVICH: Yes.

23 CHAIRMAN GARD: Ms. Collier?

1 MS. COLLER: Yes.

2 CHAIRMAN GARD: Mr. Davidson?

3 MR. DAVIDSON: Yes.

4 CHAIRMAN GARD: Mr. Green?

5 (No response.)

6 CHAIRMAN GARD: Mr. Horn?

7 MR. HORN: Yes.

8 CHAIRMAN GARD: Dr. Niemiec?

9 DR. NIEMIEC: Yes.

10 CHAIRMAN GARD: Ms. Valiquett?

11 MS. VALIQUETT: Yes.

12 CHAIRMAN GARD: Mr. Wasky?

13 (No response.)

14 CHAIRMAN GARD: Ms. Nelson?

15 MS. NELSON: Yes.

16 CHAIRMAN GARD: Mr. Schuler?

17 MR. SCHULER: Yes.

18 CHAIRMAN GARD: Mr. Rulon?

19 (No response.)

20 CHAIRMAN GARD: Mr. Bortner?

21 MR. BORTNER: Yes.

22 CHAIRMAN GARD: And the Chair votes

23 aye. We have --

1 MR. GILSON: Chairman Gard, this is
2 Paul Gilson. I also -- I'm not on your list.

3 CHAIRMAN GARD: I'm sorry.

4 MR. GILSON: That's okay.

5 CHAIRMAN GARD: I'm going to keep
6 doing this, Paul. I'm sorry.

7 MR. GILSON: That's okay.

8 CHAIRMAN GARD: It's not written down
9 here. Twelve ayes and no nays, and the minutes
10 of the past meeting are approved.

11 Commissioner, your report, please.

12 (No response.)

13 CHAIRMAN GARD: Can't hear you.

14 COMM. PIGOTT: Boy, this is a
15 persistent problem of mine, failing to unmute,
16 and I apologize.

17 Good afternoon, Chair Gard, members of the
18 Board, and the public attending today. I very
19 much appreciate the opportunity to give you an
20 update on our activities. First, however, I do
21 want to thank Dan Bortner, Director of DNR, for
22 coming to the meeting today.

23 Dan is not a new DNR employee. In fact,

1 if I'm not mistaken, he's worked at the
2 Department for about 15 years, so he brings a
3 wealth of experience in the Department of Natural
4 Resources with him as now the director, and I'm
5 just thrilled that he's in his new position and
6 look forward to working with him as a colleague
7 in the Governor's cabinet.

8 So, welcome, Dan, and thank you for making
9 time for the Board meeting today.

10 MR. BORTNER: Thank you.

11 COMM. PIGOTT: You're quite welcome.
12 Dan, is there anything else you'd like to tell
13 us? Tell us -- can you tell us just a little bit
14 about where you came from in DNR so that people
15 are aware?

16 MR. BORTNER: Sure. I came in
17 in 2005, believe it or not, as the Human
18 Resources Director. I had a previous life in the
19 private sector in human resources, came in to DNR
20 as the HR Director, and in that first year was
21 moved over to State Parks and spent the last 15
22 years as Director of the Indiana State Parks
23 Division.

1 COMM. PIGOTT: Well, so you had the
2 great job of running the State Parks. I've
3 always looked at that as a really nice position.
4 And so, now you're responsible for the whole
5 agency, and we really look forward to continuing
6 to work with you, Dan. I know, as a member of
7 the Natural Resource Commission, about the good
8 work you've done, because you've presented many
9 times before the Commission. So, I'm looking
10 forward to the agency doing even better things,
11 and appreciate your presence.

12 The second think I wanted --

13 MR. BORTNER: Thank you so much.

14 COMM. PIGOTT: You're quite welcome,
15 Dan.

16 The second thing I wanted to mention
17 was -- it's kind of hot off the press this
18 morning. I had a conversation with the Assistant
19 Commissioner in our Office of Air Quality, and he
20 let me know that he will be retiring in -- at the
21 end of October, so October 30th is Keith Baugues'
22 last day at the Department of Environmental
23 Management.

1 And a couple of things to say about that.
2 One is I can't tell you how much I appreciate
3 Keith's patience with me. As you all know, I
4 have a good deal of experience in Water, but not
5 as much in Air, and Keith has served as a mentor
6 and friend over the -- oh, I don't know, 15
7 years, Keith, that you and I have worked
8 together.

9 And Keith, I just want to give you a
10 chance to say a couple of words. I doubt that
11 there will be an opportunity for Keith to say
12 goodbye to the Board after -- or at the next
13 Board meeting. So, Keith, anything you'd like to
14 say?

15 MR. BAUGUES: I've been here ten and
16 a half years in this stint. I was there six
17 years, from 1973 to '79. I certainly believe the
18 air is a whole lot cleaner now than it was then,
19 but still is never good enough for some people.
20 But I appreciate the opportunity.

21 Thank you.

22 COMM. PIGOTT: Well, Keith, we will
23 miss you and really appreciate your service, not

1 just to our agency, but at U.S. EPA and your
2 various other jobs in the consulting world in
3 other places. You've brought to us a variety of
4 valuable experiences and led our Office of Air
5 Quality with distinction over the last decade.
6 So, thank you.

7 CHAIRMAN GARD: Yes, and we wish you
8 a good retirement, and thank you so much for all
9 you've done in working with the various
10 commissions and this Commission and others, and
11 enjoy retirement.

12 COMM. PIGOTT: I have a feeling that,
13 like many folks who retire, Keith will still be
14 active in the air field, and look forward to his
15 continued work.

16 In terms of the position, we will look to
17 fill the position, and we'll post it and do the
18 hiring in our regular process, so we'll be
19 posting it. Those that are interested can apply
20 on-line, and we will conduct interviews and hire
21 a new head of the Office of Air Quality. So,
22 we'd like to do that as soon as possible. We'll
23 put together the paperwork necessary to fill the

1 slot and run it through the approval process. I
2 don't expect that we will hear that we cannot
3 fill it. So, that's the Office of Air Quality.

4 And then to move to the Office of Water
5 Quality for just a moment, it's not a personnel
6 matter, but a substantive policy issue. As you
7 all are aware, the Trump Administration recently
8 passed a new definition of Waters of the United
9 States, and people have wondered over time what
10 impact that would have in the -- our regulatory
11 actions.

12 And for the most part, the impact of the
13 new definition will be felt in our 401 Water
14 Quality Certification area. We will not be
15 regulating ephemeral streams, as they're no
16 longer included in the definition of the Waters
17 of the United States.

18 Those streams, which flow only part of the
19 year, by definition, do provide many upstream and
20 downstream benefits. We understand that they
21 protect against floods, they filter pollutants,
22 they recycle potentially harmful nutrients,
23 provide food and habitat for many kinds of fish,

1 play a critical role in maintaining the quality
2 and supply of our drinking water, ensure a
3 continued flow of water to surface waters, and
4 help recharge underground aquifers.

5 And while we will not regulate them
6 because they are no longer included in the new
7 definition, IDEM will encourage and encourages
8 the consideration of avoidance, minimization of
9 downstream water impacts, and any mitigation when
10 filling ephemeral streams. And therefore, that's
11 our -- the agency's position moving forward with
12 ephemeral streams under the new definition of the
13 Waters of the United States, and I thought I
14 would share that with this group today.

15 We have been in touch with other regulated
16 entities that have been interested in this rule,
17 had meetings with them, discussed the new federal
18 definition and what it means for the State of
19 Indiana, and this is the result of both those
20 discussions but also of the new definition.

21 So, Sen. Gard, that's, in essence, the
22 report from the Department for this month.

23 CHAIRMAN GARD: Well, I have a

1 question about your last topic. Do you have an
2 estimate of how much time that your people have
3 spent on regulating ephemeral streams?

4 COMM. PIGOTT: Sen. Gard, I have not
5 asked the question about the time we've spent. I
6 did look at the coverage of the number of permits
7 that we've issued, and I found that there were a
8 great -- over the past 20 years, there are a
9 great number of permits that we issued that
10 regulated the dredge-and-fill activities for
11 ephemeral streams. Oftentimes the regulatory
12 activities are not just limited to ephemeral
13 streams, but where there's an ephemeral stream,
14 oftentimes you're impacting a jurisdictional
15 water as well, one --

16 CHAIRMAN GARD: Uh-huh.

17 COMM. PIGOTT: -- that would require
18 a permit. So, I don't believe that it will
19 eliminate all of the -- or a large chunk of the
20 permits that we issue. Rather, it will narrow
21 the focus of some of those permits to just
22 jurisdictional waters for our 401 Program.

23 CHAIRMAN GARD: Okay.

1 COMM. PIGOTT: We'll continue
2 regulating our isolated wetlands under the state
3 isolated wetland regulation, however. So, I
4 don't -- I don't think in any single year it will
5 result in a huge reduction of time or effort, but
6 over a time it could mean a reduction in the
7 number of permits we issue, over 20 years or
8 something like that.

9 CHAIRMAN GARD: Okay. Thank you.

10 Does anybody else on the Commission have
11 any questions for the Commissioner?

12 (No response.)

13 CHAIRMAN GARD: No questions?

14 (No response.)

15 CHAIRMAN GARD: Okay. Chris Pedersen
16 will make a report, please.

17 MS. PEDERSEN: Hi. My name is Chris
18 Pedersen. I'm in the Rules Development Section
19 of the Office of Legal Counsel, and I wanted to
20 talk to you a little bit about the upcoming Board
21 meetings and what rules to expect. At this time,
22 we expect the next Board meeting after today will
23 be on November 18th. That's one week later than

1 we would normally hold it because of the Veterans
2 Day holiday.

3 As far as the rules for November, some of
4 the rules that are before the Board today could
5 also be at the meeting in November. First, the
6 Marion County SO₂ Redesignation Emergency Rule,
7 that is likely to need to be readopted in order
8 to maintain that coverage.

9 And possibly the other emergency rule,
10 which is the Vigo SO₂ Redesignation, and the Lake
11 and Porter Ozone Reclassification Rule. The
12 regular rulemaking is up for adoption today, and
13 if adopted, we may not need that emergency rule
14 after this meeting.

15 In addition to that, two of the rules that
16 are before the Board today for preliminary
17 adoption, the Air Permit Fee Updates Rule and the
18 Hazardous Waste Pharmaceuticals and other
19 Hazardous Waste Updates Rules, those might be
20 ready for final adoption in November. Because
21 the meetings are closer together than normal,
22 we're not a hundred percent positive, but they
23 could be ready.

1 In addition to that, other rules that we
2 should have ready in November for final adoption:
3 Cold Cleaning Degreasing. This rule is dealing
4 with solvents. Currently the sources must use a
5 low-vapor-pressure solvent for cleaning and
6 degreasing machine parts. The rule would allow
7 sources to use a higher vapor-pressure solvent if
8 they're also using a control device to control
9 emissions, and these amendments are consistent
10 with current U.S. EPA regulations.

11 Another rule is Septage Management. This
12 rule was originally preliminarily adopted in
13 August of 2019. It includes statutory changes,
14 including the changing of the term "wastewater"
15 to "septage" and removing the vehicle licensing
16 requirements for septage vehicles.

17 The rule also adds phosphorus testing and
18 standards for land application of septage. It
19 eliminates the surface application for
20 consistency with the state statute, and it also
21 updates, clarifies and adds flexibility to the
22 transport, treatment, storage or disposal of
23 septage.

1 Another rule possibly for final adoption
2 is the Waste Tire Rule. It includes updates and
3 clarifications to existing waste tire management
4 requirements and removes unnecessary
5 requirements. It also adds new standards and
6 procedures for legitimate use of waste tires.

7 And then for preliminary adoption, we have
8 four rules. The first is the NOx Emissions
9 Monitoring Rule. This rule revises existing
10 monitoring and reporting requirements for certain
11 large fossil fuel boilers to add an alternative
12 for monitoring and reporting of NOx emissions that
13 is consistent with a recently released federal
14 rule.

15 The Vertellus Particulate Matter
16 Revisions. Vertellus is a chemical manufacturing
17 company in Indianapolis, and they have requested
18 revisions to their current particulate matter
19 emission limits. This is in order to remove
20 units that are no longer operating or have been
21 demolished at the facility. It also makes
22 changes to PM limits for consistency with some
23 recently adopted sulfur dioxide limits, and then

1 adds new language for units that burn both
2 natural and landfill gases.

3 The Metals Criteria Rule. This rule
4 revises Indiana's aquatic life and human health
5 ambient water quality criteria for certain
6 metals. It's based on federal recommendations
7 and current science, and it will result in some
8 proposed criteria being more stringent and some
9 less stringent than the current criteria.

10 And then finally, the Hazardous Waste
11 Financial Assurance Rule. This rule revises
12 requirements for financial assurance hazardous
13 waste facilities. It adds more information and
14 clarification for existing requirements that are
15 authorized under the federal regulations.

16 And that is my report. I'll be glad to
17 answer any questions.

18 CHAIRMAN GARD: Are there any
19 questions for Chris?

20 (No response.)

21 CHAIRMAN GARD: One clarification I
22 want to make, and it will come up again, but in
23 her report she said the next Rules Board meeting

1 is November the 18th, and that's correct. The
2 public hearing that we are having in October on
3 the citizens petition is not considered a
4 Rules -- an official Rules Board meeting. So,
5 don't confuse those, and we'll discuss that again
6 later.

7 Today we have two emergency rules -- yes.

8 COMM. PIGOTT: Sen. Gard, could I
9 just interrupt for just a minute? I'd forgotten,
10 one of the folks on the meeting today is Grant
11 Geiss, and I just wanted to introduce him to the
12 rest of you. Grant is our Chief Financial
13 Officer, and in this age where budgets have a
14 great deal of impact on our ability to conduct
15 our business, I'm happy to introduce him to you.

16 He's an important player in the agency,
17 and he's done a great job already of working to
18 ensure that our budget is robust enough to
19 continue our activities despite the fact that the
20 Governor's Office and the Budget Office has asked
21 the agency to roll back 15 percent of its budget
22 in the next biennium budget. And Grant comes to
23 us with a rich background in finance, both with

1 the City of Indianapolis and in the State
2 Government, working -- was it -- Grant, was it at
3 DCS or FSSA?

4 MR. GEISS: It was DCS, Bruno.

5 COMM. PIGOTT: DCS. So, a very large
6 agency. Grant was a critical player in that
7 agency, and we're lucky to have him on our team,
8 and he'll be working internally with us as we
9 work through our budget issues, not only in the
10 development of the budget for the Governor's
11 budget, but also when we testify before the House
12 and Senate. So, I just wanted to introduce Grant
13 to all of you folks on the Board, and I'm sorry
14 for interrupting.

15 CHAIRMAN GARD: Oh, that's fine.

16 Grant, I think you're going to have a
17 yeoman's job this year.

18 MR. GEISS: Yeah, it's -- I welcome
19 the opportunity to work with all of you guys, and
20 very excited. I started with IDEM on March 23rd,
21 so it was right before all of this pandemic
22 happened, so I've been learning by the fire as we
23 go, but have great teammates that are willing to

1 show me some expertise and knowledge that they
2 have, and I look forward to working with all of
3 you and what the future holds.

4 CHAIRMAN GARD: Well, we look forward
5 to you being with the agency.

6 Today we have two emergency rules that the
7 Board will be asked to adopt: Vigo County SO2
8 Redesignation and Marion County SO2 Redesignation.
9 In addition, today we will have hearings and
10 Board action on final adoption of the following
11 rules: Vigo County SO2 Redesignation and Ozone
12 PM2.5 Classification Updates for Clark, Floyd,
13 Lake and Porter Counties; NPDES General Permits;
14 and Transfer Patient -- Transfer Station
15 Reporting. We will also have hearings and Board
16 action on preliminary adoption of Air Permit Fee
17 Updates and Pharmaceuticals Management Standards
18 and Other Hazardous Waste Updates.

19 Finally, we will have a hearing on
20 Nonexpiring Rules in accordance with the
21 requirements of IC 13-14-9.5-1.5.

22 The rules being considered in today's
23 meeting were included in Board packets and are

1 available for public inspection on the IDEM Web
2 site at least one week prior to each Board
3 meeting.

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

10 The Board will now consider adoption of an
11 emergency rule to revise 326 IAC 1-4-50 to
12 redesignate three townships in Marion County to
13 attainment in the 2010 SO2 National Ambient Air
14 Quality Standard. The draft emergency rule found
15 in today's Board packet and entered into the
16 record of the meeting.

17 Seth Engdahl -- is that pronounced right?

18 MR. ENGDAHL: Yes, that's right.

19 CHAIRMAN GARD: Okay -- will present
20 the rule to the Board.

21 MR. ENGDAHL: Thank you.

22 Members of the Board, good afternoon. My
23 name is Seth Engdahl, and I am a Rule Writer in

1 the Rules Development Branch within IDEM's Office
2 of Legal Counsel.

3 The emergency rule currently under
4 consideration will temporarily supersede
5 326 IAC 1-4-50. This section is comprised of an
6 attainment status table for certain air
7 pollutants in Marion County.

8 The only change being made is the status
9 of Center, Perry and Wayne Townships, which is
10 being changed from nonattainment to attainment
11 for the 2010 one-hour primary Sulfur Dioxide
12 National Ambient Air Quality Standard. We are
13 making this change to maintain consistency with
14 the federal designation that was published in the
15 Federal Register on May 21st of this year.

16 IDEM is requesting that the Board approve
17 this emergency rule while the agency completes
18 the regular rulemaking to incorporate these
19 changes into the Indiana Administrative Code.
20 This emergency rule was most recently adopted on
21 July 8th of this year.

22 IDEM requests that the Board approve this
23 emergency rule as presented, and I'm happy to

1 answer any questions that you may have.

2 CHAIRMAN GARD: Does the Board have
3 any questions for Seth?

4 (No response.)

5 CHAIRMAN GARD: Any Board discussion?

6 (No response.)

7 CHAIRMAN GARD: Do I hear a motion to
8 adopt the emergency rule?

9 DR. ALEXANDROVICH: So moved, Joanne
10 Alexandrovich.

11 CHAIRMAN GARD: Is there a second?

12 MS. COLLIER: Second, Angelique
13 Collier.

14 CHAIRMAN GARD: I'll call the roll.
15 Mr. Etzler?

16 (No response.)

17 CHAIRMAN GARD: Dr. Alexandrovich?

18 DR. ALEXANDROVICH: Yes.

19 CHAIRMAN GARD: Ms. Collier?

20 MS. COLLIER: Yes.

21 CHAIRMAN GARD: Mr. Davidson?

22 MR. DAVIDSON: Yes.

23 CHAIRMAN GARD: Mr. Horn?

1 MR. HORN: Yes.

2 CHAIRMAN GARD: Dr. Niemiec?

3 DR. NIEMIEC: Yes.

4 CHAIRMAN GARD: Ms. Valiquett?

5 MS. VALIQUETT: Yes.

6 CHAIRMAN GARD: Mr. Wasky?

7 (No response.)

8 CHAIRMAN GARD: Ms. Nelson?

9 MS. NELSON: Yes.

10 CHAIRMAN GARD: Mr. Schuler?

11 MR. SCHULER: Yes.

12 CHAIRMAN GARD: Is Mr. Rulon here
13 yet?

14 (No response.)

15 CHAIRMAN GARD: Mr. Green?

16 (No response.)

17 CHAIRMAN GARD: Mr. Bortner?

18 MR. BORTNER: Aye.

19 CHAIRMAN GARD: And the Chair votes
20 aye.

21 Oh, Mr. Gilson?

22 MR. GILSON: Yes.

23 CHAIRMAN GARD: And the Chair votes

1 aye. Twelve ayes, zero nays. The emergency rule
2 is adopted.

3 The Board will now consider adoption of an
4 emergency rule to revise 326 IAC 1-4-8.5 to
5 redesignate Vigo County to attainment for the
6 2010 Sulfur Dioxide National Ambient Air Quality
7 Standard. The draft emergency rule found in
8 today's Board packet is entered into the record
9 of the meeting.

10 Krystal Hackney will present the rule to
11 the Board.

12 MS. HACKNEY: Good afternoon, members
13 of the Board. My name is Krystal Hackney, and
14 I'm a Rule Writer in the Rules Development
15 Section within the Office of Legal Counsel.

16 This rule temporarily revises
17 326 IAC 1-4-46 and 326 IAC 1-4-65 to reflect the
18 federal reclassification of Lake and Porter
19 Counties to serious nonattainment for the 2008
20 eight-hour ozone standard, and 326 IAC 1-4-85 to
21 reflect the redesignation of Fayette and Harrison
22 Townships in Vigo County for the 2010 Sulfur
23 Dioxide Standard.

1 The emergency rule adopted on July 8th
2 of 2020 included the Vigo County SO2
3 redesignation, but did not include Lake and
4 Porter Counties for the 2008 eight-hour ozone
5 standard, because a federal attainment
6 redesignation was anticipated.

7 It was not issued due to high ozone levels
8 in the area, so Lake and Porter Counties have
9 been included in this emergency rule to
10 reclassify those counties to serious
11 nonattainment for the 2008 eight-hour ozone
12 standard, to be consistent with the current
13 federal designations. Today's adoption of the
14 emergency rule is necessary to maintain the
15 current federal designations until the regular
16 rulemaking is completed.

17 IDEM requests that the Board adopt this
18 emergency rule as presented, and I'm available if
19 you have any further questions.

20 CHAIRMAN GARD: Thank you, Krystal.

21 Does the Board have any questions for
22 Krystal?

23 (No response.)

1 CHAIRMAN GARD: No questions?

2 (No response.)

3 CHAIRMAN GARD: Is there any Board
4 discussion?

5 (No response.)

6 CHAIRMAN GARD: Is there a motion to
7 adopt the emergency rule?

8 MR. DAVIDSON: So moved, Calvin.

9 CHAIRMAN GARD: Is there a second?

10 DR. ALEXANDROVICH: Second, Joanne
11 Alexandrovich.

12 CHAIRMAN GARD: Mr. Etzler?

13 MR. ETZLER: Yes.

14 CHAIRMAN GARD: You know, I didn't
15 hear you on the previous roll call, so I
16 couldn't --

17 MR. ETZLER: No, I was muted. I'm
18 sorry.

19 CHAIRMAN GARD: Okay. All right.
20 So, you didn't vote, then. Okay. You're here
21 now.

22 Dr. Alexandrovich?

23 DR. ALEXANDROVICH: Yes.

1 CHAIRMAN GARD: Ms. Collier?

2 MS. COLLIER: Yes.

3 CHAIRMAN GARD: Mr. Davidson?

4 MR. DAVIDSON: Yes.

5 CHAIRMAN GARD: Mr. Horn?

6 MR. HORN: Yes.

7 CHAIRMAN GARD: Dr. Niemiec?

8 DR. NIEMIEC: Yes.

9 CHAIRMAN GARD: Ms. Valiquett?

10 MS. VALIQUETT: Yes.

11 CHAIRMAN GARD: Ms. Nelson?

12 MS. NELSON: Yes.

13 CHAIRMAN GARD: Mr. Schuler?

14 MR. SCHULER: Yes.

15 CHAIRMAN GARD: Mr. Bortner?

16 MR. BORTNER: Aye.

17 CHAIRMAN GARD: Mr. Gilson?

18 MR. GILSON: Yes.

19 CHAIRMAN GARD: And the Chair votes
20 aye. So, twelve ayes, zero nays. The emergency
21 rule is adopted.

22 This is a public hearing before the
23 Environmental Rules Board of the State of Indiana

1 concerning final adoption of amendments to rules
2 at 326 IAC 1-4-11, 1-4-23, 1-4-46, 1-4-65, and
3 326 IAC 1-4-85 regarding the Revision of the
4 Designation Status Tables of SO₂, Ozone, and PM_{2.5}
5 for Clark, Floyd, Lake, Porter and Vigo Counties.
6 The draft rule found in Today's Board packet is
7 entered into the record of the hearing.

8 Krystal Hackney will present the rule to
9 the Board.

10 MS. HACKNEY: It's me again. So, my
11 name is Krystal Hackney. I'm a Rule Writer,
12 again in the Rules Development Section within the
13 Office of Legal Counsel.

14 So, this rule is the full rulemaking, and
15 it revises the Designation Status Tables in
16 326 IAC 1-4 for three different pollutants and
17 five counties for consistency with the current
18 federal redesignation -- or federal designations,
19 my bad -- for these counties in the Code of
20 Federal Regulations at 40 CFR 81.315.

21 On July 8th of 2019, U.S. EPA published
22 the redesignation of Fayette and Harrison
23 Townships in Vigo County for the 2010 primary

1 one-hour Sulfur Dioxide National Ambient Air
2 Quality Standards from nonattainment to
3 attainment in the Federal Register at
4 84 FR 32317.

5 On July 11th, 2019, U.S. EPA published a
6 correction in the Federal Register for the 2012
7 annual particulate matter with a diameter of 2.5
8 microns or less, which is PM2.5, National Ambient
9 Air Quality Standards in Clark, Floyd, Lake and
10 Porter Counties, to update the effective dates,
11 and the designation status from unclassifiable to
12 unclassifiable or attainment.

13 On August 23rd of 2019, U.S. EPA published
14 a final determination that the Chicago
15 nonattainment area, which includes both Lake and
16 Porter Counties that are currently classified as
17 moderate nonattainment, failed to attain the 2008
18 eight-hour Ozone National Ambient Air Quality
19 Standards using monitoring data from 2015 to 2017
20 by the attainment date of July 20th of 2018.

21 IDEM requests that the Board adopt this
22 rule as presented, and I am available to answer
23 any questions that you may have.

1 Thank you.

2 CHAIRMAN GARD: Do Board members have
3 any questions?

4 (No response.)

5 CHAIRMAN GARD: Did anyone sign up to
6 testify or to speak to the rule?

7 (No response.)

8 CHAIRMAN GARD: No -- no one there
9 that wants to speak to the rule?

10 (No response.)

11 CHAIRMAN GARD: If not, the hearing
12 is concluded. The Board will now consider final
13 adoption of amendments to 326 IAC 1-4, Revisions
14 to the Designation Status Tables for SO₂, Ozone,
15 and PM_{2.5}. Is there any Board discussion?

16 (No response.)

17 CHAIRMAN GARD: I need a motion to
18 final adopt the rules as presented.

19 DR. ALEXANDROVICH: So moved, this --

20 MR. DAVIDSON: So moved.

21 DR. ALEXANDROVICH: -- is --

22 CHAIRMAN GARD: Is there a second?

23 (No response.)

1 CHAIRMAN GARD: We'll call the roll.
2 Mr. Etzler?
3 MR. ETZLER: Yes.
4 CHAIRMAN GARD: Dr. Alexandrovich?
5 DR. ALEXANDROVICH: Yes.
6 CHAIRMAN GARD: Ms. Collier?
7 MS. COLLIER: Yes.
8 CHAIRMAN GARD: Mr. Davidson?
9 MR. DAVIDSON: Yes.
10 CHAIRMAN GARD: Mr. Horn?
11 MR. HORN: Yes.
12 CHAIRMAN GARD: Dr. Niemiec?
13 DR. NIEMIEC: Yes.
14 CHAIRMAN GARD: Ms. Valiquett?
15 MS. VALIQUETT: Yes.
16 CHAIRMAN GARD: Ms. Nelson?
17 MS. NELSON: Yes.
18 CHAIRMAN GARD: Mr. Schuler?
19 MR. SCHULER: Yes.
20 CHAIRMAN GARD: Mr. Bortner?
21 MR. BORTNER: Aye.
22 CHAIRMAN GARD: Mr. Gilson?
23 MR. GILSON: Yes.

1 CHAIRMAN GARD: And the Chair votes
2 aye. The vote is twelve ayes, zero nays. The
3 final -- we have finally adopted the rules as
4 presented.

5 THE REPORTER: Chair Gard?

6 CHAIRMAN GARD: Yes.

7 THE REPORTER: Who moved and seconded
8 that last one?

9 CHAIRMAN GARD: Who was the first
10 one, who moved it? Who made a motion to --

11 MR. DAVIDSON: I was involved, but I
12 will defer to the lady who spoke before me by
13 about a fraction of a second.

14 THE REPORTER: And who is the --

15 CHAIRMAN GARD: And that was
16 Dr. Alexandrovich, I think.

17 MS. VALIQUETT: It was actually Karen
18 Valiquett.

19 CHAIRMAN GARD: And who seconded it?

20 (No response.)

21 CHAIRMAN GARD: Somebody did.

22 THE REPORTER: I didn't actually get
23 a second.

1 CHAIRMAN GARD: Cal, did you second
2 that motion?

3 MR. DAVIDSON: Sure, if it'll help
4 the process, but again --

5 CHAIRMAN GARD: Okay. Thank you.

6 This is a public hearing before the
7 Environmental Rules Board of the State of Indiana
8 concerning final adoption of amendments to rules
9 at 327 IAC 5 and 15, NPDES General Permits. The
10 rule as preliminarily adopted with IDEM's
11 suggested changes found in today's Board packet
12 is entered into the record of the hearing.

13 MaryAnn Stevens will present the rule to
14 the Board.

15 MS. STEVENS: Good afternoon, members
16 of the Board. Are you able to hear me?

17 CHAIRMAN GARD: Yes.

18 MS. STEVENS: Thank you. I'm MaryAnn
19 Stevens, a Rule Writer in the Office of Legal
20 Counsel, Rules Development Branch.

21 The goal of this rulemaking is to change
22 the process by which three categories of
23 dischargers receive general permit coverage from

1 existing permit by rule process to the
2 administratively issued general permit coverage
3 that is issued by the Commissioner of IDEM. This
4 is the second of likely three rulemakings to
5 transition the existing rules for issuance of
6 general permit coverage.

7 The Environmental Rules Board adopted the
8 first general permits rulemaking in August 2015
9 that transitioned five of the existing general
10 permit rules. Two existing permit by rule
11 general permit rules will remain after this
12 rulemaking, and will be handled in a future
13 rulemaking.

14 Changing how general permit coverage is
15 issued is based on comments from U.S. EPA
16 concerning establishing a permit term limit for
17 general permits and coverage under them, and
18 concerns about potential conflicts of interest
19 related to the way general permit coverage is
20 currently issued.

21 The three categories of dischargers for
22 whom general permit coverage is transitioning
23 under this rulemaking from the existing permit by

1 rule process to the administratively issued
2 general permit coverage that is issued by the
3 Commissioner of IDEM include those discharging
4 stormwater runoff associated with construction
5 activity, stormwater associated with municipal
6 separate storm sewer system conveyances, and
7 on-site residential sewage discharging disposal
8 systems within the Allen County On-Site Waste
9 Management District.

10 The existing permit by rules for these
11 three categories of dischargers are found at
12 327 IAC 15-5, 15-13, and 327 IAC 15-14. This
13 rulemaking is changing the process by which these
14 dischargers receive the permit coverage they must
15 have in order to discharge. The requirements of
16 the general permit for each of the three
17 categories are not being changed by this
18 rulemaking, only the process by which permit
19 coverage is issued is changing.

20 Comments received during the comment
21 periods held to date have been limited in number.
22 At both first and second notice comments periods,
23 two letters were received during each comment

1 period from county surveyors. Their comments
2 were actually about the requirements of the
3 general permit being negotiated between U.S. EPA
4 and IDEM for the stormwater runoff associated
5 with construction activity general permits rather
6 than this rulemaking to transition to
7 administratively issued general permit coverage.

8 Comments received from the Hoosier
9 Environmental Council had to do with requirements
10 that have been moved in the rule. The Hoosier
11 Environmental Council wants those requirements in
12 the rule, but haven't been able to locate them.

13 Comments from U.S. EPA have been dealt
14 with to the degree that can be in this
15 rulemaking. Complete address of U.S. EPA's
16 comments will be accomplished in the future
17 rulemaking to transition the two remaining permit
18 by rule general permits to administratively
19 issued general permit coverage.

20 IDEM asks for the Board to vote for final
21 adoption, and I can answer any questions, as well
22 as, I believe, Martha Clark Mettler, Office of
23 Water Quality's Assistant Commissioner, is also

1 involved in this Zoom meeting.

2 Thank you.

3 CHAIRMAN GARD: Okay. I have a
4 question, or a little bit -- it's probably more
5 about process, because I remember -- it was
6 probably around 2010 or something -- that --
7 doing the legislation that was required to set up
8 this rulemaking, and it looks like it's all
9 happened in about five-year increments since. Is
10 there a reason for that?

11 MS. STEVENS: I think possibly you're
12 remembering the date of 2010 because that's when
13 U.S. EPA sent a letter to then Comm. Easterly
14 raising the concerns that have started this --

15 CHAIRMAN GARD: Right.

16 MS. STEVENS: -- very process. We --
17 the original rulemaking that started in 2010 had
18 envisioned transitioning all of the existing ten
19 general permit by rules, but things ran off the
20 rails. So, the 2015 final rule that I referenced
21 in my presentation transitioned five of those
22 general permit rules. That left another five, so
23 today's --

1 CHAIRMAN GARD: Okay.

2 MS. STEVENS: -- rulemaking
3 transitions three more, and that leaves two more
4 existing permit by rule categories of dischargers
5 that we still have to address in a future
6 rulemaking.

7 CHAIRMAN GARD: Okay. So --

8 COMM. PIGOTT: So, Sen. Gard, I don't
9 think the five-year time frames were -- I don't
10 think there was a magic to the number. It was
11 rather just working --

12 CHAIRMAN GARD: Okay. I --

13 COMM. PIGOTT: -- through the
14 process.

15 CHAIRMAN GARD: Yes. Okay.

16 Well, thank you, MaryAnn.

17 Did somebody sign up to speak on the rule,
18 proposed rule?

19 (No response.)

20 CHAIRMAN GARD: Is there anyone that
21 wishes to?

22 (No response.)

23 CHAIRMAN GARD: If not, the hearing

1 is concluded. The Board will now consider final
2 adoption of amendments to 327 IAC 5 and 15
3 regarding NPDES general permits. Is there Board
4 discussion?

5 (No response.)

6 CHAIRMAN GARD: Do I hear a motion to
7 adopt IDEM's suggested changes?

8 MR. HORN: So moved.

9 THE REPORTER: Who moved?

10 MR. HORN: Chris Horn.

11 CHAIRMAN GARD: And a second, is
12 there a second?

13 MR. ETZLER: Second, Bill Etzler.

14 CHAIRMAN GARD: Okay. Did he get
15 that?

16 THE REPORTER: Yes, I got it.

17 CHAIRMAN GARD: Okay. We'll call the
18 roll.

19 Mr. Etzler?

20 MR. ETZLER: Yes.

21 CHAIRMAN GARD: Dr. Alexandrovich?

22 DR. ALEXANDROVICH: Yes.

23 CHAIRMAN GARD: Ms. Collier?

1 MS. COLLER: Yes.

2 CHAIRMAN GARD: Mr. Davidson?

3 MR. DAVIDSON: Yes.

4 CHAIRMAN GARD: Mr. Horn?

5 MR. HORN: Yes.

6 CHAIRMAN GARD: Dr. Niemiec?

7 DR. NIEMIEC: Yes.

8 CHAIRMAN GARD: Ms. Valiquett?

9 MS. VALIQUETT: Yes.

10 CHAIRMAN GARD: Ms. Nelson?

11 MS. NELSON: Yes.

12 CHAIRMAN GARD: Mr. Schuler?

13 MR. SCHULER: Yes.

14 CHAIRMAN GARD: Mr. Bortner?

15 MR. DAVIDSON: Aye.

16 CHAIRMAN GARD: Mr. Gilson?

17 MR. GILSON: Yes.

18 CHAIRMAN GARD: And the Chair votes
19 aye. It's twelve ayes and zero nays. The rule
20 is final adoption -- adopted. That was the
21 changes -- I'm sorry -- that was -- we just voted
22 on the changes.

23 Nancy, are we all right?

1 MS. KING: Yeah, you just voted on
2 the changes, so now you have to vote for the --

3 CHAIRMAN GARD: Okay.

4 MS. KING: -- rule as amended --

5 CHAIRMAN GARD: Okay.

6 MS. KING: -- to be final adopted.

7 CHAIRMAN GARD: Okay.

8 Is there a motion to adopt the rule as
9 amended?

10 MR. HORN: So moved --

11 MS. NELSON: So moved --

12 MR. HORN: -- Chris Horn.

13 MS. NELSON: -- Katie Nelson.

14 CHAIRMAN GARD: Is there a second?

15 THE REPORTER: I'm sorry; say that
16 again. Two people talking at once.

17 MS. NELSON: I'll go ahead. So
18 moved, Katie Nelson.

19 CHAIRMAN GARD: Is there a second?

20 MR. HORN: So moved, Chris Horn.

21 CHAIRMAN GARD: We'll call the roll.

22 Mr. Etzler?

23 MR. ETZLER: Yes.

1 CHAIRMAN GARD: Dr. Alexandrovich?

2 DR. ALEXANDROVICH: Yes.

3 CHAIRMAN GARD: Ms. Collier?

4 MS. COLLIER: Yes.

5 CHAIRMAN GARD: Mr. Davidson?

6 MR. DAVIDSON: Yes.

7 CHAIRMAN GARD: Mr. Horn?

8 MR. HORN: Yes.

9 CHAIRMAN GARD: Dr. Niemiec?

10 DR. NIEMIEC: Yes.

11 CHAIRMAN GARD: Ms. Valiquett?

12 MS. VALIQUETT: Yes.

13 CHAIRMAN GARD: Ms. Nelson?

14 MS. NELSON: Yes.

15 CHAIRMAN GARD: Mr. Schuler?

16 MR. SCHULER: Yes.

17 CHAIRMAN GARD: Mr. Bortner?

18 MR. DAVIDSON: Aye.

19 CHAIRMAN GARD: Mr. Gilson?

20 MR. GILSON: Yes.

21 CHAIRMAN GARD: The Chair votes aye.

22 Twelve ayes and zero nays. The rule is finally

23 adopted as amended.

1 This is a public hearing before the
2 Environmental Rules Board of the State of Indiana
3 concerning final adoption of amendments to rules
4 at 329 11-13.5, Transfer Station Reporting Rules.
5 The preliminarily adopted rule found in today's
6 Board packet is entered into the record of the
7 hearing.

8 Krystal Hackney will present the rule to
9 the Board.

10 MS. HACKNEY: Hello, again. My name
11 is Krystal Hackney, again, from the Rules
12 Development Section in the Office of Legal
13 Counsel.

14 So, this rule amends the reporting
15 requirements of solid waste transfer stations to
16 remove the annual reporting requirement found in
17 329 IAC 11-13.5-17, and move the remaining
18 record-keeping requirements to
19 329 IAC 11-13.5-13. The transfer station annual
20 report would no longer need to be submitted to
21 IDEM, because IDEM staff can view these records
22 during the on-site facility visits.

23 Most transfer stations do not submit this

1 specific report and, of those that do, no
2 detection of prohibited waste has been reported.
3 Moving the requirements for the record keeping to
4 329 IAC 11-13.5-13 makes 329 IAC 11-13.5-17
5 obsolete, so IDEM is proposing to repeal
6 Section 17 of this rulemaking.

7 This rulemaking will also amend
8 329 IAC 11-13.5-1 to be consistent with changes
9 made to 329 IAC 13 -- or excuse me --
10 IAC 11-13.5-13. In accordance with a statutory
11 change to IC 13-18-12, the term "wastewater" is
12 being replaced with "septage."

13 Updates to the biosolids and septage
14 acceptance requirements at 329 IAC 11-13.5-13,
15 subsections (b)(11) and 329 IAC 11-13.5-13,
16 subsection (b)(12) are also being made for
17 clarification, to state that biosolids and
18 septage are to remain in closed containers and
19 are not to be transferred to other containers or
20 commingled with other wastes. These changes only
21 clarify already existing requirements. This
22 rulemaking was preliminarily adopted by the Board
23 on January 8th of 2020.

1 IDEM requests that the Board final adopt
2 this rule as presented, and I am available to
3 answer any further questions that you may have.

4 CHAIRMAN GARD: Does the Board have
5 any questions of Krystal?

6 (No response.)

7 CHAIRMAN GARD: Did anyone sign up to
8 testify on this?

9 (No response.)

10 CHAIRMAN GARD: Is there anyone who
11 wishes to speak that didn't sign up?

12 (No response.)

13 CHAIRMAN GARD: Then the hearing is
14 concluded. The Board will now final -- consider
15 final adoption of amendments to 329 IAC 11-13.5,
16 Solid Waste Transfer Station Reporting Rules. Is
17 there Board discussion?

18 (No response.)

19 CHAIRMAN GARD: Do I have a motion to
20 adopt IDEM's final rules as presented?

21 MR. DAVIDSON: So moved, Calvin.

22 CHAIRMAN GARD: Is there a second?

23 DR. ALEXANDROVICH: Alexandrovich

1 seconds .

2 CHAIRMAN GARD: Mr. Etzler?

3 MR. ETZLER: Yes.

4 CHAIRMAN GARD: Dr. Alexandrovich?

5 DR. ALEXANDROVICH: Yes.

6 CHAIRMAN GARD: Ms. Collier?

7 MS. COLLIER: Yes.

8 CHAIRMAN GARD: Mr. Davidson?

9 MR. DAVIDSON: Yes.

10 CHAIRMAN GARD: Mr. Horn?

11 MR. HORN: Yes.

12 CHAIRMAN GARD: Dr. Niemiec?

13 DR. NIEMIEC: Yes.

14 CHAIRMAN GARD: Ms. Valiquett?

15 MS. VALIQUETT: Yes.

16 CHAIRMAN GARD: Ms. Nelson?

17 MS. NELSON: Yes.

18 CHAIRMAN GARD: Mr. Schuler?

19 MR. SCHULER: Yes.

20 CHAIRMAN GARD: Mr. Bortner?

21 MR. BORTNER: Aye.

22 CHAIRMAN GARD: Mr. Gilson?

23 MR. GILSON: Yes.

1 CHAIRMAN GARD: The Chair votes aye.
2 The rule is final adopted.

3 Okay. This is a public hearing before the
4 Environmental Rules Board of the State of Indiana
5 concerning preliminary adoption of amendments to
6 rules at 326 IAC 2-1.1-7, Air Permit Fees. The
7 draft rules found in today's Board packet is
8 entered into the record of the hearing.

9 Seth Engdahl will present the rule to the
10 Board.

11 MR. ENGDAHL: Thank you.

12 Members of the Board, good afternoon
13 again. My name is Seth Engdahl, and I am a Rule
14 Writer in the Rules Development Branch within
15 IDEM's Office of Legal Counsel.

16 The rule currently under consideration
17 would amend 326 IAC 2-1.1-7 so that the fees
18 contained in the rule accurately reflect the fee
19 amounts currently being collected by IDEM. As a
20 refresher, on August 14th, 2019, Environmental
21 Rules Board approved a 27-percent increase in the
22 fees associated with the Title V Air Permit
23 Program.

1 This action was in response to a statutory
2 mandate that was included in Public Law 19-250,
3 which directed the Board to increase Title V Air
4 Permit fees to cause the aggregate fee revenue to
5 be two million dollars greater than the aggregate
6 fee revenue that was received by the agency
7 during the year preceding the increase.

8 IDEM began collecting fees at the
9 increased level in January of this year. This
10 rulemaking would simply alter the fee amounts and
11 the table found at 326 IAC 2-1.1-7 so that they
12 properly reflect the fees actually being charged
13 and collected by the agency. The rule makes
14 minor stylistic changes and corrections to the
15 rule as well.

16 IDEM requests that the Board approve this
17 rule as presented, and I am happy to answer any
18 questions that you may have.

19 CHAIRMAN GARD: Board have any
20 questions?

21 (No response.)

22 CHAIRMAN GARD: Has anyone signed up
23 to speak?

1 (No response.)

2 CHAIRMAN GARD: Is there anyone who
3 wishes to speak that didn't sign up?

4 (No response.)

5 CHAIRMAN GARD: Then this hearing is
6 concluded. The Board will now consider
7 preliminarily adopt -- preliminary adoption of
8 amendments to 326 IAC 2-1.1-7, Air Permit Fee
9 Update. Is there Board discussion?

10 (No response.)

11 CHAIRMAN GARD: I need a motion to
12 preliminarily adopt the rules.

13 (No response.)

14 CHAIRMAN GARD: I need a motion.

15 MS. VALIQUETT: So moved, Karen
16 Valiquett.

17 CHAIRMAN GARD: Is there a second?

18 MS. COLLIER: Second, Angelique
19 Collier.

20 CHAIRMAN GARD: Roll call.

21 Mr. Etzler?

22 MR. ETZLER: Yes.

23 CHAIRMAN GARD: Dr. Alexandrovich?

1 DR. ALEXANDROVICH: Yes.

2 CHAIRMAN GARD: Ms. Collier?

3 MS. COLLIER: Yes.

4 CHAIRMAN GARD: Mr. Davidson?

5 MR. DAVIDSON: Yes.

6 CHAIRMAN GARD: Mr. Horn?

7 MR. HORN: Yes.

8 CHAIRMAN GARD: Dr. Niemiec?

9 DR. NIEMIEC: Yes.

10 CHAIRMAN GARD: Ms. Valiquett?

11 MS. VALIQUETT: Yes.

12 CHAIRMAN GARD: Ms. Nelson?

13 MS. NELSON: Yes.

14 CHAIRMAN GARD: Mr. Schuler?

15 MR. SCHULER: Yes.

16 CHAIRMAN GARD: Mr. Bortner?

17 MR. DAVIDSON: Aye.

18 CHAIRMAN GARD: Mr. Gilson?

19 MR. GILSON: Yes.

20 CHAIRMAN GARD: And the Chair votes

21 aye. The rule is preliminarily adopted, 12-0.

22 This is a public hearing before the

23 Environmental Rules Board of the State of Indiana

1 concerning preliminary adoption of amendments to
2 rules at 329 IAC 3-3.1. The draft rule found in
3 today's Board packet is entered into the record
4 of the hearing.

5 Dan Watts will present the rule to the
6 Board.

7 MR. WATTS: Good afternoon, everyone.
8 Dan Watts, of the Rules Development Branch, and
9 I'm presenting LSA Document 20-204 for
10 preliminary adoption.

11 This rulemaking updates the Hazardous
12 Waste Rules at 329 IAC 3.1 with the incorporation
13 by reference of recently promulgated federal
14 hazardous waste rules, and also makes
15 improvements and corrections to the existing rule
16 language.

17 As a component of administering an
18 authorized hazardous waste program, IDEM must
19 maintain requirements that are consistent with
20 and no less stringent than the federal hazardous
21 waste requirements. IDEM is proposing to
22 incorporate recent federal hazardous waste rules
23 that include management standards for hazardous

1 waste pharmaceuticals, safe management of
2 recalled airbags, and the addition of aerosol
3 cans to the Universal Waste Rule.

4 Also proposed for adoption are the
5 requirements at 40 CFR 260.2(c) and (d), which
6 are associated with previously adopted federal
7 rules, but not included in the original
8 incorporate by reference. Changes in EPA
9 guidance for the state adoption of the federally
10 administered provisions in 40 CFR 260.2 prompted
11 their adoption at this later date.

12 Representatives from IDEM are available to
13 answer any questions you may have for this
14 rulemaking, and the Department respectfully
15 requests that the Board adopt this rule so
16 Indiana's authorized hazardous waste program can
17 be consistent with current federal hazardous
18 waste rules for the affected waste streams and
19 industry sectors.

20 Thank you.

21 CHAIRMAN GARD: Does the Board have
22 any questions?

23 (No response.)

1 CHAIRMAN GARD: Did anyone sign up to
2 speak on the rule?

3 (No response.)

4 CHAIRMAN GARD: Does anyone wish to
5 speak that didn't sign up?

6 (No response.)

7 CHAIRMAN GARD: This hearing is
8 concluded. The Board will now consider
9 preliminary adoption of amendments to
10 329 IAC 3.1. Is there Board discussion?

11 (No response.)

12 CHAIRMAN GARD: I need a motion to
13 preliminarily adopt the rules.

14 MS. COLLIER: So moved, Angelique
15 Collier.

16 CHAIRMAN GARD: Is there a second?

17 MR. DAVIDSON: Second, Calvin.

18 CHAIRMAN GARD: We'll call the roll.
19 Mr. Etzler?

20 MR. ETZLER: Yes.

21 CHAIRMAN GARD: Dr. Alexandrovich?

22 DR. ALEXANDROVICH: Yes.

23 CHAIRMAN GARD: Ms. Collier?

1 MS. COLLER: Yes.

2 CHAIRMAN GARD: Mr. Davidson?

3 MR. DAVIDSON: Yes.

4 CHAIRMAN GARD: Mr. Horn?

5 MR. HORN: Yes.

6 CHAIRMAN GARD: Dr. Niemiec?

7 DR. NIEMIEC: Yes.

8 CHAIRMAN GARD: Ms. Valiquett?

9 MS. VALIQUETT: Yes.

10 CHAIRMAN GARD: Ms. Nelson?

11 MS. NELSON: Yes.

12 CHAIRMAN GARD: Mr. Schuler?

13 MR. SCHULER: Yes.

14 CHAIRMAN GARD: Mr. Bortner?

15 MR. DAVIDSON: Aye.

16 CHAIRMAN GARD: Mr. Gilson?

17 MR. GILSON: Yes.

18 CHAIRMAN GARD: And the Chair votes
19 aye. The rule is preliminarily adopted, 12-0.

20 This is a public hearing before the
21 Environmental Rules of the State of Indiana
22 concerning the review of rules that do not expire
23 under IC 13-14-9.5-1.1. Every year IDEM is

1 required to publish a list of rules that have
2 been effective for seven years but not subject to
3 expiration because they are necessary for
4 federally delegated programs or to receive or
5 maintain federal funding.

6 This year's notices were published for the
7 Air Rules in Title 326, the Water Rules in
8 Title 327, and the Solid and Hazard Waste
9 Management Rules in Title 329. A 30-day comment
10 period was provided for each notice. No comments
11 were received. The rules that are found in
12 today's Board packet are introduced into the
13 record of the hearing.

14 At this time, is there anyone who would
15 like to comment on any of the rules listed in any
16 of the notices of nonexpiring rules?

17 (No response.)

18 CHAIRMAN GARD: Is there anyone else
19 who would wish to speak on these rules?

20 (No response.)

21 CHAIRMAN GARD: This hearing is
22 concluded. The Board must determine, based on
23 comments received, whether to direct the agency

1 to open a new rulemaking for any of the rules
2 that are listed in the notices. If the Board
3 chooses not to ask for a rulemaking, a motion
4 should be made for no further action to be taken
5 on the rules. Is there any Board discussion?

6 (No response.)

7 CHAIRMAN GARD: Is there a motion for
8 either no further action on listed rules or to
9 direct the agency to begin a rulemaking on a
10 specific rule?

11 (No response.)

12 CHAIRMAN GARD: I'll say that again.
13 I need a motion to either -- for either no
14 further action on listed rules or to direct the
15 agency to begin a rulemaking on the specific
16 listed rule.

17 MR. ETZLER: I move that we direct
18 the agency to take no further action on the
19 rules, Bill Etzler.

20 CHAIRMAN GARD: Okay. Is there a
21 second for that?

22 MS. COLLIER: Second, Angelique
23 Collier.

1 CHAIRMAN GARD: We'll call the roll.
2 Mr. Etzler?
3 MR. ETZLER: Yes.
4 CHAIRMAN GARD: Dr. Alexandrovich?
5 DR. ALEXANDROVICH: Yes.
6 CHAIRMAN GARD: Ms. Collier?
7 MS. COLLER: Yes.
8 CHAIRMAN GARD: Mr. Davidson?
9 MR. DAVIDSON: Yes.
10 CHAIRMAN GARD: Mr. Horn?
11 MR. HORN: Yes.
12 CHAIRMAN GARD: Dr. Niemiec?
13 DR. NIEMIEC: Yes.
14 CHAIRMAN GARD: Ms. Valiquett?
15 MS. VALIQUETT: Yes.
16 CHAIRMAN GARD: Ms. Nelson?
17 MS. NELSON: Yes.
18 CHAIRMAN GARD: Mr. Schuler?
19 MR. SCHULER: Yes.
20 CHAIRMAN GARD: Mr. Bortner?
21 MR. BORTNER: Aye.
22 CHAIRMAN GARD: Mr. Gilson?
23 MR. GILSON: Yes.

1 CHAIRMAN GARD: The Chair votes aye.
2 The motion for no further action on the listed
3 rules is passed.

4 Okay. Under Other Matters, last fall the
5 Board received a citizens' petition regarding the
6 2012 recreational criteria for Indiana's waters.
7 Due to the pandemic, the hearing on the petition
8 has been delayed. We have scheduled the public
9 hearing for Wednesday, October 28th at 1:30 p.m.

10 This will be a remote hearing in which all
11 interested parties may provide testimony to those
12 Board Members who are able to attend. While this
13 hearing is not a meeting, per se, as I said
14 before, the Board will not be voting on rules.
15 Due to the remote nature of the hearing, we have
16 scheduled it for a date that the majority of our
17 Board members will be able to join to hear the
18 testimony firsthand.

19 As the hearing will be recorded, it will
20 be available to review prior to the next meeting
21 for any Board Members or other interested parties
22 that are not able to join in person that's
23 scheduled for November 18th, during which the

1 Board will discuss the petition.

2 You all understand the discussion that
3 we've had on this. It's been pretty near a year
4 ago, I would say, and so, we will take testimony
5 in October. We won't make any decisions. If we
6 decide to move forward with it, we will do that
7 at the November meeting, and then if we decide to
8 move forward, then we'll schedule something
9 further out to deal with it.

10 Nancy, do you want to add any more to
11 that?

12 MS. KING: No, that's essentially the
13 process. It's been a while since we've had this,
14 and this will be unique in that we're still
15 remote, but we felt that it was good to be able
16 to finally get this scheduled and allow enough
17 time for those members who may not be able to
18 attend to be able to watch the hearing itself, to
19 facilitate the discussion that will occur at the
20 next scheduled Board meeting.

21 CHAIRMAN GARD: Has notice been sent
22 out to those people that we think are interested
23 parties on this?

1 MS. KING: There will be a public
2 notice that we are going to publish on this. I
3 have been in contact with the petitioners about
4 the timing of it, and they're also disseminating
5 that information, but I've asked if there are
6 additional notification requirements that would
7 be beneficial to make sure that we are able to
8 contact all of those who are interested. They've
9 agreed to talk and let me know if there are some
10 other avenues that we can explore to get that
11 information out. We'll also be putting it on our
12 Web site as well.

13 CHAIRMAN GARD: Okay. Now, the one
14 question that I have is: Are we going to set
15 some sort of a time limit? I know, particularly
16 if we're dealing with engineering companies, they
17 can go on for a while.

18 (Laughter.)

19 MS. KING: Well, usually people say
20 that about us lawyers, but I'll take that now.
21 Essentially we, at this point in time -- I know
22 in the past, if -- you know, when we know,
23 because we have a packed room, how many folks are

1 going to want to testify --

2 CHAIRMAN GARD: Right.

3 MS. KING: -- we may want to limit
4 that time frame. I think it's going to be a
5 little more difficult right now. I believe Chris
6 Pedersen has been working with Ryan to get this
7 scheduled. I don't think that we have a specific
8 like time limit on these, but at this point we're
9 thinking that we're going to try to schedule it
10 to last until 4:00, just in case. But I think
11 it's going to be one of those things we're going
12 to kind of have to assess the day of it.

13 It might be possible or it might be a good
14 idea before the hearing if I can try to reach out
15 to folks and get maybe sort of a ballpark idea of
16 how many folks want to testify on this. I'm not
17 sure that that'll be entirely accurate, but it
18 could give us a good estimation of the number of
19 folks who will want to provide some information.

20 CHAIRMAN GARD: Right.

21 MS. KING: I think that that might be
22 the best we're going to do, and then it might
23 kind of be a game-day decision as to whether we

1 want to provide time limits on testifying.

2 CHAIRMAN GARD: Well, you know, when
3 you're talking to them, just encourage them to be
4 concise.

5 MS. KING: I will do so.

6 CHAIRMAN GARD: Okay.

7 Now, this is an Open Forum.

8 DR. ALEXANDROVICH: I'm sorry; may I
9 ask a question about that hearing?

10 CHAIRMAN GARD: Yeah, sure.

11 DR. ALEXANDROVICH: Is IDEM planning
12 to put together a presentation on that issue?

13 MS. KING: Yes, IDEM is. We will be
14 presenting -- basically the water program is
15 working on a presentation on -- on their views of
16 the 2012 rec criteria as well.

17 DR. ALEXANDROVICH: I'm wondering if
18 that's going to be posted ahead of time for the
19 meeting.

20 MS. KING: That, I don't know. It's
21 not -- this isn't like we're sending this out for
22 people -- you know, we're not getting other
23 people's testimony ahead of time, so essentially,

1 we are testifying just like everyone else. So,
2 to the extent that we have information available,
3 I'll have to speak with Program in terms of what
4 that's going to look like, but to the extent that
5 we're able to provide information prior to the
6 hearing, we will certainly do that and make that
7 known to folks that that's available.

8 CHAIRMAN GARD: Well, certainly after
9 the hearing you should be able to provide us a
10 copy of your testimony; correct?

11 MS. KING: Oh, absolutely.

12 COMM. PIGOTT: Absolutely.
13 Absolutely.

14 MS. KING: And again, as this will be
15 recorded, there will be additional opportunities
16 for people to go back and view it again if -- you
17 know, if there's a question regarding something,
18 which is --

19 CHAIRMAN GARD: Right.

20 MS. KING: -- kind of a nice benefit
21 that we don't have when it's in person
22 necessarily.

23 CHAIRMAN GARD: Yeah. But then it's

1 kind of nice to have a hard copy to mark up, too.

2 MS. KING: Yes, it is.

3 COMM. PIGOTT: Absolutely.

4 CHAIRMAN GARD: So -- but then the
5 Board will have their discussion on this issue at
6 the November Board meeting, so, you know, we'll
7 listen, but we won't really be discussing it from
8 the standpoint of what the Board's going to do
9 until November.

10 COMM. PIGOTT: That's right. Our
11 thought is just we're providing information, and
12 the Board makes the decision about how to move
13 forward, and that takes place well after the
14 hearing, so there will be time to consume all of
15 the presentations that have been made.

16 CHAIRMAN GARD: Right.

17 Any more questions about the public
18 hearing and so forth?

19 (No response.)

20 CHAIRMAN GARD: It would kind of be
21 nice if we knew by the day of the hearing what
22 Board Members were going to be on, so, you know,
23 you might notify IDEM whether you're going to be

1 on the hearing or whether you're not.

2 This is an Open Forum. If anyone in the
3 public wants to speak to the Board, this is the
4 time to do it.

5 (No response.)

6 CHAIRMAN GARD: It doesn't look like
7 anybody wants to. So, the next meeting of the
8 Environmental Rules Board is tentatively set for
9 Wednesday, November the 18th, 2020 at 1:30 p.m.
10 It will be a remote meeting like today's. As you
11 know, the date is tentative and subject to
12 change, and we'll keep everyone updated if
13 another day has to be chosen.

14 Is there a motion to adjourn?

15 MS. VALIQUETT: So moved, Karen
16 Valiquett.

17 CHAIRMAN GARD: Is there a second?

18 MR. HORN: Second the motion, Chris
19 Horn.

20 CHAIRMAN GARD: I'm not going to call
21 the roll. All in favor of the motion to adjourn,
22 say aye.

23 MR. ETZLER: Aye.

1 MS. NELSON: Aye.

2 DR. ALEXANDROVICH: Aye.

3 MS. COLLIER: Aye.

4 MR. DAVIDSON: Aye.

5 MR. HORN: Aye.

6 DR. NIEMIEC: Aye.

7 MS. VALIQUETT: Aye.

8 MR. SCHULER: Aye.

9 MR. BORTNER: Aye.

10 MR. GILSON: Aye.

11 CHAIRMAN GARD: Aye.

12 Opposed, nay.

13 (No response.)

14 CHAIRMAN GARD: We are adjourned.

15 Thank you all very much.

16 - - -

17 Thereupon, the proceedings of
18 September 9, 2020 were concluded
at 2:41 o'clock p.m.

19 - - -

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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 Wednesday, September 9, 2020 in this matter
8 and transcribed by me.

9
10
11 _____
12 Lindy L. Meyer, Jr.,
13 Notary Public in and
14 for the State of Indiana.

15 My Commission expires August 26, 2024.

16 Commission No. NP0690003
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23

<p style="text-align: center;">A</p>	<p>26:19 administratively (4) 39:2;40:1;41:7,18</p>	<p>54:8;60:7 airbags (1) 57:2</p>	<p>21:4 aquifers (1) 15:4</p>	<p>33:19 ballpark (1) 66:15</p>
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