

1 BEFORE THE STATE OF INDIANA
2 ENVIRONMENTAL RULES BOARD

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4
5 PUBLIC MEETING OF JULY 12, 2017

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9 PROCEEDINGS

10 before the Indiana Environmental Rules Board,
11 Beverly Gard, Chairman, taken before me, Lindy L.
12 Meyer, Jr., a Notary Public in and for the State
13 of Indiana, County of Shelby, at the Indiana
14 Government Center South, Conference Center,
15 Room A, 402 West Washington Street, Indianapolis,
16 Indiana, on Wednesday, July 12, 2017 at 1:29
17 o'clock p.m.

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21 William F. Daniels, RPR/CP CM d/b/a
22 ACCURATE REPORTING OF INDIANA
23 12922 Brighton Avenue
 Carmel, Indiana 46032
 (317) 848-0088

1 APPEARANCES:

2 BOARD MEMBERS:

- 3 Beverly Gard, Chairman
- 4 Dr. Ted Niemiec
- 4 Joanne Alexandrovich
- 5 William Etzler
- 5 Chris Horn
- 6 Gail Boydston
- 6 Chris Smith, Proxy, Department of
- 7 Natural Resources
- 7 Jeffrey Cummins, Proxy, Lieutenant
- 8 Governor
- 8 Brian Rockensuess (nonvoting)

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IDEM STAFF MEMBERS:

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- Christine Pedersen
- 11 MaryAnn Stevens
- Keelyn Walsh
- 12 Lauren Aguilar
- Susan Bem
- 13 Martha Clark Mettler
- Jack Harmon
- 14 Nancy King
- Janet Pittman

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16 PUBLIC SPEAKERS:

- 17 Ann McIver

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1 1:29 o'clock p.m.
2 July 12, 2017

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4 CHAIRMAN GARD: Well, welcome,
5 everybody. I'm going to call the meeting of the
6 Indiana Environmental Rules Board to order. The
7 Chair does see a quorum. Are there any changes
8 to the order of business on the agenda?

9 (No response.)

10 CHAIRMAN GARD: With that, I'm going
11 to let the members introduce themselves. There
12 are a couple of new faces.

13 MR. ROCKENSUESS: Brian Rockensuess,
14 IDEM Chief of Staff.

15 MR. CUMMINS: Jeff Cummins, Director
16 of Policy and Regulatory Affairs, Indiana State
17 Department of Ag.

18 MR. SMITH: Chris Smith, Deputy
19 Director with the Indiana Department of Natural
20 Resources.

21 MS. BOYDSTON: Gail Boydston,
22 manufacturing.

23 CHAIRMAN GARD: Beverly Gard, general
public.

1 MR. ETZLER: Bill Etzler, small

2 business.

3 MR. HORN: Chris Horn, labor.

4 DR. NIEMIEC: Ted Niemiec, health.

5 DR. ALEXANDROVICH: Joanne

6 Alexandrovich, local government.

7 CHAIRMAN GARD: Okay. With that, our

8 first order of business today is the approval of

9 the summary of the April the 12th, 2017 Board

10 meeting. Are there any additions or corrections

11 to the summary as presented?

12 (No response.)

13 CHAIRMAN GARD: If not, do I hear a

14 motion to approve?

15 DR. NIEMIEC: So moved.

16 CHAIRMAN GARD: Is there a second?

17 MR. SMITH: Second.

18 CHAIRMAN GARD: All in favor, say

19 aye.

20 MR. HORN: Aye.

21 DR. NIEMIEC: Aye.

22 DR. ALEXANDROVICH: Aye.

23 MS. BOYDSTON: Aye.

1 MR. CUMMINS: Aye.

2 MR. ETZLER: Aye.

3 MR. SMITH: Aye.

4 CHAIRMAN GARD: Aye.

5 All opposed, nay.

6 (No response.)

7 CHAIRMAN GARD: The motion to approve
8 the summary of the minutes is approved.

9 Brian Rockensuess is going to give the
10 Commissioner's Report today.

11 MR. ROCKENSUESS: So, I have a couple
12 of things to go through. First, the Rules Board
13 positions, for those members that did not want to
14 be reappointed, were just filled by the
15 Governor's Office. That was the utility and the
16 environmental positions. They couldn't attend
17 today. They were just appointed, I think it was
18 either Friday or Monday, so it was real short
19 notice. They should be at our next meeting. The
20 Governor's Office is also working on
21 reappointments for the current positions that you
22 are all in, and that should happen in the next
23 couple of weeks.

1 I believe all of you should have received,
2 or it's either on that table back there, a press
3 release for the Governor's Award for
4 Environmental Excellence. We're in the process
5 now of taking applications for different
6 businesses to be recognized.

7 And then finally, IDEM's probably -- oh,
8 two things; sorry. First, Jeff Sewell, he was
9 our Deputy Assistant Commissioner for Land
10 Quality, he has resigned to take a position in
11 Franklin Township Schools. And we also have a
12 new Deputy Assistant Commissioner, Matt Stuckey,
13 with the Office of Air Quality.

14 And then finally, IDEM will be involved
15 likely in four different summer study committees
16 this summer. One of them is on confined animal
17 feeding operations. That is a study committee
18 put on by Sen. Long. I believe Sue Glick,
19 Sen. Sue Glick, will be the chairman of that.

20 There are two summer study committees on
21 water. One of them has to do with the above
22 ground storage tank bill that you, Chairman,
23 headed the advisory group, and the bill that

1 subsequently passed. Another part of that
2 committee will be looking at lead lines and what
3 communities can do or what utilities can do to
4 replace lead lines.

5 The third water item is adequate and
6 affordable utility service in areas of Indiana
7 where it's inadequate or costly.

8 And then finally, the roads and
9 transportation summer study committee is going to
10 look at the ignition and maintenance program that
11 Lake and Porter County still have to do. We run
12 that program through Office of Air Quality, and
13 so we'll be involved in informing them why this
14 program has -- exists.

15 That's the -- what I have as far as an
16 update. I'm happy to answer any questions.

17 CHAIRMAN GARD: Are there any
18 questions for Brian? Yes.

19 MS. METTLER: I don't know if the
20 audience is allowed to ask, but someone asked who
21 the appointees are. Are you allowed to reveal
22 their names?

23 MR. ROCKENSUESS: I don't have their

1 names.

2 MS. METTLER: Oh, okay.

3 MR. ROCKENSUESS: There will be a

4 release --

5 MS. METTLER: Sorry.

6 MR. ROCKENSUESS: -- from the

7 Governor's Office that -- we'll send that out.

8 MS. METTLER: Okay.

9 CHAIRMAN GARD: Okay. If there

10 aren't any questions, we'll move on to Chris

11 Pedersen for rulemaking updates.

12 MS. PEDERSEN: Can you hear me okay?

13 Is this on?

14 CHAIRMAN GARD: It doesn't sound on.

15 MS. PEDERSEN: Can you hear me now?

16 CHAIRMAN GARD: Yes.

17 MS. PEDERSEN: All right. I'm Chris

18 Pedersen, in the Rules Development Branch of the

19 Office of Legal Counsel, and first, an

20 administrative item. Do any of you have tickets

21 from the state parking garages that you've got

22 today for this meeting?

23 (No response.)

1 MS. PEDERSEN: If not, okay. We
2 don't have to worry about that.

3 Okay. I wanted to just briefly mention
4 some rules that I think may be ready to be
5 presented to you in October. The first two that
6 I'll mention, the Lawrenceburg Township Dearborn
7 County Ozone Redesignation Rules, the first one
8 is the emergency rule, which is actually being
9 presented to you today. Once -- if that is
10 adopted, we would file that again to continue
11 that redesignation status, and then in October,
12 we anticipate bringing it to you again.

13 In conjunction with that, if the formal
14 rulemaking has been approved to move forward,
15 then we would also hope to be able to bring that
16 to you for adoption. It's a rule that would only
17 have one adoption, and that would primarily
18 redesignate that area to attainment for ozone.
19 There may also be some updates to some of the
20 other pollutant status language. It's not any
21 change in the status, but EPA uses different
22 language than they have in the past, and so,
23 we're updating our rules to match their language.

1 In addition to that, we have a U.S. Steel
2 SO2 rulemaking. This is also a rule that would be
3 just one adoption. U.S. Steel has requested the
4 removal of obsolete emission limits for equipment
5 that they're no longer using and that has been
6 shut down, and so, this would be just to remove
7 that from the rule.

8 Also, we have a rulemaking that affects
9 our water rules. It's a Title 327 update
10 rulemaking. It updates the Code of Federal
11 Regulations to the 2016 version, and also makes
12 some administrative revisions, things like
13 updating the citations to the incorporation by
14 reference, correcting mistakes, that type of
15 thing.

16 Okay. And then another rule that we hope
17 to bring before you is the NOx emissions from
18 large affected units rulemaking. This is a
19 rulemaking that's related to the Cross State Air
20 Pollution Rule that's going to be presented to
21 you today for final adoption.

22 The rulemaking that I'm referring to
23 actually affects units that were covered under

1 the Clean Air Interstate Rule but that are not
2 going to be covered under the Cross State Air
3 Pollution Rule. It's large industrial
4 fossil-fuel-fired boilers and some electrical --
5 electric generating units that are not at power
6 plants. And these units are still subject to
7 federal NOx monitoring requirements, and so, we
8 have to maintain coverage for them, so the next
9 rulemaking will be handled in that segment.

10 And then we have an Underground Storage
11 Tank Rule. The second notice for that rulemaking
12 is publishing today. Depending on the amount of
13 comments that we get during that, that rulemaking
14 could be ready for preliminary adoption in
15 October, so that may come before you.

16 And then in addition to those, if the
17 Board adopts the Outdoor Hydronic Heater Rule
18 today, then that could be before you for final
19 adoption in October also.

20 That's all I have.

21 CHAIRMAN GARD: Okay.

22 Any questions for Chris? Yes.

23 MS. BOYDSTON: Chris, someone asked

1 me what the schedule would be for the Generator
2 Improvements Rule, the Waste Generator
3 Improvements Rule. Do you know what that --

4 MS. PEDERSEN: The Hazardous Waste
5 Generator Improvements Rule?

6 MS. BOYDSTON: Yeah.

7 MS. PEDERSEN: That's under
8 discussion right now. I don't know exactly how
9 long it's going to take to get that one moving
10 because of the approval process at the beginning,
11 but it is under discussion.

12 MS. BOYDSTON: Okay.

13 CHAIRMAN GARD: Any other questions?

14 (No response.)

15 MS. PEDERSEN: Okay. Thank you.

16 CHAIRMAN GARD: Thank you, Chris.

17 Today there will be a public hearing prior
18 to consideration for final adoption of the Cross
19 State Air Pollution Rule. We will also have a
20 hearing prior to consideration for preliminary
21 adoption of the Outdoor Hydronic Heater Rule.
22 We'll also have one emergency rule that the Board
23 will be asked to adopt, the Lawrenceburg Township

1 Dearborn County Ozone Redesignation.

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

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

15 Will the official reporter for the cause
16 please stand, raise your right hand and state
17 your name?

18 (Reporter sworn.)

19 CHAIRMAN GARD: Thank you.

20 The Board will now consider adoption of
21 the emergency rule to redesignate Lawrenceburg
22 Township in Dearborn County to attainment for the
23 2008 eight-hour ozone standard. The federal

1 redesignation rule became effective April 7th.

2 This emergency rule incorporates the federal
3 rule.

4 I will enter Exhibit A, the draft
5 emergency rule, into the record of the meeting.

6 Keelyn Walsh will present the rule.

7 MS. WALSH: Good afternoon, members
8 of the Board. I'm Keelyn Walsh, and I'm here to
9 present the emergency rule to redesignate
10 Lawrenceburg Township in Dearborn County to
11 attainment for the 2008 eight-hour ozone standard
12 for readoption.

13 This rule temporarily revises
14 326 IAC 1-4-16 to redesignate Lawrenceburg
15 Township to attainment for the 2008 eight-hour
16 ozone standard until the regular rulemaking is
17 completed. On April 7, 2017, U.S. EPA published
18 a final rule to redesignate Lawrenceburg Township
19 in Dearborn County to attainment for the 2008
20 eight-hour ozone standard.

21 This emergency rule will allow affected
22 sources to be permitted under the Prevention of
23 Significant Deterioration program under

1 326 IAC 2-2, instead of the more restrictive
2 emission offset program under 326 IAC 2-3.
3 Being permitted under the PSD program
4 instead of the emissions offset program will have
5 a positive impact on Dearborn County's economy
6 and contribute greater economic benefits to the
7 redesignated area. Redesignating Lawrenceburg
8 Township to attainment for the 2008 eight-hour
9 ozone standard will not only -- or will not
10 establish any requirements to which the regulated
11 sources are not already subject.

12 This emergency rule was originally adopted
13 on April 12th, 2017. If readopted, this
14 emergency rule will be filed and become effective
15 immediately for 90 days, at which time the
16 emergency rule will be brought to you for
17 readoption again, since the regular rulemaking
18 will not be completed by that time.

19 IDEM requests that the Board adopt this
20 emergency rule as presented, and program staff
21 are available to answer any further questions you
22 may have.

23 Thank you.

1 CHAIRMAN GARD: Are there any
2 questions?

3 (No response.)

4 CHAIRMAN GARD: Okay. Thank you.

5 We need a motion to adopt the emergency
6 rule.

7 DR. NIEMIEC: So moved.

8 CHAIRMAN GARD: Is there a second?

9 DR. ALEXANDROVICH: Second.

10 CHAIRMAN GARD: All in favor, say
11 aye.

12 MR. HORN: Aye.

13 DR. NIEMIEC: Aye.

14 DR. ALEXANDROVICH: Aye.

15 MS. BOYDSTON: Aye.

16 MR. CUMMINS: Aye.

17 MR. ETZLER: Aye.

18 MR. SMITH: Aye.

19 CHAIRMAN GARD: Aye.

20 Opposed, nay.

21 (No response.)

22 CHAIRMAN GARD: The emergency rule is

23 adopted.

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 326 IAC 24 and 26, the Cross State Air
5 Pollution Rule.

6 I will now introduce Exhibit B, the
7 proposed rules with IDEM's suggested changes,
8 into the record of the hearing.

9 Lauren Aguilar will present the rule.

10 MS. AGUILAR: Good afternoon,
11 Chairwoman Gard, members of the Board. The
12 Department presents LSA 16-209, Cross State Air
13 Pollution Rule, for final adoption. This rule
14 was preliminarily adopted on April 12th, 2017.

15 To refresh our memories since preliminary
16 adoption, and because this is kind of a
17 complicated rulemaking, the Clean Air Act
18 contains requirements concerning the transport of
19 air pollution across state boundaries. States
20 are required to reduce emissions that cross state
21 lines and affect neighboring states.

22 The good neighbor provisions were
23 previously addressed under the Clean Air

1 Interstate Rule, otherwise known as CAIR.
2 However, in response to a December 2008 court
3 decision, the United States Environmental
4 Protection Agency issued a new rule otherwise
5 known as the Cross-State Air Pollution Rule, or
6 CSAPR.

7 After legal delays, CSAPR was put into
8 effect starting January 1st, 2015 with two phases
9 of reductions. CAIR and the replacement CSAPR
10 rule addressed transport obligations under the
11 1997 ozone standard and fine particulate matter
12 air quality standards.

13 On October 26, 2016, EPA revised the CSAPR
14 ozone season for the NO_x trading program to
15 address the 2018 [sic] ozone standard, and made
16 some minor updates to terms such as changing the
17 term "transport rule" to CSAPR in both the annual
18 SO₂ and annual NO_x trading programs. This is
19 referred to as the CSAPR Update Rule.

20 To speed implementation, EPA adopted a
21 Federal Implementation Plan for each of the
22 states covered by CSAPR. For Indiana, that
23 includes a FIP for the three CSAPR trading

1 programs: Annual SO₂, annual NO_x, and the ozone
2 season NO_x.

3 This CSAPR rulemaking was split from a
4 companion rulemaking, which Chris spoke about
5 earlier, currently titled the large affected
6 units rulemaking. The large affected units
7 rulemaking is necessary because, unlike CAIR,
8 CSAPR does not allow participation by the
9 nonelectric generating units or large affected
10 units without a dramatic reduction in available
11 allowances.

12 IDEM had originally planned for the CSAPR
13 rulemaking and the large affected units
14 rulemaking to run parallel and become effective
15 at the same time. But due to complexities in the
16 rulemaking schedules, input from interested
17 stakeholders in the draft language, and SIP
18 submittal deadlines, CSAPR has proceeded faster
19 than the large affected units rulemaking.

20 Therefore, IDEM has proposed to leave the
21 monitoring and reporting requirements for large
22 affected units currently found at
23 326 IAC 24-3-1(a)(2), 24-3-2(51) and 24-3-4(b)(1)

1 and 24-3-11 -- I know that's a mouthful -- in
2 this rule and address the monitoring and
3 reporting requirements in the large affected
4 units rulemaking forthcoming.

5 IDEM has chosen to participate in a
6 trading program that regulate electric generating
7 units and to use methodology similar to the
8 trading program under the FIP. This rule will
9 add new rules at 326 IAC 24-5, 6 and 7 for the
10 three CSAPR trading programs; it will repeal the
11 CAIR rules found at 326 IAC 24-1, 24-2, and the
12 other portions of 24-3 that apply to the electric
13 generating units, while leaving the portions of
14 326 IAC 24-3 that the large affected units need
15 until Jack's rule can -- the large affected units
16 rule can come along and replace that.

17 Additionally, the reference to CAIR in the
18 Regional Haze Rule has been replaced with CSAPR.
19 IDEM will submit these revised rules to EPA by
20 their December 1st, 2017 deadline so that EPA can
21 approve the rule and include it into Indiana's
22 State Implementation Plan in time to record
23 allowances starting in 2021.

1 IDEM has been working with EPA to ensure
2 that the rule can be approved into the Indiana
3 SIP. IDEM has also had meetings and conference
4 calls with affected EGU's and non-EGU's, or large
5 affected units, during this rulemaking. IDEM
6 believes this rule as presented is protective of
7 human health and the environment, is approvable
8 by EPA into Indiana's SIP, and will allow any
9 affected sources to appropriately operate.

10 It is important to move forward with a
11 rule to address Indiana's transport obligations.
12 Without the CSAPR update FIP lowering the ozone
13 season budgets, or a replacement SIP that we
14 will -- that we will attempt to get from EPA,
15 Indiana would need to find another way to meet
16 these obligations. CSAPR is the most
17 cost-effective way to address the impact on
18 neighboring states.

19 Transport obligations under the 2008 ozone
20 standard were due in 2011 in accordance with the
21 Clean Air Act. After failure to submit, Indiana
22 was put on notice for that failure to not meet
23 transport obligations. Adopting these rules and

1 including them in the Indiana SIP helps fulfill
2 Indiana's obligations under the Clean Air Act.
3 The Department respectfully requests the
4 Board final adopt the rule as presented with
5 IDEM's suggested changes. Additional IDEM staff,
6 including Susan Bem, are available should you
7 have any questions that I cannot answer.

8 CHAIRMAN GARD: Okay. Thank you.
9 That was a mouthful.

10 MS. AGUILAR: I know. It's very
11 complicated. I didn't want to leave anything
12 out. I want you to be well informed.

13 CHAIRMAN GARD: Okay.
14 Are there any questions from the Board?

15 (No response.)

16 CHAIRMAN GARD: Oh, okay. We have
17 one speaker card, Ann McIver.

18 MS. MCIVER: Lauren and I were on the
19 same highway.

20 (Laughter.)

21 MS. MCIVER: Thank you, Madam Chair
22 and members of the Environmental Rules Board.
23 Thanks for the opportunity to offer these brief

1 comments on the rulemaking before you. My name
2 is Ann McIver, and I am the Director of
3 Environmental Stewardship for Citizens Energy
4 Group here in Indianapolis.

5 Citizens owns and operates eight large
6 industrial natural-gas-fired boilers at the
7 Perry K Steam Plant, six of which are large
8 affected units under EPA's rulemaking under the
9 original NOx SIP Call, and non-EGU boilers under
10 the Clean Air Interstate Rules.

11 The amendments offered to the
12 preliminarily adopted rules that are before you
13 today are an important bridge for large affected
14 units. A repeal of the ozone season CAIR Rules
15 at 326 IAC 24-3, without this bridge and a
16 replacement rule, would put owners and operators
17 of the large affected units at risk, given that
18 there would be no clear way for the state to
19 demonstrate compliance with the provisions of the
20 NOx SIP Call that are still on the books.

21 As Lauren indicated, IDEM is moving
22 forward with the rulemaking to address these
23 legacy obligations under the NOx SIP Call for the

1 large affected units. The draft rule is on
2 second notice until early August, and Citizens --
3 and I know that others are reviewing the draft
4 rule, and we'd certainly anticipate submitting
5 comments.

6 We're particularly concerned with the
7 ongoing obligations to monitor emissions from
8 these boilers under the so-called Part 75
9 regulations. The rules, promulgated at 40 CFR
10 Part 75 are used by EPA to support emissions
11 monitoring obligations for sources participating
12 in market-based trading programs.

13 States are provided the option of
14 submitting a demonstration that emissions from
15 large affected units do not exceed the emissions
16 allocated under the NO_x SIP call. Continuing to
17 implement the monitoring, record-keeping and
18 reporting obligations under the Part 75 framework
19 simply to prove that emissions don't exceed the
20 worst-case estimates puts a burden on large
21 affected units, both in terms of personnel and a
22 financial burden.

23 So, we look forward to exploring options

1 with IDEM staff to lessen the burden on the large
2 affected units while providing assurances that
3 the basis of the demonstration isn't adversely
4 impacted, and ensuring that any rulemaking
5 brought to you for approval in the future
6 reflects the balance in meeting the obligations
7 of affected sources and for the state.

8 Thank you.

9 CHAIRMAN GARD: Thank you.

10 MS. MCIVER: Questions?

11 CHAIRMAN GARD: Any questions of Ann?

12 (No response.)

13 CHAIRMAN GARD: Thank you.

14 Does anyone else want to speak to this
15 rule that didn't sign up?

16 (No response.)

17 CHAIRMAN GARD: Okay. With that, our
18 hearing is concluded. The Board will now
19 consider final adoption of the Cross State Air
20 Pollution Rule at 326 IAC 24 and 26. Is there
21 any Board discussion?

22 (No response.)

23 CHAIRMAN GARD: We need a motion to

1 adopt IDEM's suggested changes first.

2 MR. HORN: I would so move.

3 CHAIRMAN GARD: Is there a second?

4 MR. CUMMINS: Second.

5 CHAIRMAN GARD: All in favor, say

6 aye.

7 MR. HORN: Aye.

8 DR. NIEMIEC: Aye.

9 DR. ALEXANDROVICH: Aye.

10 MS. BOYDSTON: Aye.

11 MR. CUMMINS: Aye.

12 MR. ETZLER: Aye.

13 MR. SMITH: Aye.

14 CHAIRMAN GARD: Aye.

15 Opposed, nay.

16 (No response.)

17 CHAIRMAN GARD: Okay. We've adopted

18 the suggested changes. We need a motion to final

19 adopt the rules as amended.

20 MR. HORN: I would so move.

21 MR. CUMMINS: Second.

22 CHAIRMAN GARD: Okay. This is a

23 roll-call vote.

1 Dr. Alexandrovich?

2 DR. ALEXANDROVICH: Yes.

3 CHAIRMAN GARD: Ms. Boydston?

4 MS. BOYDSTON: Yes.

5 CHAIRMAN GARD: Mr. Horn?

6 MR. HORN: Yes.

7 CHAIRMAN GARD: Mr. Smith?

8 MR. SMITH: Yes.

9 CHAIRMAN GARD: Mr. Hillsdon-Smith?

10 He didn't make it.

11 Dr. Niemiec?

12 DR. NIEMIEC: Yes.

13 CHAIRMAN GARD: Mr. Rulon's not here.

14 Mr. Etzler?

15 MR. ETZLER: Yes.

16 CHAIRMAN GARD: Mr. Cummins?

17 MR. CUMMINS: Yes.

18 CHAIRMAN GARD: And the Chair votes

19 aye. The vote is eight to zero. The rule has

20 been adopted.

21 This is a public hearing before the

22 Environmental Rules Board of the State of Indiana

23 concerning preliminary adoption of amendments to

1 rules at 326 IAC 4-3, Outdoor Hydronic Heaters.

2 I will now introduce Exhibit C.

3 Keelyn Walsh.

4 MS. WALSH: Good afternoon once

5 again. I'm Keelyn Walsh, and I'm here to present

6 Rule No. 16-332, Outdoor Hydronic Heater

7 Revisions, for your consideration. The purpose

8 of this rulemaking is to amend Indiana's current

9 Outdoor Hydronic Heater Rule at 326 IAC 4-3 to

10 incorporate the requirements of the NSPS at

11 40 CFR 60, Subpart Quadruple Q, which I'll just

12 refer to as 4Q, for outdoor hydronic heaters.

13 Outdoor hydronic heaters are used to heat

14 and provide hot water for homes and other

15 structures, but if operated improperly, they can

16 emit thick smoke and high amounts of

17 particulates, carbon dioxide and volatile organic

18 compounds.

19 On March 16th, 2015, U.S. EPA published a

20 New Source Performance Standard, or NSPS, in the

21 Federal Register to regulate outdoor hydronic

22 heaters. This rule became effective on May 15th,

23 2015 and applies to manufacturers and retailers

1 of outdoor hydronic heaters. Under the federal
2 rule, all new outdoor hydronic heaters are
3 required to meet particulate matter emission
4 limits. All requirements of the federal NSPS
5 have already been adopted into state rules at
6 326 IAC 12-1.

7 Indiana's current Outdoor Hydronic Heater
8 Rule at 326 IAC 4-3, effective May 18th, 2011,
9 relied on U.S. EPA's voluntary program to qualify
10 and label newly installed outdoor hydronic
11 heaters. Upon the effective date of the NSPS
12 in 2015, however, outdoor hydronic heaters
13 previously regulated under the state rule became
14 subject to the requirements of the NSPS at
15 40 CFR 60, Subpart 4Q.

16 These amendments do not make any
17 substantive changes or impose any new regulations
18 or requirements for outdoor hydronic heater
19 owners or operators beyond those currently in
20 effect in the federal NSPS or in the 2011 state
21 rule at 326 IAC 4-3. This rulemaking retains the
22 requirements of the 2011 state rule concerning
23 stack height requirements, the summertime

1 operating ban, opacity limits, and the notice to
2 buyers. This rulemaking also amends additional
3 language as necessary to remove the homemade unit
4 exemption as all units manufactured are now
5 regulated by the federal NSPS.

6 The proposed revisions also make it clear
7 that the exemptions for stack height and
8 summertime use apply not only to Phase 2 units
9 under the voluntary program, but also units
10 certified under the NSPS. While the NSPS applies
11 to more than outdoor hydronic heaters, such as
12 forced-air furnaces, the state rule at
13 326 IAC 4-3 will remain limited to outdoor
14 hydronic heaters.

15 IDEM requests that the Board preliminarily
16 adopt this rule as presented, and program staff
17 are available to answer any further questions you
18 may have.

19 Thanks.

20 CHAIRMAN GARD: Are there any
21 questions for Keelyn?

22 (No response.)

23 CHAIRMAN GARD: Thank you.

1 I don't have any speaker cards turned in
2 for this. Is there anyone out there that would
3 like to comment on this proposed rule?

4 (No response.)

5 CHAIRMAN GARD: Okay. With that,
6 this hearing is concluded. The Board will now
7 consider preliminary adoption of the Outdoor
8 Hydronic Heater Rule. Any Board discussion?

9 (No response.)

10 CHAIRMAN GARD: I need a motion to
11 preliminarily adopt the rule.

12 DR. NIEMIEC: So moved.

13 CHAIRMAN GARD: Second?

14 MR. CUMMINS: Second.

15 DR. ALEXANDROVICH: Second.

16 CHAIRMAN GARD: All in favor, say
17 aye.

18 MR. HORN: Aye.

19 DR. NIEMIEC: Aye.

20 DR. ALEXANDROVICH: Aye.

21 MS. BOYDSTON: Aye.

22 MR. CUMMINS: Aye.

23 MR. ETZLER: Aye.

1 MR. SMITH: Aye.

2 CHAIRMAN GARD: Aye.

3 Opposed, nay.

4 (No response.)

5 CHAIRMAN GARD: The rule is
6 preliminarily adopted.

7 Other matters. An Open Forum. Is there
8 anyone that wishes to address the Board today?

9 (No response.)

10 CHAIRMAN GARD: I can't believe this.
11 This is going too fast.

12 (Laughter.)

13 CHAIRMAN GARD: The next meeting of
14 the Environmental Rules Board is tentatively set
15 for October 11th, 2017 at 1:30 in Conference
16 Room A, the same room. The meeting date is
17 tentative and subject to change. We'll keep
18 everyone updated when it is confirmed or another
19 date is chosen.

20 One thing that I will mention, that Vince
21 Griffin and I went to -- were invited to come to
22 Michigan and talk to a joint committee meeting of
23 their House and Senate Environment Committees on

1 Indiana's rulemaking process, and Nancy King was
2 on the telephone and listened to our testimony
3 and was our -- was our helper and our critic on
4 this, but they have no rulemaking process. Their
5 agency just adopts rules and that's that. And
6 so, they were very interested in what we did, and
7 we thought it went really well. So, I just
8 wanted to add that.

9 Is there anything else to come before the
10 Board?

11 (No response.)

12 CHAIRMAN GARD: If not, do I hear a
13 motion to adjourn?

14 DR. NIEMIEC: So moved.

15 CHAIRMAN GARD: Second.

16 MR. CUMMINS: Second.

17 CHAIRMAN GARD: All in favor, say
18 aye.

19 MR. HORN: Aye.

20 DR. NIEMIEC: Aye.

21 DR. ALEXANDROVICH: Aye.

22 MS. BOYDSTON: Aye.

23 MR. CUMMINS: Aye.

1 MR. ETZLER: Aye.

2 MR. SMITH: Aye.

3 CHAIRMAN GARD: We're adjourned.

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5 Thereupon, the proceedings of
6 July 12, 2017 were concluded
7 at 1:57 o'clock p.m.

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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, July 12, 2017 in this matter and
8 transcribed by me.

9

10 _____

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

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15 My Commission expires August 26, 2024.

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