

Summary Environmental Rules Board
Indiana Government Center South
Conference Center Room A
Teams Meeting
Indianapolis, Indiana
Wednesday, April 10, 2024

A. Call to Order

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

Members present: Beverly Gard, William Etzler, Dr. Joanne Alexandrovich, Calvin Davidson, Dr. Ted Niemiec, Chris Horn, Ken Rulon, R. T. Green, Carrie Kozyrski, Katerine Nelson, Dan Bortner, Jaime Brown, John Ketzenberger, Matt Jaworowski, Ric Zehr, and Brian Rockensuess.

B. Approval of Meeting Summary of August 9, 2023

Chair Gard called for approval of the August 9, 2023, meeting summary, which was approved after the amendments were approved.

C. IDEM Reports

Commissioner's Report

Mr. Brian Rockensuess, Commissioner, said that there has been a lot of staff changing since the last meeting. Bille Franklin has replaced Chris Pedersen as the new Rules Development Branch Chief. Peggy Dorsey, Assistant Commissioner for Land Quality, retired April 30th. Brian Wolff, the former Branch Chief over Wetlands Operations and Stormwater in the Office of Water Quality, will be taking over for Peggy as the Assistant Commissioner for Land Quality. With the recent vacancy of Corey Webb, the Deputy Assistant Commissioner in Land Quality, we hired Andrew Pappas to fill this position. We also hired Michele Murday Pariso for the Northwest Regional Office Director. Finally, Brian Wolff's former OWQ Branch Chief position was filled by Amari Farren, who has been with the agency a number of years and has served in a variety of inspector and enforcement roles.

Regarding federal occurrences, the new PFAS rule for drinking water of four parts per trillion will be phased in over the next five years. U.S. EPA is also considering CERCLA or RCRA hazardous waste, and potential air rules for admissions, PFA's and PFOA's. Also, U.S. EPA is dropping the new PM_{2.5} standard for air quality from 12 to nine, which will have a large economic impact on Indiana. We've been communicating with the Governor, Congressional leadership, and the Economic Development Corporation regarding this impact. U.S. EPA Office of Water put out a letter regarding the combined sewer overflow that was not positive for IDEM and we have responded to that memo.

The bills that were presented during the legislative session were Wetland Bill 1583 and Senate Bill 206. The Wetland Bill 1583 is a compromise between the industry and some of the wetland consultants. It was not a popular bill, but we are moving forward with this bill. It was signed and will take effect July 1st. Senate Bill 206 allows the agency to post notices and send

communications electronically within a 90-day time-period for permitting. We will continue to watch the Administrative Law Judge bill and House Enrolled Act 1276.

We will be starting a budget development with people here at IDEM. This process will be different since there will be a new governor coming in. We're also going to do a legislative roadshow similar to last summer, because it was hugely beneficial for relationship-building with different legislators across the state.

We just submitted the Climate Pollution Reduction Grant application to U.S. EPA that has \$4.6 billion of funding available. Our plan contains voluntary projects to reduce greenhouse gas emissions across the state, and we're aiming for the one hundred to two hundred-million-dollar bucket. We should have a decision by October of this year. Finally, our metrics for air quality, drinking water, and compliance are all doing phenomenal. Land Quality permitting developed a small backlog but we will be done with that by May 1st. Agency wide, our permitting metric is 60 percent of time allowed, and our goal is 75 percent, so we're still doing a great job, but we need to make sure we're still hitting every facet on a micro level.

Mr. Etzler, Mr. Whitney, and Dr. Alexandrovich asked questions, and they were answered.

Nancy King, OLC General Counsel, gave a brief statement regarding the new rulemaking process.

Rules Update

Ms. Billie Franklin, Chief, Rules Development Section (RDS), Office of Legal Counsel (OLC), spoke on the rulemakings. We anticipate that the three civil penalty rules before you today will be presented for final adoption and the Kaiser Aluminum rulemaking will be presented for preliminary adoption at the next Environmental Rules Board meeting, which is tentatively scheduled for July 10, 2024.

The board had no questions.

D. Rules

1. Title 326 Civil Penalties

Chair Gard opened the discussion for preliminary adoption of the Title 326 Civil Penalties rule. Mr. Seth Engdahl, Rule Writer, RDS, OLC, spoke for the agency. Mr. Engdahl requested that the board consider preliminary adoption of Title 326 Civil Penalties rule. This rule has new requirements of changes due to the new administrative rulemaking. One of the requirements is that any fee, fine, or civil penalty imposed by the agency must be included in the agency's rules. This needs to be done by December 31st of this year. The essential elements and structure of the existing civil penalty policy remain intact in the rule and it is IDEM's intention to implement the rules in the exact same way it implements the nonruled policy document.

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

2. Title 327 Civil Penalties

Chair Gard opened the discussion for preliminary adoption of the Title 327 Civil Penalties rule. Mr. Seth Engdahl, Rule Writer, RDS, OLC, spoke for the agency. Mr. Engdahl requested that the board consider preliminary adoption of Title 327 Civil Penalties rule. This rule has new requirements of changes due to the new administrative rulemaking. One of the requirements is that any fee, fine or civil penalty be imposed by the agency and must be included in the agency's rules. This needs to be done by December 31st of this year. The essential elements and structure of the existing civil penalty policy remain intact in the rule and it is IDEM's intention to implement the rules in the exact same way it implements the nonruled policy document.

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

3. Title 329 Civil Penalties

Chair Gard opened the discussion for preliminary adoption of the Title 329 Civil Penalties rule. Mr. Seth Engdahl, Rule Writer, RDS, OLC, spoke for the agency. Mr. Engdahl requested that the board consider preliminary adoption of Title 329 Civil Penalties rule. This rule has new requirements of changes due to the new administrative rulemaking. One of the requirements is that any fee, fine or civil penalty be imposed by the agency and must be included in the agency's rules. This needs to be done by December 31st of this year. The essential elements and structure of the existing civil penalty policy remain intact in the rule and it is IDEM's intention to implement the rules in the exact same way it implements the nonruled policy document.

Chair Gard, Dr. Alexandrovich, Ms. Kozyrski, Mr. Davidson, Mr. Etzler, Mr. Bortner, Mr. Ketzenberger and Ms. Brown had questions. Each one of their questions was answered by IDEM staff.

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

Ms. Moehle from Indiana Manufactures Association, and Mr. Mike Zoeller, Conservation Law Center, presented their testimony to the board.

F. Non-Rule Actions

1. Non-Rule Policy Documents

Chair Gard opened the discussion for the presentation and Ms. Jenny Acker, in the Office of Air Quality, presented the report on Air Permitting for Fiscal Year 2023.

Chair Gard opened the discussion for the presentation and Mr. Paul McMurray, in the Office of Water Quality, presented the report on 2024 List of Impaired Water Bodies.

G. Other Matters

1. Open Forum

No discussion

2. Tentative Date and Location of Next Meeting

The next meeting is tentatively July 10, 2024, Indiana Government Center-South, Conference Room A, 10 North Senate Avenue, Indianapolis, Indiana.

H. Adjournment

Chair Gard adjourned the meeting at 3:07 p.m.

CHAIRPERSON

The summary is derived from Rules Development Branch staff members' notes. A typewritten transcript of the entire meeting is on file in the Office of Legal Counsel, Indiana Department of Environmental Management and will be made available on the IDEM rules website. To view approved summaries, you may go online to <http://www.in.gov/idem/legal/2355.htm>.