

1 BEFORE THE STATE OF INDIANA
2 ENVIRONMENTAL RULES BOARD

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6 PUBLIC MEETING OF NOVEMBER 9, 2016

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 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, November 9, 2016 at 1:30
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
- Gary Powdrill
- 4 Dr. Ted Niemiec
- Joanne Alexandrovich
- 5 Kelly Carmichael
- Ken Rulon
- 6 William Etzler
- Chris Horn
- 7 Gail Boydston
- Calvin Davidson
- 8 Mike Mettler, Proxy, Department of Health
- 9 Devin Hillsdon-Smith, Proxy, Indiana Economic Development Corporation
- 10 David Bausman, Proxy, Lieutenant Governor
- 11 Bruno Pigott (nonvoting)

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IDEM STAFF MEMBERS:

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- Chris Pedersen
- 14 MaryAnn Stevens
- Jack Harmon
- 15 Phil Perry
- Lauren Aguilar
- 16 Nancy King
- Janet Pittman

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18 PUBLIC SPEAKERS:

- 19 Bill Beranek

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1 1 :30 o'clock p.m.
2 November 9, 2016

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4 CHAIRMAN GARD: It's 1:30, so I will
5 call the November 9th, 2016 meeting of the
6 Indiana Environmental Rules Board to order. The
7 first order of business is to determine if a
8 quorum is present, and obviously a quorum is
9 present.

10 There are some -- there's going to be a
11 change in the agenda, just a little bit. I'm
12 going to -- we will be postponing final adoption
13 of the CAFO/CFO Reference Update Rule until our
14 next Board meeting. Nancy King will explain the
15 reason for this, and the reason I kind of
16 stammered over it a little bit is we just found
17 this out, just within the last couple of hours.

18 MS. KING: Thank you, Chairman Gard,
19 members of the Board.

20 Yeah, we just got a note this morning,
21 actually, and better today than tomorrow, from
22 our friends at the NRCS that certain of the
23 standards that we were planning to go to final
adoption with today on updates will be getting

1 updated again here in the next couple of weeks.

2 They sent our program staff a couple of drafts.

3 The ones that I have information on -- and

4 I have yet to see the drafts -- would be this

5 NRCS Standard 522, which is a new national

6 standard that they say they'll be adopting with

7 very few changes from the national, and that has

8 to do with pond sealing or lining concrete.

9 And NRCS Standard 520 will be

10 incorporating old standards from 521(c) and

11 521(b), which have to do with pond sealing or

12 lining, compacted soil treatment, so bentonite,

13 clay, and also soil disbursement. They also said

14 that they will be working on the Waste Storage

15 Facility 313 NRCS standard as well, and that is

16 one that I know our staff relies on fairly

17 significantly.

18 So, because we found this out just this

19 morning, we thought it made sense to postpone

20 final adoption of this particular rule until our

21 next Board meeting so we'll have a chance to take

22 a look at these revised standards, which will be

23 effective by then, and determine whether we want

1 to provide for this most recent update since it's
2 one that will affect all of our CAFO/CFO folks as
3 well as our program.

4 That is about all of the information I
5 have on it at the moment, but I'd be happy to get
6 you any additional information that I can.

7 Gary?

8 MR. POWDRILL: Will it have to go
9 back through preliminary adoption?

10 MS. KING: No, no, it won't, because
11 these standards are the exact ones that is the
12 subject of this rule, so it's -- it is -- it's
13 essentially -- it's a date change. I think
14 the -- let me look here, see if I have it.

15 I believe, for example, our -- the
16 reference that would be in this particular rule
17 that you have in front of you now for the 313
18 Standard, for example, would be the October 2014
19 NRCS date. So, this would be -- if we
20 incorporate that, it would be moved to the 2016,
21 or if it's not finalized until, you know, January
22 or whatever, it would be the 2017 date.

23 So, essentially it's just providing for

1 the most updated versions of these, which was the
2 point of this, so there should be no notice
3 issues and it should be not a problem in terms of
4 us having to go back at all.

5 MR. RULON: Do we have -- is there
6 some benefit from IDEM in terms of a regulatory
7 perspective of adopting this rule and then
8 just -- by delaying adoption, are we delaying the
9 agency's ability to --

10 MS. KING: Well, essentially -- I
11 don't know if you remember, Lauren has discussed
12 this with the Board a little bit. When -- a lot
13 of folks -- it really has to do with what's the
14 easiest one for folks to get, and normally the
15 most recent version is the easiest for folks to
16 be able to get.

17 So, if one of our permit holders wants to
18 use these, what they need to do is request a
19 variance from what is basically in their permit.
20 That's not a particularly onerous or difficult
21 thing to do, so this just -- A, it's good to keep
22 these updated so that everybody can see in the
23 regulations exactly what is being required, and

1 also people tend to use the most updated versions
2 generally anyway.

3 But it keeps them from having to kind of
4 put -- go through that extra step of seeking a
5 variance if they wanted to make a change, and a
6 lot of them have to do -- not all of them, but a
7 lot of them have to do with construction, so it's
8 really not as much of a concern regarding their
9 day-to-day activities on the farm.

10 CHAIRMAN GARD: Any other questions
11 for Nancy?

12 (No response.)

13 CHAIRMAN GARD: Okay. Thank you.

14 MS. KING: Thank you.

15 CHAIRMAN GARD: I also want to ask
16 the Board members to introduce themselves and
17 your affiliation. So, we'll start with Bruno.

18 MR. PIGOTT: My name's Bruno Pigott.
19 I'm the Chief of Staff at the Department of
20 Environmental Management.

21 MR. HILLSDON-SMITH: Devin
22 Hillsdon-Smith, here on behalf of Economic
23 Development.

1 MR. BAUSMAN: David Bausman, with the
2 Department of Ag, proxy for the Lieutenant
3 Governor.

4 MR. METTLER: Mike Mettler, proxy for
5 the State Health Commissioner, Dr. Jerome Adams.

6 MR. HORN: Chris Horn. I'm a labor
7 delegate.

8 MS. BOYDSTON: Gail Boydston,
9 representing manufacturing.

10 CHAIRMAN GARD: Beverly Gard, general
11 public.

12 MR. ETZLER: Bill Etzler, small
13 business.

14 MR. RULON: Ken Rulon, agriculture.

15 MR. POWDRILL: Gary Powdrill,
16 representing the general public.

17 DR. NIEMIEC: Ted Niemiec,
18 representing health care.

19 DR. ALEXANDROVICH: Joanne
20 Alexandrovich, local government.

21 MR. CARMICHAEL: Kelly Carmichael,
22 representing public utilities.

23 MR. DAVIDSON: Calvin Davidson, solid

1 waste.

2 CHAIRMAN GARD: Okay. Thank you all

3 very much.

4 The first order of business is the

5 approval of the summary of the August 10th, 2016

6 Board meeting. Are there any additions or

7 corrections to the summary as distributed?

8 (No response.)

9 CHAIRMAN GARD: Seeing none, do I

10 hear a motion to approve the minutes as

11 distributed?

12 DR. NIEMIEC: So moved.

13 CHAIRMAN GARD: Is there a second?

14 MR. HILLSDON-SMITH: Second.

15 CHAIRMAN GARD: All in favor, say

16 aye.

17 MR. HORN: Aye.

18 DR. NIEMIEC: Aye.

19 DR. ALEXANDROVICH: Aye.

20 MR. RULON: Aye.

21 MS. BOYDSTON: Aye.

22 MR. ETZLER: Aye.

23 MR. BAUSMAN: Aye.

1 MR. POWDRILL: Aye.

2 MR. CARMICHAEL: Aye.

3 MR. METTLER: Aye.

4 MR. DAVIDSON: Aye.

5 MR. HILLSDON-SMITH: Aye.

6 CHAIRMAN GARD: Aye.

7 Opposed, nay.

8 (No response.)

9 CHAIRMAN GARD: The minutes are
10 approved as distributed.

11 Bruno, are you going to give the
12 Commissioner's Report?

13 MR. PIGOTT: Yes. Thank you,
14 Sen. Gard and members of the Board.

15 As you know, we received some rather
16 surprising news recently; that is, the Cubs won
17 the World Series.

18 (Laughter.)

19 MR. PIGOTT: Now, it's been hard to
20 work, frankly.

21 In other news, there was an election
22 yesterday. We have a new Governor-Elect, and
23 just a reminder to folks on the Board that with

1 Board terms expiring, if you're interested in
2 serving as a member of the Board in the future,
3 it's my understanding that the paperwork needs to
4 be submitted, and so we'd appreciate that moving
5 forward.

6 We talked -- I talked this morning to the
7 Chief of Staff of the Governor-Elect's Office,
8 and they indicated that with the news coming just
9 last night, that they'll be moving to assemble a
10 transition team, and they'll work as quickly as
11 possible to appoint or reappoint members of the
12 Board. I expect that they'll do so quickly, but
13 it would help the process to have paperwork in if
14 it hasn't already been submitted.

15 And that's really the only news I've got.

16 CHAIRMAN GARD: Well -- and it's my
17 understanding, if I remember from the statute,
18 the new Board is essentially official the first
19 of January. In the event that the new Board
20 isn't -- new members are not appointed, I think
21 this Board continues until new members are
22 appointed.

23 MR. PIGOTT: That's my understanding.

1 That's correct.

2 CHAIRMAN GARD: Yeah. And I don't
3 know who on this Board, who all is not going to
4 apply, but Kelly, you're not applying, are you?

5 MR. CARMICHAEL: Correct.

6 CHAIRMAN GARD: And so, I want to
7 thank you for your service the last four years.

8 MR. CARMICHAEL: Oh, thank you. It's
9 been a pleasure.

10 CHAIRMAN GARD: We do appreciate that
11 very much.

12 And so, is there anybody else that
13 definitely knows they're not going to apply?

14 MR. POWDRILL: Question.

15 CHAIRMAN GARD: Yes.

16 MR. POWDRILL: When the paperwork
17 went out some months ago, if you sent it in, it's
18 still there? You don't need to resubmit it?

19 MR. PIGOTT: Yes, that's my
20 understanding. And given the transition, we'll
21 make sure it gets to the right place.

22 MR. POWDRILL: Okay.

23 CHAIRMAN GARD: Okay. So, if it's

1 in -- if we sent to the Governor's Office, which
2 many of us did, it'll move to the --

3 MR. PIGOTT: And we'll remind them --

4 CHAIRMAN GARD: Yes, please do.

5 MR. PIGOTT: -- that the paperwork is
6 there, and make sure that it gets to the right
7 place.

8 CHAIRMAN GARD: I'm sure there's a
9 lot of confusion there right now. Okay. Thank
10 you.

11 Chris Pederson for Rulemaking Updates and
12 comments on the Air Permitting Report.

13 MS. PEDERSEN: My name is Chris
14 Pedersen, with the Rule Development Section.

15 Aside from the CAFO and CFO Rule that is
16 being postponed from today, we really don't have
17 any rules that are at a point where I could
18 predict when they'll likely be ready to come
19 before you. We had tentatively looked at
20 February as an estimate of when we might be ready
21 to have another Board meeting, but that was --
22 that's really a placeholder at this point. We
23 aren't sure when the rules will be ready.

1 Most -- many of them are in the drafting
2 stage, at second notice, and that's the part of
3 the rulemaking process that generally takes the
4 longest, there's a lot going on. So, until those
5 start moving through that part of the process, we
6 really can't predict.

7 So, I just wanted to let you know that
8 we'll be keeping you updated. If we start having
9 some rules coming forward, we'll be contacting
10 Board members to let you know, you know, when we
11 think they'd be ready.

12 As far as the Air Permitting Report, that
13 report was in your Board packet and was also sent
14 out to you by e-mail, and Matt Stuckey is
15 available here today to answer any questions you
16 may have about it.

17 CHAIRMAN GARD: Okay.

18 Are there any questions either of Matt
19 Stuckey or Chris?

20 DR. NIEMIEC: Yes. Chris, I have one
21 question. It may come up later if we don't ask
22 it now. I know there's a tentative date for the
23 next meeting, based on when we anticipate those

1 rules being ready. However, in the agenda it
2 states February 2nd, which is the first Thursday
3 of the month. I know the original schedule had a
4 date of February 8th, which is a Wednesday. So,
5 I thought we may want to address that today.

6 MS. PEDERSEN: That was probably an
7 incorrect date, but we would be doing full notice
8 of the correct date if we do it in February, but
9 at this point, we'll just have to wait and see.

10 CHAIRMAN GARD: And as I understand
11 it, there might be a change in the month, so you
12 all will be notified.

13 MS. PEDERSEN: Yes.

14 DR. NIEMIEC: A change in the day of
15 the week?

16 CHAIRMAN GARD: No, a change -- not
17 have a meeting in February.

18 DR. NIEMIEC: Right, but the main
19 issue was: Are they changing from the second
20 Wednesday to the first Thursday? That's what
21 this agenda suggests.

22 CHAIRMAN GARD: No.

23 MS. PEDERSEN: No. If it says the

1 first Thursday, that's an incorrect date. It

2 should have been the second Wednesday.

3 DR. NIEMIEC: Okay. Got it. Thank

4 you.

5 MS. PEDERSEN: Yeah.

6 CHAIRMAN GARD: Any other questions

7 for Chris?

8 (No response.)

9 CHAIRMAN GARD: Thank you.

10 MS. PEDERSEN: Uh-huh.

11 CHAIRMAN GARD: Mr. Bausman will

12 introduce Jordan Seger, from the Department of

13 Agriculture, for a presentation on the Indiana

14 Conservation Partnership.

15 MR. BAUSMAN: Thank you, Madam Chair.

16 With a lot of the discussion we've had, I

17 think, over the last several months, I reached

18 out and asked that we would be able to have a

19 presentation from the Indiana Conservation

20 Partnership, which our Department of Agriculture

21 is a part of.

22 It's a multiagency effort, and so Jordan

23 Seger is the Director of our Division of Soil

1 Conservation at ISDA, which is over half of our
2 Department, and so, he will give you an update on
3 a lot of the efforts, nonregulatory efforts, that
4 our Department and the Conservation Department
5 have been doing to address water quality issues
6 in the state.

7 So, I appreciate Jordan taking the time to
8 give a presentation to the Board.

9 MR. SEGER: Thank you. And if we can
10 get the slides up, I'd appreciate it, or I can do
11 it if I need to.

12 MS. PITTMAN: That's okay.

13 MR. SEGER: I appreciate the invite.
14 It's good to be here.

15 I'm just going to, as David mentioned,
16 in 10, 15 minutes give a brief overview of the
17 structure called the Indiana Conservation
18 Partnership -- many of the entities are
19 represented here in the room -- and a little bit
20 about what we're doing when it comes to working
21 with Indiana landowners to promote conservation,
22 grow that conservation movement, and track our
23 progress.

1 I do have a handout and will speak from a
2 few slides here. It really is -- the
3 Conservation Partnership is a very unique
4 structure in Indiana. As I travel around the
5 country, there is not really another type of
6 structure in other states. And it's comprised
7 of -- comprised of --

8 (Laughter.)

9 MR. PIGOTT: We want to recognize
10 your good work, Jason.

11 MR. SEGER: So, it's made up of eight
12 entities that represent local, state and federal
13 government, in addition to a few others. In many
14 cases, these entities all have staff that work
15 under the same roof, of what we call USDA Service
16 Centers, which there's about one USDA Service
17 Center in each county.

18 Here from the state, the partners in the
19 room include the State Department of Ag, DNR and
20 IDEM, the big federal partners being U.S.
21 Department of Agriculture by way of the Natural
22 Resource Conservation Service, and Farm Service
23 Agency, which supports the Conservation

1 Partnership through a lot of farm bill related
2 funds.

3 Really, our mission in the Division of the
4 Conservation Partnership, really what we work on,
5 is summed up by really the technical, financial
6 and educational assistance. That technical comes
7 from trained field staff that work alongside
8 landowners; the financial can come from local,
9 state and federal funding sources, again,
10 being -- the federal side, a big one there, being
11 the farm bill; and then the educational with
12 different types of events that we host.

13 And really, to sum it up, it is working
14 with private landowners in Indiana to conserve
15 our air, soil and water resources while
16 maintaining or increasing productivity in the ag
17 space.

18 One of the big things we work on, probably
19 not surprising, is water quality issues. In
20 Indiana, most of our water drains to the south,
21 ends up in the Mississippi, eventually the Gulf
22 of Mexico. There is a corner in the northeast
23 part of the state which drains into Lake Erie,

1 and the northwest part of the state that drains
2 into Lake Michigan.

3 Why is that important? We've got some
4 national issues that our state faces, along with
5 many other states. The big one is the Gulf of
6 Mexico hypoxia phenomenon. Basically, nutrients
7 from point sources and nonpoint sources alike
8 entering the Mississippi River as a conduit,
9 flowing down to the Gulf, and creating large
10 algae blooms which basically deprive that water,
11 that large area, of salt oxygen. It makes things
12 like fish and shrimp and crabs and that kind of
13 stuff -- it makes bad habitat.

14 And we partner, the Conservation
15 Partnership, along with EPA and the 11 other big
16 states, mainly ag states in the basin, to really
17 work on this issue collectively, beyond our State
18 Borders. And formalizing this whole process is
19 a document we call our State Nutrient Reduction
20 Strategy, a document that ISDA and IDEM lead,
21 which is our formal communication of all of this
22 I'm going to talk about to EPA and to Congress.

23 What we're doing now here pretty recently

1 with the Indiana Conservation Partnership is to
2 try to track our progress, track our progress
3 working with landowners to improve water quality,
4 highlight those areas that we have more work to
5 do, so we can focus more resources.

6 The big step we've done here is identify
7 the ten major basins in Indiana. This is really
8 delineated as well by the monitoring, water
9 quality monitoring, that is done by IDEM. So,
10 our efforts here recently is to try to measure
11 and track the work we're doing in agriculture and
12 try to measure that and relate it to monitoring
13 that's already been in process by IDEM, and with
14 historical data sets already calculated.

15 And what we're doing here with these ten
16 major basins is to come up with a pretty
17 interactive mobile-friendly platform that's just
18 an on-line inventory, that we can show kind of a
19 one-stop shop of what's going on in that basin,
20 any water quality issues. This happens to be
21 Lake Erie we're seeing a snapshot of.

22 You can go click on any of these
23 watersheds and see the water quality monitoring

1 that's being done by IDEM, by U.S. Geological
2 Survey, by universities, other groups, and access
3 that data. You can see the different
4 conservation efforts and funding sources that are
5 available, whether they be local, state or
6 federal funding sources, to help get conservation
7 projects on the ground.

8 You can actually see a tab directly
9 towards urban land users, so fertilizer and
10 cleaning up after pets, et cetera, et cetera, how
11 to get involved in some of these watershed
12 groups. So, this is just kind of a quick
13 snapshot, screen shot of what we're doing to
14 truly be able to highlight all of this work that
15 I'm going to talk a little bit more about.

16 So, the Conservation Partnership, these
17 eight entities, we all get along, for the most
18 part, and you don't have to travel very far to
19 see how this does not work in other states. Our
20 Conservation Partnership leadership meets every
21 other month. We share goals, we have a common
22 business plan that we all work to achieve those
23 common goals, we share staff, we share funding,

1 we do training together. Like I mentioned, many
2 of us are housed under the same roof.

3 So, what we've done here recently is -- to
4 build upon this structure -- is we've now --
5 really one of the first states in the country
6 that do this -- is we're all sharing our data in
7 one spot.

8 So, this map's a little busy, but to
9 really sum that up, if there is an assisted --
10 and "assisted" is a key word -- if this is
11 assisted by one of those entities in the
12 Partnership, assisted conservation practice that
13 goes on the ground in Indiana, whether that's a
14 wetland construction, a grass waterway, a filter
15 strip, planting an acre of cover crops,
16 converting land to conservation tillage or
17 no-till, you name it, putting a waste utilization
18 pad on a livestock practice, if a practice
19 happens in Indiana assisted by the Partnership,
20 we're now capturing that data in one spot.

21 And from there, we can then track where
22 we're going, and here recently when you talk
23 about what our work -- how that is benefiting

1 water quality, we're really focusing more on
2 outcomes. We don't just want to tout the dollars
3 we spend on conservation or the acres of land we
4 convert into conservation tillage or no-till or
5 the millions of acres of cover crops we've
6 planted.

7 What we've done now -- and actually
8 working along with EPA Region V and nationally --
9 is we're taking all of that data, because we're
10 sharing it in one spot, and we're able to run it
11 through what's called low reduction modeling that
12 actually EPA themselves has developed.

13 So, every practice that gets assisted in
14 Indiana, whether that be a grass waterway, cover
15 crops, you name it, we're now running it through
16 an EPA model that then generates these three
17 maps, being sediment, nitrogen and phosphorus,
18 that are kept out of the water each year that
19 that practice is in place.

20 This is just our work in calendar year
21 2015. You see a little over 21,000 practices
22 installed, and you can see the amount of train
23 cars of sediment that were kept out of Indiana

1 waterways because those practices went in. You
2 can see the amount of nitrogen and the amount of
3 phosphorus, really our key nutrients that cause
4 the Gulf hypoxia issues, that cause the Lake Erie
5 Toledo drinking water bans, et cetera.

6 So, we're pretty excited to really be one
7 of the first states in the country that's able to
8 house all of this data in one spot and actually
9 show the outcomes and the direct water quality
10 improvements we're getting because this
11 conservation is going on the land.

12 And all of this is GIS based, so we can
13 drill down further and further on small
14 watersheds, drinking water bodies, recreational
15 water bodies. Just an example is Geist
16 Reservoir. You can see just in 2014 the amount
17 of train cars of sediment and pickup trucks of
18 fertilizer nutrients that were kept out of Geist
19 Reservoir because farmers were doing the right
20 thing.

21 Another thing that we're really leading
22 the country on when it comes to tracking our
23 progress -- we're not just talking the talk and

1 saying all of this stuff is good and great. We
2 want to show the impacts we're making, so one of
3 the things that Indiana has done that really no
4 other state has done now is we actually track
5 land use practices.

6 In 91 counties -- we don't do Marion
7 County -- across the state, we've been doing this
8 since 1990, so we can tell how much tillage is
9 going on. Less tillage is better for water
10 quality. And you can see, just since 1990, a
11 365-percent increase in use of conservation
12 tillage across the state.

13 When we see counties that may not be
14 tracking as well, we go focus more resources,
15 more staff, more educational events, come up with
16 different funding sources that move the needle in
17 those counties, so it really allows us to focus
18 our efforts.

19 The same kind of snapshot of just no-till
20 since 1990. This is a survey that we do every
21 year. You can see since 1990, on corn and
22 soybean acres, Indiana farmers, in support of the
23 Conservation Partnership, have increased no-till

1 acres by 383 percent across the state.

2 Cover crops are something that are widely
3 being adopted. If you travel around the state
4 now and see all of these green fields, those are
5 cover crops. Some of that's wheat, but cover
6 crops, the idea, if you've got something out
7 there growing over the fall and winter, you've
8 got plant material soaking up any nutrients that
9 are on the ground, holding it all fall, all
10 winter, and then slowly releasing that back into
11 crops.

12 So, a practice that Indiana is actually
13 number two in the country with using, number two
14 only behind the State of Texas, which is about
15 five times our size, but a pretty good indicator,
16 we feel, of all of the other good things going on
17 when Indiana can say we're number two in the
18 country for cover crops. We've got a lot of
19 other good things that we can show. Since 2011,
20 when we started measuring, a 400-percent increase
21 in cover crops.

22 That's really what I wanted to share, the
23 fact that this Conservation Partnership is very

1 unique to the state, and that we're very proud to
2 have it, and really the efforts we're working on
3 now, along with some of the nation's most
4 innovative farmers in the country, to really show
5 how farmers are impacting in a positive way
6 natural resources.

7 And underscoring all of this, these
8 400-percent increases and these billions of
9 pounds of sediment reduced from waterways, is
10 it's all voluntary. Farmers are doing this
11 because they feel it's the right thing to do, and
12 in many cases, they're maintaining or increasing
13 their yield. So, there's no regulation or EPA
14 mandate that's forcing any of this to happen. I
15 think it just highlights the culture that we've
16 got here in the state, both in the public and
17 private sector, and the partners working on this.

18 I know there's a few other partners here
19 in the room with the commodity groups. Indiana
20 Corn Marketing Council, Indiana Soybean Alliance,
21 Indiana Pork, Indiana Farm Bureau, Agribusiness
22 Council of Indiana, the Nature Conservancy are
23 all supporting partners in this Conservation

1 Partnership that we're excited to work with.

2 So, I appreciate the time. Sorry that it
3 got dark here, but appreciate the time, and if we
4 do have -- if time allows, I'll answer any
5 questions.

6 CHAIRMAN GARD: Are there any
7 questions for the presenter?

8 MR. POWDRILL: You mentioned at the
9 beginning how we are so far ahead of the other
10 states.

11 MR. SEGER: Uh-huh.

12 MR. POWDRILL: What are they doing?

13 MR. SEGER: The other states -- and
14 we work a lot with Iowa. They're the big ag
15 state. They're struggling to share data like we
16 are, and have been for three years. They can't
17 get these local, state and federal entities to
18 talk to each other and share their information.

19 We've got good leadership here, especially
20 with our USDA, Jane Hardesty, the head of state
21 conservationists, who was willing to really step
22 up. We went through all of the legal, the legal
23 paperwork you need to do to share this data. We

1 always protect farmer confidentiality, number
2 one, but other states are still struggling just
3 with sharing that data.

4 We here in Indiana got that done. What
5 we're saying is: How do we track all of the
6 other good stuff that's happening? If the Rulons
7 plant two thousand acres of cover crops on their
8 own, don't take any kind of dime of cost-share
9 funding, we want to try to track that and take
10 credit for it. The other states are still
11 struggling with just coming up with what's
12 assisted.

13 But that said, the 12 big states in the
14 Mississippi River Basin, we're working closely
15 with EPA and federal partners on these nutrient
16 reduction strategies to address the Gulf Hypoxia
17 area, but we are working with those other states
18 to share what we've done here and try to help
19 some of those other states get along and try to
20 show the impact, not just as a state, but as a
21 whole basin, being 12 states.

22 MR. POWDRILL: Thank you.

23 MR. CARMICHAEL: It's certainly great

1 to see Indiana a leader in this. Are you guys
2 also tracking the carbon sequestration in soil of
3 no-till cover cropping?

4 MR. SEGER: That's a good question,
5 and that's come up more and more here recently.
6 We always seem to be focused on water quality.
7 We are working with a couple of different groups,
8 including EPA, to include carbon sequestration
9 modeling and even some nitrous oxide components
10 modeling into our existing data sets.

11 So, we've got the raw data there that we
12 can go back in time and look at, but we need to
13 tweak some of our modeling that's right now
14 focused on water quality to include carbon and
15 nitrous oxide pieces, because there -- as you
16 mentioned, rightly so, there are definitely
17 benefits with conservation tillage, no-till and
18 cover crops when it comes to carbon sequestration
19 and even nitrous oxides. We're working on it.

20 MR. RULON: I think just the more
21 knowledge that's there -- the nitrous oxide is
22 the big one. You know, it's 270 times more
23 deadly to the atmosphere than carbon dioxide is,

1 and adds about 75 percent of the contribution,
2 because when you grow stuff, it's a living
3 system, and nitrous is given off. So, a lot of
4 things -- it's 6,000 acres of cover crops, not
5 2000.

6 (Laughter.)

7 MR. RULON: But there's -- I didn't
8 hear Purdue mentioned once, but Purdue was kind
9 of developing a national reputation, some of the
10 stuff that they're doing on modeling production
11 systems, and these are very expensive testing
12 programs, three, four million dollars to monitor
13 what the soil gives off and how we capture that
14 nitrogen so it doesn't get away.

15 So, one of the things that doesn't come
16 out in that presentation is one of the reasons
17 Indiana is a leader is we've had great leadership
18 from every side of the aisle, no matter, you
19 know, and nationally and everything else, and
20 part of that comes back to Purdue's leadership,
21 Jane Hardesty, as you were saying.

22 But the only thing that we haven't had is
23 Iowa has a little problem that they have lawsuits

1 right now involving their water works. So, all
2 of the sudden this data can be used against you
3 in a court of law. So, luckily for us, we're
4 kind of already out there ahead of that, but
5 that's why some of the other states are really
6 struggling is because there's a lot of this, "We
7 won't talk to you because you might hurt us in
8 the future."

9 And the other thing that happens is
10 Indiana's soils are much poorer than Iowa's --

11 MR. SEGER: Uh-huh.

12 MR. RULON: -- which means you have
13 to be smarter and better and safer than they have
14 to be. So, we have a lot of economic advantages,
15 and we have a great partnership. I think it's
16 great that you've taken that initiative, and we
17 have a long ways to go. Don't -- I mean we talk
18 about reducing discharge by millions of tons, but
19 we're still discharging millions of tons. So,
20 even though we know this data is great, and it'll
21 be able to get us there over 10 or 20 years.

22 I'm Sorry if I --

23 MR. SEGER: Absolutely.

1 DR. ALEXANDROVICH: And you might not
2 have the answer to this, but it goes to the rate
3 of nutrient reduction to the waterways. I know
4 the farmers around the Chesapeake Bay have been
5 struggling to clean up the Bay for years, and I'm
6 just wondering how our voluntary rates compare to
7 what they finally agreed on for the Chesapeake,
8 if you might have that.

9 MR. SEGER: Yeah, what we're working
10 with now, working with IDEM and USGS, is to
11 structure the actual water quality monitoring
12 more closely around our state borders so we know
13 what's exactly leaving the state. The epicenter
14 of this is right around the western Lake Erie
15 Basin, which Michigan, Ohio and Indiana drain
16 into, Indiana having the least watershed.

17 So, kind of setting up the structure and
18 the baseline for those larger basin-wide
19 reductions is still a process and being
20 perfected, so we can't tell you today, you know,
21 based on any kind of base line, "This is what
22 Indiana's reducing from the Mississippi River
23 Basin."

1 What we are doing, is Mr. Rulon mentioned,
2 is trying to track our progress and show trends,
3 and if we aren't trending the right way in a
4 certain watershed, go focus more resources there.
5 So, if we reduced two billion pounds of sediment
6 last year, let's shoot for two and a half billion
7 this next year and track our progress, and then
8 wait for the water quality monitoring, which is
9 very expensive and can take five, ten plus years
10 to be able to show where the needle's moving to
11 catch up with that.

12 DR. ALEXANDROVICH: Thank you.

13 CHAIRMAN GARD: Yes.

14 MR. BAUSMAN: One of the things
15 that -- Jordan and I have spent a lot of time the
16 last couple of years on this group. It impacts a
17 lot on the policy side for agriculture, but one
18 of the neat successes is that he's taken me out
19 and has shown some -- which is nearby -- is in
20 the Eagle Creek watershed, and that's a microcosm
21 that they've been able to do with water
22 monitoring coming in there and they are actually
23 tracking to show that we've had some very strong

1 conservation farmers in that watershed that the
2 water is coming out of the ag land cleaner as it
3 enters into residential communities.

4 And there's also -- I mean the day that we
5 were down there, U.S. EPA was there, IDEM,
6 several other agencies, and we were hearing
7 anecdotal evidence that even the boaters in Eagle
8 Creek have noticed that in the last ten years the
9 water's clearer, just the overall recreational
10 use is improving. So, that was a very
11 encouraging story to really see on a micro level
12 the impact our farmers are making across the
13 state.

14 CHAIRMAN GARD: Okay. Any other
15 questions for either Mr. Bausman or Jordan?

16 (No response.)

17 CHAIRMAN GARD: Thank you, Jordan.

18 MR. SEGER: Thank you.

19 CHAIRMAN GARD: That was very
20 interesting.

21 Today there will be public hearings prior
22 to consideration for final adoption of the
23 Definition of Interference; Startup, Shutdown and

1 Malfunction Rules; and Total Coliform Revisions.
2 We have two emergency rules that the Board will
3 be asked to readopt: The Revision of the Total
4 Coliform Rules and Coal Combustion Residuals.

5 After our public hearings and Board
6 actions, we will have discussion of the above
7 ground storage tank advisory committee final
8 report, which was presented to the Board at our
9 last meeting, and you were given a copy at the
10 last meeting. I don't know if any more -- are
11 any available today?

12 MS. KING: I didn't bring any over.
13 I can bring some if we need some. I completely
14 forgot to bring some over.

15 CHAIRMAN GARD: A written transcript
16 of today's meeting will be made. The transcript
17 and any written submissions will be open for
18 public inspection at the Office of Legal Counsel.
19 A copy of the transcript will be posted on the
20 rules page of the agency Web site when it becomes
21 available.

22 Will the official reporter of the cause
23 please stand, raise your right hand and state

1 your name?

2 (Reporter sworn.)

3 CHAIRMAN GARD: And I did forget one
4 paragraph. The rules being considered at today's
5 meeting were included in the Board packets and
6 are available for public inspection at the Office
7 of Legal Counsel, 13th Floor, Indiana Government
8 Center North. The entire Board packet is also
9 available on IDEM's Web site at least one week
10 prior to each Board meeting.

11 This is a public hearing before the
12 Environmental Rules Board of the State of Indiana
13 concerning final adoption of amendments to rules
14 at 327 IAC 5-7-11, the Definition of
15 Interference.

16 I will now introduce Exhibit A, the rules
17 as preliminarily adopted, into the record of the
18 hearing.

19 MaryAnn Stevens will present the rule.

20 MS. STEVENS: Good afternoon, members
21 of the Board. I am MaryAnn Stevens, a rule
22 writer in the Office of Legal Counsel, Rules
23 Development Branch.

1 This Board, in response to a citizen's
2 petition under IC 13-14-8-5, held a hearing on
3 the citizen's proposal requesting revision of the
4 definition of "interference" at 327 IAC 5-17-11,
5 as it relates to a publicly owned treatment
6 works, also called a POTW.

7 The proposal was discussed at several
8 Board meetings after the initial presentation and
9 was the subject of a Board hearing. The Board's
10 final action at its October 2015 meeting was to
11 direct IDEM to conduct rulemaking to revise the
12 definition at 327 IAC 5-17-11 to be consistent
13 with the federal definition at 40 CFR 403.3,
14 subsection (k).

15 The revision to the state definition of
16 "interference" will more narrowly define the
17 term, which is intended to give more certainty to
18 the POTW as to what is interference. The
19 existing state definition of "interference" is
20 met if only one element is present among three
21 characteristics of: One, inhibits or disrupts
22 the POTW; two, causes a violation of the POTW's
23 discharge permit; and three, prevents the use of

1 the POTW's sewage sludge.

2 The revision to the definition of
3 "interference" will make the claim of
4 interference possible only if inhibition or
5 disruption to the POTW is also accompanied by
6 either a violation of the POTW's discharge permit
7 or prevention of use of the POTW's sewage sludge.

8 The first notice of comment period was
9 posted in the Indiana Register on January 13,
10 2016. One comment letter was submitted. The
11 second notice of comment period, including the
12 draft rule, was posted in the Indiana Register on
13 April 13, 2016. No comment letters were
14 submitted.

15 At the Board's hearing in August to
16 consider preliminary adoption, there was one
17 commenter, Mr. Bill Beranek, who spoke on behalf
18 of petitioners who requested the initiation of
19 this rulemaking. Mr. Beranek commented in favor
20 of the Board's adoption of the draft rule.

21 IDEM believes the proposed rule as
22 preliminarily adopted fulfills the Board's
23 directive to revise the definition of

1 "interference" at 327 IAC 5-17-11 to be
2 consistent with the federal definition at
3 40 CFR 403.3, subsection (k), and asks for the
4 Board's vote for final adoption.

5 If there are any questions, I can provide
6 answers, as well as IDEM staff members from the
7 Office of Water Quality's Permit Branch, who can
8 provide more detailed answers.

9 Thank you.

10 CHAIRMAN GARD: Are there any
11 questions for Ms. Stevens?

12 (No response.)

13 CHAIRMAN GARD: Thank you.

14 I don't have any speaker cards. Is there
15 anyone in the public that would like to speak on
16 this?

17 DR. BERANEK: My name is Bill
18 Beranek, and I would just like to say I, again,
19 am in favor of this.

20 CHAIRMAN GARD: Okay. Thank you.

21 Are there any questions for Dr. Beranek?

22 (No response.)

23 CHAIRMAN GARD: This hearing is

1 concluded. The Board will now consider final
2 adoption of amendments to rules at
3 327 IAC 5-7-11, the definition of "interference."

4 Is there any Board discussion?

5 (No response.)

6 CHAIRMAN GARD: A motion needs to be
7 made to adopt the final rule.

8 MR. POWDRILL: So moved.

9 CHAIRMAN GARD: Is there a second?

10 MR. DAVIDSON: Second.

11 CHAIRMAN GARD: This is a roll-call
12 vote.

13 Dr. Alexandrovich?

14 DR. ALEXANDROVICH: Yes.

15 CHAIRMAN GARD: Ms. Boydston?

16 MS. BOYDSTON: Yes.

17 CHAIRMAN GARD: Mr. Powdrill?

18 MR. POWDRILL: Yes.

19 CHAIRMAN GARD: Mr. Davidson?

20 MR. DAVIDSON: Yes.

21 CHAIRMAN GARD: Mr. Horn?

22 MR. HORN: Yes.

23 CHAIRMAN GARD: Mr. Hillsdon-Smith?

1 MR. HILLSDON-SMITH: Yes.

2 CHAIRMAN GARD: Mr. Carmichael?

3 MR. CARMICHAEL: Yes.

4 CHAIRMAN GARD: Dr. Niemiec?

5 DR. NIEMIEC: Yes.

6 CHAIRMAN GARD: Mr. Rulon?

7 MR. RULON: Yes.

8 CHAIRMAN GARD: Mr. Etzler?

9 MR. ETZLER: No.

10 CHAIRMAN GARD: Mr. Bausman?

11 MR. BAUSMAN: Yes.

12 CHAIRMAN GARD: Mr. Mettler?

13 MR. METTLER: Yes.

14 CHAIRMAN GARD: And the Chair votes

15 aye, so 12 ayes and one nay, so the rule has been

16 adopted.

17 This is a public hearing before the

18 Environmental Rules Board of State of Indiana

19 concerning final adoption of amendments to rules

20 at 326 IAC 1-6 and 2-9, the Startup, Shutdown and

21 Malfunction Rules.

22 I will now introduce Exhibit B, the rules

23 as preliminarily adopted with IDEM's suggested

1 changes incorporated, into the record of the
2 hearing.

3 Mr. Jack Harmon will present the rule.

4 MR. HARMON: Good afternoon,
5 Chairwoman Gard, members of the Board. My name
6 is Jack Harmon, and I'm with the Rules
7 Development Branch, Office of Legal Counsel for
8 IDEM, and today I'm presenting information on the
9 Startup, Shutdown and Malfunction, or SSM, Rules
10 for your consideration.

11 Before you today are amendments to
12 Indiana's SSM Rules at 326 IAC 1-6 for your
13 consideration for final adoption of the proposed
14 rule. The SSM Rule describes how owners and
15 operators of industrial processes treat excess
16 emissions from their processes during periods of
17 startup, shutdown, and periods of malfunction.

18 When an industrial process goes through
19 periods of startup or shutdown, or experiences a
20 malfunction, excessive emissions may occur
21 because processes and/or control devices are not
22 yet warmed up or in the process of shutting down,
23 or because a sudden malfunction of part of the

1 process abruptly halted the control device,
2 currently the Indiana rules at 326 IAC 1-6(a)
3 [sic] provides that an exemption for
4 noncompliance with emission limitations could be
5 allowed during certain SSM events.

6 On June 12th, 2015, the U.S. EPA published
7 its findings in the Federal Register at
8 80 FR 33839, taking action against 36 states,
9 including Indiana, concerning inadequacies to
10 startup, shutdown and malfunction provisions
11 within the state rules. The action instructed
12 states, including Indiana, to correct specific
13 provisions in the state implementation plans, or
14 SIP's, concerning the treatment of excessive
15 emissions to be consistent with the Clean Air
16 Act.

17 Section 302(k) of the Clean Air Act
18 requires SIP's to contain emission limitations
19 that limit the quantity, the rate, or the
20 concentration of emissions of air pollutants on a
21 continuous basis without regard to periods of
22 startup, shutdown or malfunction. The federal
23 action requires Indiana to submit a revision

1 correcting the inadequate SSM provisions at
2 326 IAC 1-6 for approval into the SIP by
3 November 22nd, 2016.

4 Following the first comment period for
5 this rulemaking, IDEM responded to several
6 comments when it published its draft rule and
7 second notice of comment period. Following that
8 second comment period, IDEM received no public
9 comments. At the first public hearing in August,
10 there were no public comments as well.

11 IDEM has been in communication with the
12 U.S. EPA regarding the rulemaking action, and EPA
13 is satisfied with the revision that will allow
14 Indiana to be in compliance with the Clean Air
15 Act with regard to the SSM provisions.

16 The rule at 326 IAC 1-6-4(a) has been
17 amended to remove language that exempted when an
18 SSM would be considered as a violation. The rule
19 now requires compliance at all times with the
20 excess limitations and standards, and makes no
21 distinction between periods of regular operations
22 versus periods of SSM.

23 The rule at 326 IAC 2-9-1(h) has also been

1 changed because it references this rule in its
2 requirements, and therefore, it has been updated
3 to correspond to the changes at 326 IAC 1-6.
4 Other areas of the rule have been changed to
5 update minor standard language and style changes.

6 The amendments to 326 IAC 1-6 and
7 326 IAC 2-9 before you will assure that IDEM
8 complies with federal CAA requirements, and will
9 enable the EPA to approve the Indiana SIP
10 revisions. Having an approved program benefits
11 the regulated community because they are not
12 subject to both federal regulation and state
13 rules. They live in harmony.

14 The Department requests that the Board
15 approve this rule for final adoption as
16 presented. IDEM technical staff is here and
17 available should you have any questions.

18 Thank you.

19 CHAIRMAN GARD: Are there any
20 questions? Yes.

21 MS. BOYDSTON: Jack, I have one
22 question. I apologize I didn't catch this
23 earlier, but I realized as I was going through

1 this that if you look on page 2, Section 2, you
2 talk about "The owner...operator must keep a
3 record of all malfunctions," then it goes on to
4 clarify applicable air pollution control -- let
5 me read that. So, "The owner or operator must
6 keep a record of all malfunctions, startups, or
7 shutdowns of any emission unit or emission
8 control equipment that results in [a]
9 violation...of [the] applicable air pollution
10 control [regs] or...applicable emission
11 limitations."

12 Okay. So, you talk about owner/operators
13 needing to keep a record if it falls under a
14 violation of one of those two types; right?
15 Later, when you talk about reporting, for
16 example, you talk about all malfunctions, which
17 is a broader definition.

18 So, I'm wondering if that's what you
19 really meant. If I have to report, I would think
20 that you would intend me to record. So, it
21 didn't make sense to me that we were recording a
22 smaller subset than I actually have to report.

23 MR. HARMON: Okay.

1 MS. BOYDSTON: So, I was assuming,
2 but that's what I'm asking, and if I'm right,
3 then I would want it to be clarified that you
4 were wanting me to report based on the same
5 violation categories above, but it's not stated
6 that way, and as a manufacturing entity, clarity
7 in the rule is important.

8 MR. HARMON: Okay. Okay.

9 MR. PIGOTT: So, Jack or one of the
10 air guys, can you help us understand the intent,
11 I think, is Gail's question; that is to say, is
12 this to be limited to cases where there are
13 violations, and if so, should we change the
14 language, I think is the question, in the other
15 parts of the rule that seem to contradict that?

16 And I wonder if anybody, Keith or any of
17 the air guys, could help Jack in terms of intent.
18 Was the intent here just to limit this just to
19 those instances where there are violations of the
20 applicable air pollution control regulations or
21 applicable emission limitations?

22 And it's my thinking that the answer to
23 that would be yes, Gail, but I need confirmation

1 from the air guys.

2 MS. PEDERSEN: Phil, could you please
3 answer?

4 MR. PERRY: Yeah. My name's Phil
5 Perry. I'm the Chief of the Compliance and
6 Enforcement Branch. And what it is on the
7 reporting side of things, it's those that are
8 lasting more than one hour that have to be
9 reported. If it's less than an hour, they merely
10 have to be recorded.

11 So, for instance, if somebody had
12 something and they exceeded an emission limit for
13 two or three minutes or something, a relief valve
14 popped off or something like that and you had to
15 release it just for a couple of minutes, they
16 would have to record that. If it lasted more
17 than an hour, then they would be obligated to
18 report that to the agency.

19 MR. PIGOTT: And Gail, do you think
20 that the language is -- and guys, can you help us
21 understand whether the language is that specific,
22 or is it vague enough that it leaves an industry
23 with a lack of certainty as to what they have to

1 record versus report?

2 MS. BOYDSTON: So, as we thought
3 about this, we could think of examples where you
4 could malfunction at greater than an hour and not
5 be in violation. So, that's where we're coming
6 from. It's a possibility, and so what I'm
7 wondering, if -- it sounds like your intent is if
8 I have a violation and it lasts more than an
9 hour, you also want it reported.

10 MR. PERRY: Correct.

11 MS. BOYDSTON: I would just ask that
12 that language be clarified so that we're, as
13 regulated entities, very clear about what your
14 intent is.

15 MR. PERRY: Okay.

16 MR. PIGOTT: And what we're talking
17 about at this point is preliminary adopt --
18 preliminary adoption; is that correct?

19 CHAIRMAN GARD: This is final.

20 MR. PERRY: This is final adoption.

21 MS. BOYDSTON: This is final.

22 MR. HARMON: This is final.

23 MR. PIGOTT: So, this is important

1 now. We can't go back --

2 MR. PERRY: Yeah.

3 MR. PIGOTT: We're going to have to

4 develop the language now --

5 MR. PERRY: Right.

6 MR. PIGOTT: -- and amend it.

7 MR. PERRY: Yeah. Now, keep in mind,

8 in the past five years we've not had anybody

9 actually even utilize this particular rule. Most

10 of these, the larger sources, Title V and FESOP

11 sources, don't -- are subject to a different set

12 of rules as far as emergency provisions. These

13 are for the smaller sources, and we have not had

14 people actually use this rule. So, keep that in

15 mind as well.

16 MS. BOYDSTON: Well, that's data, but

17 I still want to have our rules clear.

18 MR. PERRY: Right.

19 MS. BOYDSTON: So, we could probably

20 easily say something to the effect of from this

21 point forward, in addition to a violation, if

22 that violation should last longer than an hour,

23 just to be clear.

1 CHAIRMAN GARD: Bill has a --

2 MR. ETZLER: The rule is clear,
3 because you have to keep a record of all
4 malfunctions.

5 MS. BOYDSTON: No, you don't.

6 MR. ETZLER: Yes.

7 MS. BOYDSTON: It says if -- you have
8 to keep a record of malfunctions that result in a
9 violation, so if you look up the definition of a
10 malfunction, it's broader than malfunctions with
11 violations.

12 MR. ETZLER: Hmm. Section (a) says,
13 "The owner or operator must keep a record of all
14 malfunctions."

15 MS. BOYDSTON: That result in
16 violations.

17 DR. NIEMIEC: Violations.

18 MR. PIGOTT: Right.

19 MS. BOYDSTON: So, malfunctions
20 are -- by definition in rules -- are broader than
21 malfunctions with violations. I just -- I looked
22 it up, so I would know that that's the case.

23 MR. PERRY: Yeah. I don't recall as

1 far as the definition of "malfunction" going
2 back, if it's in Article 1 or not.

3 MS. BOYDSTON: I think it -- I think
4 that's where I found it was in Article 1.

5 MR. PERRY: And it's specific to
6 malfunctions related to emissions and not
7 necessarily malfunctions of any equipment, so if
8 you had something that broke down that did not
9 result in excess emissions or a violation, it
10 wouldn't have to be reported. Otherwise,
11 industry and everybody would be inundated keeping
12 records on everything that broke down at their
13 facility. These are only intended for those that
14 result in emissions or violations.

15 MS. BOYDSTON: And I understand, and
16 I agree with you that that's your intent. I just
17 want to make sure the rule says that, that's all.

18 CHAIRMAN GARD: You know, I really
19 have a problem passing a rule, even though people
20 never use the rule, if it's flawed.

21 MS. BOYDSTON: And that's my concern.

22 CHAIRMAN GARD: Yeah. I don't like
23 that with legislation and I don't like that with

1 rules.

2 So, Nancy, do you want to give us a little
3 bit of guidance on the process here?

4 MS. KING: Well, first of all, I'd
5 like to say I leave the room for ten minutes, and
6 this happens.

7 (Laughter.)

8 MS. KING: Second of all, I missed
9 part of the question and the discussion, so Gail,
10 if you could explain to me what your problem with
11 the language is. Considering this language is
12 what it has been, it's only rearranged, I'd
13 really like to understand the problem before I
14 try to give some kind of an answer.

15 MS. BOYDSTON: Yeah. So, my point,
16 Nancy, was in part 2(a), it says, "The owner or
17 operator must keep a record of all malfunctions,
18 startups, or shutdowns of any emission unit or
19 emission control equipment that results in
20 violations," and then it lists the two
21 violations.

22 Later, it talks about reporting
23 malfunctions that are greater than an hour. So,

1 my only point was I think the intent, and Phil's
2 confirmed that, that the intent was the remainder
3 of this rule applies to malfunctions that
4 resulted in a violation.

5 MS. KING: Where's the later language
6 pertaining to reporting, so I can --

7 MR. PERRY: It's in the --

8 MR. PIGOTT: (c). It's Section 2(c),
9 Nancy, and it says, "When a malfunction --"

10 MS. KING: Yeah, I can read it right
11 now.

12 MR. PIGOTT: Okay.

13 MS. BOYDSTON: I think it was 2(c),
14 and then I think it may have been section 5, I
15 had some deals there.

16 MR. ETZLER: Again, I -- speaking to
17 this, you have to keep a record of all
18 malfunctions that result in a violation.

19 MR. PIGOTT: Right.

20 MR. ETZLER: You have to report all
21 malfunctions that last more than an hour.

22 MS. BOYDSTON: Right. So --

23 MR. ETZLER: So, you're recording any

1 malfunctions.

2 MS. BOYDSTON: No, there are

3 malfunctions that are not violations.

4 MR. ETZLER: I get that, but this

5 is --

6 MS. KING: So, Gail, let me ask

7 you -- Chris Pedersen, who's been in here the

8 whole time, has had a suggestion that might clear

9 up -- and perhaps this would address the issue.

10 Would a change in subsection (c) that says -- a

11 malfunction under subsection (a)?

12 MS. PEDERSEN: Right.

13 MS. KING: Yeah. "When a malfunction

14 under subsection (a) of any emission unit or

15 emission control equipment occurs that lasts more

16 than one hour --"

17 MS. BOYDSTON: Yes.

18 MS. KING: "-- the condition must be

19 reported to the Commissioner." Does that --

20 MS. BOYDSTON: Exactly.

21 MS. KING: Does that clarify --

22 MS. BOYDSTON: Yes.

23 MS. KING: If we were to add the

1 language in subsection (c) referencing
2 subsection (a), does that make it clear?

3 MS. BOYDSTON: It does. I believe it
4 applies in other sections. I think it also
5 applies at least in Section 5, but --

6 MS. KING: Well, Section 5 is
7 excessive malfunctions, which is not exactly the
8 same thing as regular reporting of malfunctions.
9 If the issue is related to what must be reported,
10 then it should be specific to Section 2.

11 MS. BOYDSTON: So, it should at least
12 be in (c). Obviously, Nancy, I didn't note every
13 section where it applied.

14 MS. KING: Yeah.

15 MS. BOYDSTON: It may be just (c).

16 MS. KING: Yes. Considering it's
17 about malfunctions, there's probably a lot of
18 them in here, isn't there? Actually it's a
19 fairly short rule, but I just want to make sure
20 that all of the correct references are here,
21 because we'll need to read them into the
22 record --

23 MS. BOYDSTON: Yeah.

1 MS. KING: -- since this is the final
2 adoption, and I want everyone to be okay with the
3 language, too. So, let's see. Let me quickly
4 look at Section 5. I -- my reading of Section 5
5 is that that is a distinct issue related to
6 someone who has continuing and excessive
7 malfunction. It does not directly relate to
8 whether a malfunction needs to be recorded and
9 the duration of that malfunction. It really
10 seems to be more related to a pattern of issues
11 related to the source. I don't want to --

12 MS. BOYDSTON: Yeah. So, for
13 Section 5, you base that on the data that was
14 recorded; correct?

15 MR. PIGOTT: Uh-huh.

16 MS. KING: Uh-huh.

17 MS. BOYDSTON: So, while it isn't
18 specific, you can -- you would be making the
19 assumption that it's based on Section 2(a)?

20 MS. KING: Right. It would be -- it
21 would be based on what is required to be recorded
22 under Section 2, so as long as the -- if we make
23 a clarification in Section 2, that clears up that

1 issue related to duration. So, if we were to
2 make the change in subsection (c), "When a
3 malfunction under subsection (a)," which goes
4 back to the concept of it's a violation, "of any
5 emission unit occurs," if that addresses your
6 question and the issue, I think --

7 MS. BOYDSTON: Yes.

8 MS. KING: -- that that would work
9 for us. And I apologize. I raced over to get
10 those things that I forgot to get earlier, so I'm
11 sorry I wasn't here. But if in fact the Board
12 wishes to suggest that amendment, we just need to
13 read it into the record of the hearing, and then
14 the Board would be asked to adopt that change,
15 and then final adopt the rule as amended.
16 Procedurally that's how that would work.

17 DR. NIEMIEC: So, Gail, it sounds
18 like you're making a motion to make that
19 amendment.

20 MS. BOYDSTON: Thank you. Yes, I'll
21 make that motion.

22 DR. NIEMIEC: Second.

23 CHAIRMAN GARD: This doesn't have to

1 be a roll call?

2 MS. KING: No, we don't do roll calls
3 when we adopt amendments to the rule. We do roll
4 calls with final adoption as amended.

5 CHAIRMAN GARD: Okay. A motion has
6 been made and seconded to add under
7 subsection (c) the words "under subsection (a)."
8 All in favor, say aye.

9 MR. HORN: Aye.

10 DR. NIEMIEC: Aye.

11 DR. ALEXANDROVICH: Aye.

12 MR. RULON: Aye.

13 MS. BOYDSTON: Aye.

14 MR. ETZLER: Aye.

15 MR. BAUSMAN: Aye.

16 MR. POWDRILL: Aye.

17 MR. CARMICHAEL: Aye.

18 MR. METTLER: Aye.

19 MR. DAVIDSON: Aye.

20 MR. HILLSDON-SMITH: Aye.

21 CHAIRMAN GARD: Aye.

22 Opposed, nay.

23 (No response.)

1 CHAIRMAN GARD: That amendment is
2 adopted. Now, do I -- you said there could be
3 public comment on this, or --

4 MS. KING: Have we not finished the
5 hearing yet?

6 CHAIRMAN GARD: No.

7 MS. KING: Okay. Well, then probably
8 we should --

9 CHAIRMAN GARD: Okay.

10 MS. KING: -- complete the hearing
11 and then do the Board action, which would be just
12 what you just did. I apologize. I didn't
13 realize that. So, somebody else might want to
14 talk and add some more language.

15 CHAIRMAN GARD: We have no speaker
16 cards. Is there anyone in the audience that
17 would like to speak on this issue or the proposed
18 amendment?

19 MR. ETZLER: No, but I have another
20 question.

21 CHAIRMAN GARD: All right.

22 MR. ETZLER: Is the intent of
23 section (c) -- I'm sorry -- section (b) -- no,

1 (c) -- do you -- is the agency interested in
2 malfunction -- reporting of malfunctions that
3 last more than an hour, or only in malfunctions
4 that result in violations?

5 MR. PERRY: The agency is interested
6 in basically excess emissions, and we would have
7 to determine if they actually are violations or
8 not. There may be excess emissions and we get
9 complaints we need to respond to, air quality
10 action days. There's a variety of things that we
11 would be interested in. We're certainly
12 interested in those that result in violations,
13 but those that would result in excess emissions,
14 generally they're going to be one and the same.

15 MR. ETZLER: Because if you change --
16 if we change the language, then you won't get a
17 report of a malfunction that lasts more than an
18 hour unless it results in a violation.

19 MR. PERRY: Correct.

20 MR. ETZLER: So, my question is:
21 Which does the agency want?

22 MR. PERRY: Again, I think -- because
23 they would end up being virtually one and the

1 same, I think those that result in a violation
2 would be what the agency would be looking for.

3 MR. ETZLER: Okay.

4 CHAIRMAN GARD: Any other questions?

5 (No response.)

6 CHAIRMAN GARD: Okay. Thank you.

7 The Board -- this hearing is concluded, if
8 there's no one else that wants to speak. The
9 Board will now consider final adoption of
10 amendments to 326 IAC 1-6 and 2-9, the Startup,
11 Shutdown and Malfunction Rules. We do need to
12 make that motion and second and vote again on the
13 proposed amendment.

14 MR. RULON: So moved.

15 MS. BOYDSTON: Second.

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

18 MR. HORN: Aye.

19 DR. NIEMIEC: Aye.

20 DR. ALEXANDROVICH: Aye.

21 MR. RULON: Aye.

22 MS. BOYDSTON: Aye.

23 MR. ETZLER: Aye.

1 MR. BAUSMAN: Aye.

2 MR. POWDRILL: Aye.

3 MR. CARMICHAEL: Aye.

4 MR. METTLER: Aye.

5 MR. DAVIDSON: Aye.

6 MR. HILLSDON-SMITH: Aye.

7 CHAIRMAN GARD: Aye.

8 Opposed, nay.

9 (No response.)

10 CHAIRMAN GARD: So, the motion under

11 subsection (c) for the amendment, which says,

12 "under subsection (a)," has been adopted. Is

13 there any further discussion?

14 (No response.)

15 CHAIRMAN GARD: I need a motion to

16 adopt IDEM's suggested changes.

17 MR. HORN: So moved.

18 CHAIRMAN GARD: Is there a second?

19 MS. BOYDSTON: Second.

20 CHAIRMAN GARD: All in favor, say

21 aye.

22 MR. HORN: Aye.

23 DR. NIEMIEC: Aye.

1 DR. ALEXANDROVICH: Aye.

2 MR. RULON: Aye.

3 MS. BOYDSTON: Aye.

4 MR. ETZLER: Aye.

5 MR. BAUSMAN: Aye.

6 MR. POWDRILL: Aye.

7 MR. CARMICHAEL: Aye.

8 MR. METTLER: Aye.

9 MR. DAVIDSON: Aye.

10 MR. HILLSDON-SMITH: Aye.

11 CHAIRMAN GARD: Aye.

12 Opposed, nay.

13 (No response.)

14 CHAIRMAN GARD: Now, we need a motion

15 to final adopt the rule as amended.

16 MR. RULON: So moved.

17 MS. BOYDSTON: Second.

18 MR. POWDRILL: Second.

19 CHAIRMAN GARD: This is a roll-call

20 vote.

21 Dr. Alexandrovich?

22 DR. ALEXANDROVICH: Yes.

23 CHAIRMAN GARD: Ms. Boydston?

1 MS. BOYDSTON: Yes.

2 CHAIRMAN GARD: Mr. Powdrill?

3 MR. POWDRILL: Yes.

4 CHAIRMAN GARD: Mr. Davidson?

5 MR. DAVIDSON: Yes.

6 CHAIRMAN GARD: Mr. Horn?

7 MR. HORN: Yes.

8 CHAIRMAN GARD: Mr. Hillsdon-Smith?

9 MR. HILLSDON-SMITH: Yes.

10 CHAIRMAN GARD: Mr. Carmichael?

11 MR. CARMICHAEL: Yes.

12 CHAIRMAN GARD: Dr. Niemiec?

13 DR. NIEMIEC: Yes.

14 CHAIRMAN GARD: Mr. Rulon?

15 MR. RULON: Yes.

16 CHAIRMAN GARD: Mr. Etzler?

17 MR. ETZLER: Yes.

18 CHAIRMAN GARD: Mr. Bausman?

19 MR. BAUSMAN: Yes.

20 CHAIRMAN GARD: Mr. Mettler?

21 MR. METTLER: Yes.

22 CHAIRMAN GARD: The Chair votes aye.

23 Thirteen ayes, zero nays, the rule has been

1 finally adopted.

2 This is a public hearing before the
3 Environmental Rules Board of the State of Indiana
4 concerning final adoption of amendments to rules
5 at 327 IAC 8, Total Coliform Rules.

6 I will now introduce Exhibit C, the rules
7 that are preliminarily adopted, into the record
8 of the hearing.

9 MaryAnn Stevens will present the rule.

10 MS. STEVENS: Good afternoon, members
11 of the Board. I am MaryAnn Stevens, a rule
12 writer in the Office of Legal Counsel, Rules
13 Development Branch.

14 This is the hearing for consideration of
15 final adoption of the federally required
16 revisions to the Total Coliform Rule adopted by
17 the United States Environmental Protection Agency
18 under the Safe Drinking Water Act. An emergency
19 rule has been in place since February to
20 temporarily provide for the requirements of the
21 Revised Total Coliform Rule. This is the
22 rulemaking that will permanently include
23 requirements in the -- in Indiana's

1 Administrative Code as part of Title 327.

2 This rulemaking makes revisions to the
3 1989 Total Coliform Rule and makes minor
4 revisions to various drinking water standards
5 affected by the revisions to the Total Coliform
6 Rule. The federal revisions to the Total
7 Coliform Rule are found at 40 CFR 141, Subpart Y,
8 which in the state's rule has been included
9 through incorporation by reference of the federal
10 language. The minor revisions to the various
11 drinking water standards occur in existing rules
12 at Title 327, Article 8, and have been included
13 by making the full text changes to the affected
14 existing rule language in Article 8.

15 Without these federal requirements of the
16 Revised Total Coliform Rule being included in the
17 state's rules, there would be the potential for
18 IDEM to lose primacy to conduct the state's
19 drinking water program as required under the Safe
20 Drinking Water Act, loss of federal funding for
21 the drinking water programs, and regulated
22 entities would still be required to comply with
23 the federal standards but without the support,

1 training or educational assistance provided by
2 IDEM's drinking water programs.

3 IDEM received no comments during the first
4 and second notices of comment period, and no
5 comments were made at the hearing to consider
6 preliminary adoption.

7 U.S. EPA's intent in revising the 1989
8 federal Total Coliform Rule was to provide for
9 greater public health protection beyond the
10 original rule. Under the Revised Total Coliform
11 Rule, there is no longer a monthly maximum
12 contaminant level violation for multiple total
13 coliform detections.

14 Instead, public water systems that have an
15 indication of coliform contamination in the
16 distribution system will be required to assess
17 the problem and take corrective action that may
18 reduce cases of illnesses and deaths due to
19 potential fecal contamination and waterborne
20 pathogen exposure.

21 The Revised Total Coliform Rule also
22 updates provisions in other drinking water rules
23 that reference analytical methods and other

1 requirements in the 1989 Total Coliform Rule; for
2 example, the Public Notification and Water -- and
3 Ground Water Rules.

4 These revisions to the Total Coliform Rule
5 are in accordance with the 1996 Safe Drinking
6 Water Act Amendments that require the U.S. EPA to
7 review and revise as appropriate each national
8 primary drinking water regulation not less often
9 than every six years. These revisions also
10 conform to the Safe Drinking Water Act provision
11 that requires any revision to maintain or provide
12 for greater protection of the health of persons.

13 If there are any questions, I can provide
14 answers, as well as the IDEM staff members from
15 the Drinking Water Branch are also here with more
16 detailed answers.

17 CHAIRMAN GARD: Are there any
18 questions for Ms. Stevens?

19 (No response.)

20 CHAIRMAN GARD: Thank you.

21 I have no speaker cards. Is there anyone
22 that cares to speak on this rule?

23 (No response.)

1 CHAIRMAN GARD: The hearing is
2 concluded. The Board will now consider final
3 adoption of the amendments to Total Coliform
4 Rules at 327 IAC 8. Is there any Board
5 discussion?

6 (No response.)

7 CHAIRMAN GARD: I need a motion to
8 final adopt the rule.

9 MR. ETZLER: So moved.

10 CHAIRMAN GARD: Is there a second?

11 MR. CARMICHAEL: Second.

12 MS. BOYDSTON: Second.

13 CHAIRMAN GARD: Dr. Alexandrovich?

14 DR. ALEXANDROVICH: Yes.

15 CHAIRMAN GARD: Ms. Boydston?

16 MS. BOYDSTON: Yes.

17 CHAIRMAN GARD: Mr. Powdrill?

18 MR. POWDRILL: Yes.

19 CHAIRMAN GARD: Mr. Davidson?

20 MR. DAVIDSON: Yes.

21 CHAIRMAN GARD: Mr. Horn?

22 MR. HORN: Yes.

23 CHAIRMAN GARD: Mr. Hillsdon-Smith?

1 MR. HILLSDON-SMITH: Yes.

2 CHAIRMAN GARD: Mr. Carmichael?

3 MR. CARMICHAEL: Yes.

4 CHAIRMAN GARD: Mr. -- Dr. Niemiec?

5 DR. NIEMIEC: Yes.

6 CHAIRMAN GARD: Mr. Rulon?

7 MR. RULON: Yes.

8 CHAIRMAN GARD: Mr. Etzler?

9 MR. ETZLER: Yes.

10 CHAIRMAN GARD: Mr. Bausman?

11 MR. BAUSMAN: Yes.

12 CHAIRMAN GARD: Mr. Mettler?

13 MR. METTLER: Yes.

14 CHAIRMAN GARD: The Chair votes aye.

15 That's 13 ayes, zero nays, the rule has been

16 finally adopted.

17 The Board will now consider adoption of an

18 emergency rule incorporated -- to incorporate

19 federal rules to the Total Coliform Rule known as

20 the Revised Total Coliform Rule. This is the

21 third extension of the emergency rule which we

22 originally adopted at the February Board meeting.

23 I will enter Exhibit D, the draft

1 emergency rule, into the record of the meeting.

2 MaryAnn Stevens will present the rule.

3 MS. STEVENS: Good afternoon, members

4 of the Board. I am MaryAnn Stevens, a rule

5 writer in the Office of Legal Counsel, Rules

6 Development Branch.

7 IDEM requests the Board again adopt an

8 emergency rule that will provide Indiana with

9 temporary rules that are federally required by

10 the revisions to the Total Coliform Rule adopted

11 by the United States Environmental Protection

12 Agency under the Safe Drinking Water Act. Having

13 the emergency rule in place has prevented Indiana

14 from being deficient in meeting the federal

15 requirements that went into effect as of April 1,

16 2016.

17 This emergency document is the same as the

18 one that the Board adopted at its August 10th

19 meeting, but it is slightly changed from the

20 emergency documents that were adopted by the

21 Board in February and May. The emergency rule is

22 needed to continue the effectiveness of the

23 federal requirements of the Revised Total

1 Coliform Rule until the state's regular
2 rulemaking is complete.

3 On today's agenda, just the previous
4 action, the Board final adopted the Revised Total
5 Coliform Rule. The promulgation process for a
6 final adopted rule can take up to four months.
7 This emergency document will expire on the
8 effective date of the Revised Total Coliform Rule
9 or 90 days after filing with the publisher,
10 whichever takes place first. If the effective
11 date of the Revised Total Coliform Rule occurs
12 within the 90 days, today's adoption of an
13 emergency rule will be the last one.

14 If there are any questions, I can provide
15 answers, and we have technical staff from the
16 Drinking Water Branch who are here as well.

17 CHAIRMAN GARD: Are there any
18 questions?

19 (No response.)

20 CHAIRMAN GARD: Any Board discussion?

21 (No response.)

22 CHAIRMAN GARD: I need a motion to
23 adopt the emergency rule.

1 MR. RULON: So moved.

2 CHAIRMAN GARD: Is there a second?

3 MR. BAUSMAN: Second.

4 CHAIRMAN GARD: All in favor, say

5 aye.

6 MR. HORN: Aye.

7 DR. NIEMIEC: Aye.

8 DR. ALEXANDROVICH: Aye.

9 MR. RULON: Aye.

10 MS. BOYDSTON: Aye.

11 MR. ETZLER: Aye.

12 MR. BAUSMAN: Aye.

13 MR. POWDRILL: Aye.

14 MR. CARMICHAEL: Aye.

15 MR. METTLER: Aye.

16 MR. DAVIDSON: Aye.

17 MR. HILLSDON-SMITH: Aye.

18 CHAIRMAN GARD: Aye.

19 Any opposed?

20 (No response.)

21 CHAIRMAN GARD: The emergency rule is

22 adopted.

23 The Board will now consider adoption of an

1 emergency rule to incorporate federal
2 requirements for coal combustion residuals. This
3 is the third extension of this emergency rule,
4 which the Board originally adopted at the
5 February Board meeting.

6 I will enter Exhibit E, the draft
7 emergency rule, into the record of the meeting.

8 Lauren Aguilar will present the rule.

9 MS. AGUILAR: Good afternoon,
10 Chairwoman Gard, members of the Board. Hey, I'm
11 a little tall today. My name's Lauren Aguilar.
12 I'm here on behalf of the Department to request
13 that the Board adopt the emergency rule as
14 presented.

15 This emergency rule once again temporarily
16 incorporates 40 CFR 257, Subpart D, which became
17 effective on 10-19-2015 to deal with the
18 regulation of coal combustion residuals. To
19 remind everyone, coal combustion residuals are
20 materials generated from burning coal for the
21 purposes of generating electricity.

22 Like Chairwoman Gard said, there were
23 previous emergency rules that were adopted by

1 this Board. Another adoption is necessary until
2 the companion rulemaking of LSA No. 16-217, which
3 this Board finally adopted on August 10th, 2016,
4 becomes effective.

5 The federal regulations are
6 self-implementing and Indiana's current rules at
7 329 IAC 10 are limited in scope, only regulating
8 CCR impoundments at final closure if waste is
9 closed in place. Once again, incorporating this
10 regulation by reference allows the Department to
11 have the authority to ensure compliance and take
12 enforcement action if necessary to ensure
13 protection to human health and the environment.

14 In addition, interested stakeholders
15 requested alternative compliance schedules, which
16 is allowed under 40 CFR 256 if it is part of the
17 state Solid Waste Management Plan. The
18 Department is continuing to work with the
19 U.S. EPA to amend the Indiana Solid Waste
20 Management Plan. Continuing enforcement
21 authority is a key part of this process.

22 Once again, the Department respectfully
23 requests the Board adopt the emergency rule as

1 presented. I am happy to answer questions. We
2 also have program staff, including Jeff Sewell,
3 available should you have any questions that I
4 cannot answer.

5 CHAIRMAN GARD: Are there any
6 questions from the Board for Lauren?

7 (No response.)

8 CHAIRMAN GARD: Okay. None?
9 Thank you.

10 MS. AGUILAR: Okay.

11 CHAIRMAN GARD: I need a motion to
12 adopt the emergency rule.

13 MR. CARMICHAEL: So moved.

14 CHAIRMAN GARD: Second?

15 MR. HILLSDON-SMITH: Second.

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

18 MR. HORN: Aye.

19 DR. NIEMIEC: Aye.

20 DR. ALEXANDROVICH: Aye.

21 MR. RULON: Aye.

22 MS. BOYDSTON: Aye.

23 MR. ETZLER: Aye.

1 MR. BAUSMAN: Aye.

2 MR. POWDRILL: Aye.

3 MR. CARMICHAEL: Aye.

4 MR. METTLER: Aye.

5 MR. DAVIDSON: Aye.

6 MR. HILLSDON-SMITH: Aye.

7 CHAIRMAN GARD: Aye.

8 Opposed, nay.

9 (No response.)

10 CHAIRMAN GARD: The emergency rule is
11 adopted.

12 At our August meeting, the final report of
13 the Above Ground Storage Tank Advisory Group was
14 presented and copies of the report were provided
15 to the Board members, and I think you have them
16 again today. I wanted to give everyone an
17 opportunity to review the report. We did not
18 finalize it until the morning of our last Board
19 meeting.

20 The Department has provided the report to
21 the Governor's Office as background information
22 for possible legislative amendments based on the
23 findings and recommendations of the report.

1 At this time, I would like to open the
2 floor for discussion of the report. Any -- any
3 thoughts, comments, questions about the report?

4 (No response.)

5 CHAIRMAN GARD: Pretty interesting
6 process we went through, and I think those of us
7 that were on that actually learned a lot. It
8 just -- I love the people we're dealing with. We
9 just need to find a way to make agencies talk to
10 each other and let the right hand know what the
11 left hand is doing.

12 DR. ALEXANDROVICH: We can use the
13 Conservation Partnership's model.

14 CHAIRMAN GARD: Yeah, uh-huh.

15 Okay. We -- since this is a report by an
16 advisory group, we don't have the responsibility
17 of approving it. That group approved it. I just
18 wanted to give you all an opportunity to look at
19 it and offer any thoughts or comments that you
20 might have.

21 This is an open forum. Is there anyone
22 that wishes to address the Board today?

23 (No response.)

1 CHAIRMAN GARD: The next meeting of
2 the Environmental Rules Board is tentatively set
3 for February the --

4 DR. NIEMIEC: 8th.

5 CHAIRMAN GARD: -- 8th. There could
6 possibly be a change if there -- in the month, so
7 if there is, you'll be notified in a timely
8 fashion. If it's the 8th, it'll be at 1:30 in
9 Conference Room A, Indiana Government Center
10 South.

11 Is there anything else that the Board
12 would like to bring up?

13 (No response.)

14 CHAIRMAN GARD: If not, I need a
15 motion to adjourn.

16 MR. CARMICHAEL: So moved.

17 DR. NIEMIEC: Second.

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

20 MR. HORN: Aye.

21 DR. NIEMIEC: Aye.

22 DR. ALEXANDROVICH: Aye.

23 MR. RULON: Aye.

1 MS. BOYDSTON: Aye.

2 MR. ETZLER: Aye.

3 MR. BAUSMAN: Aye.

4 MR. POWDRILL: Aye.

5 MR. CARMICHAEL: Aye.

6 MR. METTLER: Aye.

7 MR. DAVIDSON: Aye.

8 MR. HILLSDON-SMITH: Aye.

9 CHAIRMAN GARD: Aye.

10 Opposed, nay.

11 (No response.)

12 CHAIRMAN GARD: Thank you all. A lot

13 of sleepy people here today, I think.

14 - - -

15 Thereupon, the proceedings of
November 9, 2016 were concluded
at 2:45 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, November 9, 2016 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.

14

15 My Commission expires August 26, 2024.

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