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## **TITLE 329 SOLID WASTE MANAGEMENT BOARD**

### **SECOND NOTICE OF COMMENT PERIOD**

#03-286(SWMB)

## **DEVELOPMENT OF AMENDMENTS TO RULES CONCERNING ASBESTOS CERTIFICATION FOR SOLID WASTE FACILITY OPERATORS**

### **PURPOSE OF NOTICE**

The Indiana Department of Environmental Management (IDEM) has developed draft rule language for amendments to 329 IAC 12-8 and 329 IAC 12-9 concerning asbestos disposal certification for solid waste facility operators. By this notice, IDEM is soliciting public comment on the draft rule language that would place asbestos disposal certification for solid waste facility operators under the rules promulgated by the Solid Waste Management Board. Asbestos disposal certification for solid waste facility operators is currently under the authority of the rules of the Air Pollution Control Board (APCB). IDEM seeks comment on the affected citations listed and any other provisions of Title 329 that may be affected by this rulemaking.

### **HISTORY**

First Notice of Comment Period: November 1, 2003, Indiana Register (27 IR 584).

**CITATIONS AFFECTED:** 329 IAC 12-7; 329 IAC 12-8; 329 IAC 12-9.

**AUTHORITY:** IC 13-15-10-4; IC 13-19-3-1.

### **SUBJECT MATTER AND BASIC PURPOSE OF RULEMAKING**

#### **Basic Purpose and Background**

Solid waste operators in Indiana are currently certified under two IDEM programs. Operators are certified under the solid waste rules administered by IDEM's Office of Land Quality. However, operators are certified for asbestos disposal under the asbestos certification rules promulgated by the APCB and administered by IDEM's Office of Air Quality. IDEM seeks to streamline and simplify this certification process for solid waste facility operators by adding this certification to the solid waste facility operator certification process. A concurrent rulemaking of the APCB (LSA #03-283) proposes to delete asbestos disposal certification for solid waste facility operators from the APCB's rules. By these actions, solid waste facility operators would be certified under one (1) training and testing procedure rather than two (2). The asbestos removal certification training would be updated to meet the specific needs of the solid waste facility operators.

#### **IC 13-14-9-4 Identification of Restrictions and Requirements Not Imposed Under Federal Law**

The following elements of the draft rule impose either a restriction or a requirement on persons to whom the draft rule applies that is "not imposed under federal law" (NIFL elements).

#### **NIFL Element A**

**Examination requirements for Category II and Category III certification. 329 IAC 12-8-4 and 329 IAC 12-8-5; addition of questions regarding disposal of regulated asbestos-containing material (ACM) to the current examination.**

#### **Element A-1: Environmental hazard dictating the imposition of the NIFL element**

The proper disposal of asbestos-containing material is crucial to ensure that harmful particles from this material do not become airborne or contaminate soil or ground water. Exposure to asbestos or ACM can be harmful to human health. Solid waste facility operators must be tested on the hazards of this material and the proper methods for disposal.

#### **Element A-2: Inadequacies of federal law to provide protection**

There is no federal law or regulation that will provide the necessary protection to human health and the environment, as there is no federal requirement for this type of training.

#### **Element A-3: Fiscal impact and expected benefit of element**

(a) The fiscal impact is a result of adding additional pertinent questions to the existing examination. The additional cost of revising the examination is offset by eliminating the cost of the separate asbestos disposal certification examination and registration fee.

(b) The expected benefit from this element is to ensure that solid waste facility operators have the skills and knowledge necessary

to properly dispose of ACM. The certification process for solid waste facility operators is simplified. There are currently twenty-eight (28) individuals in Indiana who have a solid waste facility operators certification and an asbestos disposal license. These individuals will no longer have to take a separate test and pay an additional state license fee to be certified as a solid waste facility operator with asbestos disposal credentials. They will receive that testing and certification as part of their ongoing training as a solid waste facility operator. In addition, all solid waste facility operators will now have the additional testing on proper asbestos disposal.

#### **Element A-4: Description of materials relied on in development of NIFL element**

The IDEM Office of Land Quality will utilize the data set questions developed by the Office of Air Quality when testing for skills and knowledge appropriate for the position of a solid waste facility operator. These questions have already been developed based on the curriculum used by the training providers. The curriculum is available at all authorized training sites. However, for security purposes, the specific exam questions are confidential. They are only available to appropriate IDEM staff and examination participants.

The following is a list of the different types of materials used in developing the element and the availability and location of the data:

**Health criteria:** This criteria includes federal government studies on the health impact of exposure to asbestos and ACM. This information is available from federal government publications, the World Wide Web and various health departments.

**Analytical methods:** No materials were utilized.

**Treatment technology:** No materials were utilized.

**Economic impact data:** The data was acquired by contacting the five (5) certified providers of solid waste facility operator training and testing in the state of Indiana. Several of these providers also provide the training and testing for asbestos certification in the state of Indiana. This data is available at the Office of Land Quality in the Rules, Planning and Outreach section.

**Environmental assessment data:** No materials were utilized.

**Analysis of methods to effectively implement the proposed rule:** The information was obtained by examining other programs in the Office of Land Quality and the Office of Air Quality at the Indiana Department of Environmental Management. This data is available at the Office of Land Quality in the Rules, Planning and Outreach section.

**Other background data:** No materials were utilized.

#### **NIFL Element B**

**Training requirements for solid waste facility operators, Category II and Category III recertification training. 329 IAC 12-9-2; addition of training on asbestos disposal.**

#### **Element B-1: Environmental hazard dictating the imposition of the NIFL element**

The proper disposal of asbestos-containing material is crucial to ensure that harmful particles from this material do not become airborne or contaminate soil or ground water. Exposure to asbestos or ACM can be harmful to human health and the environment. Solid waste facility operators must be trained in the hazards of this material and the proper methods for disposal.

#### **Element B-2: Inadequacies of federal law to provide protection**

There are no federal laws or regulation that will provide the necessary protection to human health and the environment, as there is no federal requirement for this type of training.

#### **Element B-3: Fiscal impact and expected benefit of element**

(a) The expected fiscal impact of this element is minimal. Adding the additional component to the training program will add some cost to the operator certification training but this will be offset by eliminating the separate asbestos removal certification training requirements as is being done in the APCB rulemaking (LSA #03-283).

(b) The expected benefit from this element is to ensure that solid waste facility operators have the skills and knowledge necessary to properly dispose of ACM thereby eliminating potential harm to human health and the environment. There are currently twenty-eight (28) individuals in Indiana who have a solid waste facility operators certification and an asbestos disposal license. These individuals will no longer have to take separate training to be certified as a solid waste facility operator with asbestos disposal credentials. They will receive that training as part of their ongoing training as a solid waste facility operator. In addition, all solid waste facility operators will now have the additional training for proper asbestos disposal.

#### **Element B-4: Description of materials relied on in development of NIFL element**

The IDEM Office of Land Quality's independent contractors will utilize germane training components from the asbestos workers and project supervisors training curriculum to provide the knowledge and skills needed to properly dispose of ACM.

The following is a list of the different types of materials used in developing the element and the availability and location of the data:

**Health criteria:** No materials were utilized.

**Analytical methods:** No materials were utilized.

**Treatment technology:** No materials were utilized.

**Economic impact data:** The data was acquired by contacting the five (5) certified providers of solid waste facility operator training and testing in the state of Indiana. Several of these providers also provide the training and testing for asbestos certification in the state of Indiana. This data is available at the Office of Land Quality in the Rules, Planning and Outreach Section.

**Environmental assessment data:** No materials were utilized.

**Analysis of methods to effectively implement the proposed rule:** The information was obtained by examining other programs in the Office of Land Quality and the Office of Air Quality at the Indiana Department of Environmental Management. This data is available at the Office of Land Quality in the Rules, Planning and Outreach section.

**Other background data:** No materials were utilized.

**Potential Fiscal Impact**

The expected potential fiscal impact of this rulemaking is less than five hundred thousand (\$500,000) dollars.

**Public Participation and Workgroup Information**

No workgroup is planned for the rulemaking. If you feel that a workgroup or other informal discussion on the rule amendment is necessary, please contact Lou McFadden, Rules, Planning and Outreach Section, Office of Land Quality at (317) 232-8922 or (800) 451-6027 (in Indiana).

**SUMMARY/RESPONSE TO COMMENTS FROM THE FIRST COMMENT PERIOD**

IDEM requested public comment from November 1, 2003, through December 4, 2003, on alternative ways to achieve the purpose of the rule amendments and suggestions for the development of draft rule language. IDEM received no comments in response to the first notice of public comment period.

**REQUEST FOR PUBLIC COMMENTS**

This notice requests the submission of comments on the draft rule language, including suggestions for specific revisions to language to be contained in the draft rule. Mailed comments should be addressed to:

#03-286(SWMB) Asbestos Certification

Marjorie Samuel

Rules, Planning and Outreach Section

Office of Land Quality

Indiana Department of Environmental Management

P.O. Box 6015

Indianapolis, Indiana 46206-6015.

Hand delivered comments will be accepted by the IDEM receptionist on duty at the eleventh floor reception desk, Office of Land Quality, Indiana Government Center-North, 100 North Senate Avenue, Indianapolis, Indiana.

Comments may be submitted by facsimile at the IDEM fax number: (317) 232-3403, Monday through Friday, between 8:15 a.m. and 4:45 p.m. Please confirm the timely receipt of faxed comments by calling the Rules, Planning and Outreach Section at (317) 232-7995.

**COMMENT PERIOD DEADLINE**

Comments must be postmarked, faxed, or hand delivered by May 1, 2004.

Additional information regarding this action may be obtained from Lou McFadden, Rules, Planning and Outreach Section, Office of Land Quality, (317) 232-8922 or (800) 451-6027 (in Indiana).

**DRAFT RULE**

SECTION 1. 329 IAC 12-8-4, PROPOSED TO BE AMENDED AT 26 IR 1672, SECTION 38, IS AMENDED TO READ AS FOLLOWS:

**329 IAC 12-8-4 Examination requirements for Category II certification**

**Authority:** IC 13-14-8-1; IC 13-14-8-2; IC 13-14-8-7; IC 13-15-10-4; IC 13-19-3-1; IC 13-19-3-2

**Affected:** IC 13-15-10; IC 36-9-30

Sec. 4. (a) In order to qualify for accreditation as an accredited examination provider for Category II certification for operators of municipal and nonmunicipal solid waste disposal facilities, the written examination must meet the requirements of this section.

(b) The commissioner may approve an examination under the Category IV certification for a specific type of site. For operators

of municipal and nonmunicipal solid waste disposal facilities, the examination for operator certification under Category IV must address any Category II topics in subsection (c) that are applicable to the type of site for which the examination has been developed.

(c) A Category II certification shall adequately address the following topics:

- (1) Purpose of training course.
- (2) An overview of municipal and nonmunicipal solid waste disposal facilities in integrated municipal solid waste management to address the following:
  - (A) Generation of municipal solid wastes.
  - (B) Physical and chemical composition of solid wastes.
  - (C) Municipal solid waste management.
- (3) Basics of site selection.
- (4) Complying with design requirements to the following:
  - (A) Specifications.
  - (B) Types of plans.
  - (C) Plan reading.
  - (D) Municipal and nonmunicipal solid waste facility landfill methods.
- (5) Waste acceptance and screening to include the following:
  - (A) Wastes prohibited by state and federal law and regulations.
  - (B) Commonly prohibited wastes.
  - (C) Wastes requiring special handling.
  - (D) Wastes prohibited by the facility permit.
  - (E) Screening methods for prohibited wastes.
  - (F) Record keeping and notification requirements.
  - (G) Public information and education.
- (6) Waste decomposition to include the following:
  - (A) Fate of wastes.
  - (B) Effects of decomposition.
  - (C) Subsidence and differential settlement.
  - (D) Landfill gas generation and migration.
  - (E) Leachate generation, migration, and control.
- (7) Control processes for landfill gas and leachate to include the following:
  - (A) Landfill gas and leachate characteristics.
  - (B) Managing landfill gas.
  - (C) Protection of facilities built on landfills.
  - (D) Landfill gas recovery and use.
  - (E) Managing leachate.
- (8) Operational techniques shall adequately address the following:
  - (A) Design and operational plans.
  - (B) Operational practices.
  - (C) Cover systems.
  - (D) Operation of a lined facility.
  - (E) Operational problems.
  - (F) Site operation to minimize environmental and health problems.
- (9) Closure and long term care shall adequately address the following:
  - (A) Site closure.
  - (B) Closure considerations.
  - (C) Closure plan.
  - (D) Long term care and environmental monitoring.
  - (E) Landfill site end uses.
  - (F) Final cover design.
  - (G) Vegetation.
  - (H) Financing closure and postclosure care.
- (10) Disposal of regulated asbestos-containing material (RACM) to include the following:**
  - (A) Special handling requirements.**

**(B) Disposal requirements.**

**(C) Record keeping and notification requirements.**

*(Solid Waste Management Board; 329 IAC 12-8-4; filed Feb 3, 1997, 9:15 a.m.: 20 IR 1485; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535)*

SECTION 2. 329 IAC 12-8-5 IS AMENDED TO READ AS FOLLOWS:

**329 IAC 12-8-5 Examination requirements for Category III certification**

**Authority:** IC 13-14-8-1; IC 13-14-8-2; IC 13-14-8-7; IC 13-15-10-4; IC 13-19-3-1; IC 13-19-3-2

**Affected:** IC 13-15-10; IC 36-9-30

Sec. 5. (a) In order to qualify for accreditation as an accredited examination provider for Category III certification for operators of restricted waste sites and construction/demolition sites, the written examination must meet the requirements of this section.

(b) The commissioner may approve an examination under the Category IV certification for a specific type of site. For operators of restricted waste sites and construction/demolition sites, the examination for operator certification under Category IV must address any Category III topics in subsection (c) that are applicable to the type of site for which the examination has been developed.

(c) A Category III certification shall adequately address the following topics:

- (1) Purpose of training course.
- (2) The role of restricted waste and construction/demolition sites in waste management to address the following:
  - (A) Types of restricted wastes.
  - (B) Generation of restricted wastes.
  - (C) Physical and chemical composition of restricted wastes.
  - (D) Overview of restricted waste management.
- (3) Basics of site selection.
- (4) Complying with design requirements to the following:
  - (A) Specifications.
  - (B) Types of plans.
  - (C) Plan reading.
  - (D) Landfill methods.
- (5) Waste acceptance and screening to include the following:
  - (A) Wastes prohibited by state and federal law and regulations.
  - (B) Commonly prohibited wastes.
  - (C) Wastes requiring special handling.
  - (D) Screening methods for prohibited wastes.
  - (E) Record keeping and notification requirements.
  - (F) Public information and education.
- (6) Waste decomposition to include the following:
  - (A) Subsidence and differential settlement.
  - (B) Leachate generation, migration, and control.
- (7) Operational techniques shall adequately address the following:
  - (A) Design and operational plans.
  - (B) Operational practices.
  - (C) Cover systems.
  - (D) Operation of a lined facility.
  - (E) Operational problems.
  - (F) Site operation to minimize environmental and health problems.
- (8) Closure and long term care shall adequately address the following:
  - (A) Site closure.
  - (B) Closure considerations.
  - (C) Closure plan.
  - (D) Long term care and environmental monitoring.
  - (E) Landfill site end uses.

- (F) Final cover design.
- (G) Vegetation.
- (H) Financing closure and post-closure care.

**(9) Disposal of regulated asbestos-containing material (RACM) to include the following:**

- (A) Special handling requirements.**
- (B) Disposal requirements.**
- (C) Record keeping and notification requirements.**

*(Solid Waste Management Board; 329 IAC 12-8-5; filed Feb 3, 1997, 9:15 a.m.: 20 IR 1485; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535)*

SECTION 3. 329 IAC 12-9-2 IS AMENDED TO READ AS FOLLOWS:

**329 IAC 12-9-2 Accredited training course requirements for recertification**

**Authority:** IC 13-14-8-1; IC 13-14-8-2; IC 13-14-8-7; IC 13-15-10-4; IC 13-19-3-1; IC 13-19-3-2

**Affected:** IC 13-15-10; IC 36-9-30

Sec. 2. (a) Training courses shall be classified as follows:

- (1) Category I recertification training course for operators of solid waste incinerators and waste to energy facilities.
- (2) Category II recertification training course for operators of municipal and nonmunicipal solid waste land disposal facilities.
- (3) Category III recertification training course for operators of restricted waste sites and construction/demolition sites.
- (4) Category IV recertification training course for a specific facility.

(b) The accredited training course must include, at a minimum, applicable topics relating to the appropriate category of solid waste facility operation as follows:

- (1) An update on applicable Indiana legislation and regulations.
- (2) Discussion of applicable department policy.
- (3) Information on new or improved technologies.
- (4) Information on changes to processes.
- (5) Information on changes in management practices.
- (6) Information on asbestos disposal.**

(c) The accredited training course must be at least four (4) hours in length. *(Solid Waste Management Board; 329 IAC 12-9-2; filed Feb 3, 1997, 9:15 a.m.: 20 IR 1487; readopted filed Jan 10, 2001, 3:25 p.m.: 24 IR 1535)*

***Notice of First Meeting/Hearing***

*Under IC 4-22-2-24, IC 13-14-8-6, and IC 13-14-9, notice is hereby given that on June 15, 2004, at 1:30 p.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room A, Indianapolis, Indiana, the Solid Waste Management Board will hold a public hearing on amendments to 329 IAC 12-7 and 329 IAC 12-8.*

*The purpose of this hearing is to receive comments from the public prior to preliminary adoption of these rule amendments by the board. All interested parties are invited and will be given reasonable opportunity to express their views concerning the proposed amendments. Oral statements will be heard, but, for the accuracy of the record, all comments should be submitted in writing.*

*Additional information regarding this action may be obtained from Lou McFadden, Rules, Planning and Outreach Section, Office of Land Quality, (317) 232-8922 or (800) 451-6027 (in Indiana).*

*Copies of these rules are now on file at the Office of Land Quality, Indiana Department of Environmental Management, Indiana Government Center-North, 100 North Senate Avenue, Eleventh Floor, Indianapolis, Indiana and are open for public inspection.*