SUMMARY/RESPONSE TO COMMENTS FROM THE second COMMENT PERIOD

The Indiana Department of Environmental Management (IDEM) requested public comment from August 22, 2018, through September 21, 2018, on IDEM's draft rule language. IDEM received comments from the following parties:

David M. Heilmann, Illinois Environmental Contractors Association (IECA)

Kristina Miczek, Occupational Training & Supply, Inc. (OTS)

Following is a summary of the comments received and IDEM's responses thereto.

Comment: The proposed amendments to 326 IAC 14-10 essentially represent a restructuring or rephrasing of existing rules and regulations for clarification, and do not constitute substantive changes in the rules and regulations. Accordingly, inasmuch as the amendments are likely to enhance regulatory compliance by the regulated community and enforcement by the department, IECA supports them on behalf of its member contractors.

A majority of the proposed amendments to 326 IAC 18 represent a restructuring or rephrasing of existing rules and regulations for clarification, and do not constitute substantive changes in the rules and regulations. IECA supports the restructured or rephrased rules, including, but not limited to relocating existing licensing and training rules and regulations into separate new rules, 326 IAC 18-2.1, 326 IAC 18-3.1, and 326 IAC 18-4.1.

In addition, IECA observes that the following substantive changes are proposed in the rules contained in 326 IAC 18:

- A person applying for an asbestos license is no longer required to submit a photograph with the application.
- A person seeking an initial asbestos license who has passed an EPA-approved training course outside of Indiana is no longer required to attend an initial Indiana training course, but still must pass the Indiana refresher course; and
- The grace period between required refresher training courses on license renewals has been increased from 18 months to 24 months.

On behalf of its member-contractors, IECA supports each of the above proposed substantive amendments to the rules and regulations contained in 326 IAC 18. It is IECA’s belief that the amendments will improve the department’s effectiveness and service to the regulated community, reduce the cost of compliance and reduce the licensing turnaround time.

IECA makes no suggestions with regard to specific revisions to the language to be contained in the draft amended rules. (IECA)

Response: IDEM appreciates the support for the asbestos rule revisions and agrees that the revisions will improve the efficiency of Indiana’s asbestos program.

Comment: I wanted to submit comments in regards to the proposed rule changes for Asbestos, specifically for 326 IAC 18-2-5. Under the current regulation the amount of questions
required for refresher courses greatly exceeds requirements of the EPA Model Accreditation Plan (MAP) and surrounding states. We are suggesting to change the amount of questions for all asbestos refresher courses to 25 questions.

It seems that the current IDEM rule has adopted the EPA MAP requirements for the initial course requirements as a blanket regulation to cover both the initial and refresher exam for Indiana. The EPA MAP does not have a requirement for a refresher exam. If this is something that can changed, it would make things much easier for not only training providers, but also people seeking licensure in Indiana.

To have a test that is streamlined and approved across multiple surrounding states makes things a lot easier for trainers and people that get licensed in multiple states. Most surrounding states have a 25 or 50 question refresher requirement and being required to implement a 100 question refresher exam for supervisors and 50 for workers just to satisfy Indiana’s stringent requirement is a burden. These are annual refreshers.

We have tried to offer additional questions to people that want to seek licensure in Indiana for the worker/supervisor exam and it has not worked out well. People often do not want to complete the additional questions at the time, but then want to become licensed later and can’t because they did not complete the secondary part of the exam. We have to separate certificates and be sure our post notifications reflect who is eligible based on who took and passed the additional questions for Indiana. This is all very cumbersome for reporting so it’s much easier to just have everyone take the entire exam with the maximum amount of questions solely to satisfy Indiana’s requirement, even though most will never become licensed there.

Again, if you have the opportunity to present this change in the regulations it would be very much appreciated again by trainers and people seeking licensure. (OTS)

Response: The U.S. EPA Asbestos Model Accreditation Plan (MAP) requirements do not distinguish between the number of test questions for an initial or refresher course for a given discipline. Indiana’s asbestos examinations that contain more questions allow the student to demonstrate a larger body of knowledge about asbestos and safe handling procedures and provide a higher level of confidence that the individual will be more proficient while working in the field with a potentially harmful material. The increased opportunity to demonstrate knowledge about asbestos through additional examination questions, reduces the likelihood that a student will fail an examination from missing only a few questions.

In addition, Indiana’s asbestos licensing and training program received delegation of authority from U.S. EPA based on the current program requirements. Reducing the number of questions on an examination by 50% would be a substantive change to the program and would require Indiana to seek approval from U.S. EPA.