

TITLE 329 SOLID WASTE MANAGEMENT BOARD

FIRST 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 Environment Management (IDEM) is soliciting public comment on amendments to rules for certification of solid waste facility operators that would place asbestos certification for solid waste facility operators under the rules promulgated by the Solid Waste Management Board. At this time, these operators must receive certification for managing disposal of asbestos containing material under a training and testing program prescribed by the rules of the Air Pollution Control Board at 326 IAC 18-1 and 326 IAC 18-2. IDEM seeks comment on the affected citations listed and any other provisions of Title 329 that may be affected by this rulemaking.

The Indiana Department of Environmental Management (IDEM) Office of Air Quality is also initiating rulemaking concurrent to this notice to remove the asbestos certification process for solid waste facility operators from their asbestos certification program.

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

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

SUBJECT MATTER AND BASIC PURPOSE OF RULEMAKING

Basic Purpose and Background

Solid waste facility operators must be certified by IDEM under rules promulgated by the Solid Waste Management Board. To manage disposal of asbestos containing material, solid waste facility operators must also acquire a license from IDEM under rules promulgated by the Air Pollution Control Board. The extensive training required to receive an asbestos handling license covers skills and knowledge not used or needed by a solid waste facility operator. This training includes all aspects of asbestos abatement.

The purpose of this rule amendment is to incorporate the training for managing disposal of asbestos containing material for solid waste operators into the training now required under rules enforced by IDEM's Office of Land Quality. This training would be designed to meet the specific needs of a solid waste facility operator.

Alternatives To Be Considered Within the Rulemaking

Alternative 1. Deleting the licensing requirements in 326 IAC 18-1 and 326 IAC 18-2 and adding them to 329 IAC 12.

- Is this alternative an incorporation of federal standards, either by reference or full incorporation? No, the licensing for asbestos management at a waste disposal facility is not a federal requirement.
- Is this alternative imposed by federal law or is there a comparable federal law? This alternative is not imposed by federal law. It is a "state-only" requirement.
- If it is a federal requirement, is it different from federal law? Not applicable.
- If it is different, describe the differences. Not applicable.

Alternative 2. Maintaining programs as currently operated with duplicate training and licensing.

- Is this alternative an incorporation of federal standards, either by reference or full text incorporation? No, the licensing for asbestos management at a waste disposal facility is not a federal requirement.
- Is this alternative imposed by federal law or is there a comparable federal law? This alternative is not imposed by federal law. It is a "state-only" requirement.
- If it is a federal requirement, is it different from federal law? Not applicable.
- If it is different, describe the differences. Not applicable.

Applicable Federal Law

There is no applicable federal law regarding asbestos licensing. Licensing at 326 IAC 18-1 and 326 IAC 18-2 is a state-only requirement.

Potential Fiscal Impact

Potential Fiscal Impact of Alternative 1. The Office of Land Quality does not charge a fee for the certification of landfill operators. More test questions will be added to the courses for landfill operator certification at 329 IAC 12.

Potential Fiscal Impact of Alternative 2. This alternative would have no fiscal impact since there would be no change to the rules.

Public Participation and Workgroup Information

An external workgroup will be established to discuss issues involved in this rulemaking. The workgroup will include IDEM staff and a cross-section of stakeholders. If you wish to provide comments to the workgroup on the rulemaking, attend meetings, or have suggestions related to the workgroup process, please contact Lou McFadden, Rules Section, Office of Land Quality at (317) 232-8922 or (800) 451-6027 (in Indiana). Please provide your name, phone number, and e-mail address, if applicable, where you can be contacted. The public is also encouraged to submit comments and questions to members of the workgroup who represent their particular interests in the rulemaking.

STATUTORY AND REGULATORY REQUIREMENTS

IC 13-14-8-4 requires the board to consider the following factors in promulgating rules:

- (1) All existing physical conditions and the character of the area affected.
- (2) Past, present, and probable future uses of the area, including the character of the uses of surrounding areas.
- (3) Zoning classifications.
- (4) The nature of existing air quality or existing water quality, as the case may be.
- (5) Technical feasibility, including the quality conditions that could reasonably be achieved through coordinated control of all factors affecting the quality.
- (6) Economic reasonableness of measuring or reducing any particular type of pollution.
- (7) The right of all persons to an environment sufficiently uncontaminated as not to be injurious to human, plant, animal, or aquatic life or to the reasonable enjoyment of life and property.

REQUEST FOR PUBLIC COMMENTS

At this time, IDEM solicits the following:

- (1) The submission of alternative ways to achieve the purpose of this rule.
- (2) The submission of suggestions for the development of draft rule language.

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 11th 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 December 4, 2003.

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).

Bruce Palin

Deputy Assistant Commissioner

Office of Water Quality