

ILLINOIS POLLUTION CONTROL BOARD
September 4, 1987

IN THE MATTER OF:)
)
PRIOR CONDUCT CERTIFICATION) R81-18
FOR WASTE DISPOSAL SITE PERSONNEL:)
35 ILL. ADM. CODE 745.)

ADOPTED RULE FINAL NOTICE

OPINION AND ORDER OF THE BOARD (by R.C. Flemal):

This docket was originally opened by the Board on June 10, 1981, to partially implement what was then Section 22(b) of the Environmental Protection Act ("Act"). Section 22(b) was subsequently amended and renumbered by P.A. 81-1484 and P.A. 83-1362, such that it is now found, as amended, at Section 22.5 of the Act (Ill. Rev. Stat. 1985, ch. 111^{1/2}, par. 1022.5). In its entirety, Section 22.5 reads:

by July 1, 1984, the Board shall adopt standards for the certification of personnel to operate refuse disposal facilities or sites. Such standards shall provide for, but shall not be limited to, an evaluation of the prospective operator's prior experience in waste management operations. The Board may provide for denial of certification if the prospective operator or any employee or officer of the prospective operator has a history of

1. repeated violations of federal, State or local laws, regulations, standards, or ordinances regarding the operation of refuse disposal facilities or sites;
2. conviction in this or another State of any crime which is a felony under the laws of this State or conviction of a felony in a federal court; or
3. proof of gross carelessness or incompetence in handling, storing, processing, transporting or disposing of any hazardous waste.

The Board wishes to express its appreciation to Mr. Morton Dorothy of the Board's Scientific and Technical Section for his assistance in drafting this rule and in reviewing technical matters associated with it.

Since its inception progress in this rulemaking has been retarded by developments in those simultaneous proceedings which involve modernization of the Board's solid and special waste regulations, including R80-20, R82-21, R82-22, R84-3, R84-17, and R84-22. The principal difficulty has been the desire of the Illinois Environmental Protection Agency ("Agency"), industry, and the Board to not set up limited-life definitions and procedures which would need to be dismantled due to developments in the other rulemakings. In essence, it has been necessary to determine the directions taken in the other rulemakings before the present matter could proceed to a logical and consistent conclusion. These uncertainties are, for the most part, now resolved, and the Board accordingly today adopts a rule pursuant to Section 22.5.

PROCEDURAL HISTORY

Subsequent to initiation of this docket, the Board conducted three public hearings and received six public comments. Based upon these, the Board on May 13, 1982, proposed a revised set of rules, which were published at 6 Ill. Reg. 6523, June 4, 1982.

Following the June 1982 publication, two additional merit hearings were held and eight additional public comments were received. Based upon these, the Board on June 14, 1984, again revised and proposed a set of rules for first notice publication, which appeared at 8 Ill. Reg. 9876, June 29, 1984.

In the interval between adoption of the June 1982 and June 1984 proposals the Department of Energy and Natural Resources filed a hearing copy of its study of the "Economic Impact of Proposed Regulation R81-18: Certification of Waste Disposal Site Owners and Operators", Doc. No. 83/04, January, 1983 (hereinafter "EcIS"). Two additional hearings, as combined merit and EcIS hearings, were held on July 16 and August 6, 1984. Two additional public comments were also received subsequent to adoption of the June 1984 proposal.

Given the still existing uncertainties of interactions between the proposed rule and other pending rules, principally those under consideration in R84-17 and R84-22, the Board again postponed further official action until March 19, 1987, when it adopted the third first notice proposal. Publication occurred at 11 Ill. Reg. 7523. It is this proposal which constitutes the substance of today's adopted rule.

The Board received three public comments during the first notice period of the current rule. The first was filed on April 30, 1987, by Waste Management of Illinois, Inc. ("WMI") as Public Comment #17. The second was filed on May 20, 1987, by the

Illinois Steel Group ("Steel Group") as Public Comment #19¹. The third was filed on June 8, 1987, by the National Solid Wastes Management Association ("NSWMA") as Public Comment #20. Each of the three comments expressed general support for the regulations as proposed at first notice, but requested modification of particular provisions. In response to these requests, the Board made several alterations to the first notice (see following discussion). On June 15, 1987, the Board adopted the altered rule and submitted it to the Joint Committee on Administrative Rules ("JCAR"). As is discussed below, on August 26, 1987, JCAR objected to a portion of the proposal, and suggested other actions.

In summary, the Board has conducted seven hearings and received 20 public comments in the instant matter. Additionally, it has three times gone to first notice with amended proposals.

OVERVIEW OF RULE

It is the Board's intent in this proceeding, as originally enunciated when the docket was opened (43 PCB 589), only to prescribe standards for what is essentially a certification that an applicant's prior criminal and administrative history of violations do not disqualify the applicant from operating a waste disposal site or unit. In short, these rules prescribe procedures for acting upon an applicant's negative qualities. These rules are not intended, nor have ever been intended, to establish standards for defining positive qualities such as technical education, training, and years of work experience; to the degree that certification of the latter type might be desirable, promulgation of appropriate rules will have to await a proceeding devoted to that end.

The rule which the Board adopts today retains the same thrust as prior proposals in the R81-18 docket. That thrust is the establishment of procedures whereby the prior conduct of waste disposal site personnel can be evaluated, and provision for the denial of operating permits in circumstances where prior conduct certification has not been obtained, has been denied, or has been cancelled or revoked.

However, the rule as adopted does depart in particulars from earlier proposed versions of the rule. Many of the departures stem from a change in certification of sites to certification of individuals, which evolved out of the hearings and early public

¹ The Steel Group comment was initially filed on May 7, 1987, and docketed as Public Comment #18. The same comment was refiled on May 20 with an Affidavit of Service and separately docketed as Public Comment #19.

comments. This change alone has necessitated a change in the title of the Part (and corresponding change in the caption of the proceeding) and a reordering of the various Subparts of the rule. Other major changes include a provision for automatic cancellation of certification at Section 745.124 and three added prohibitions at Section 745.201. The reasons for these and other changes are discussed in the following under the appropriate section heading. History prior to that of the most recent first notice proposal is also discussed where this history is important to an understanding of the rule.

JCAR ACTION

JCAR considered this matter at its August 26, 1987 meeting. JCAR objected that the rules were not adopted within the time specified in the statute, and that the mitigating factors discussed below in connection with Section 745.141(b) are not "clear and precise." The Board has modified that Section in response to the objection, as is discussed below. The Board has also modified several other Sections pursuant to discussions with the JCAR staff. This is also discussed below.

JCAR also recommended that the Board provide JCAR with a copy of the Agency's application form when it is promulgated. Since the Board has no mechanism to monitor rules once they are filed and the Docket closed, the Board will request that the Agency provide a copy of the form to JCAR.

DISCUSSION OF RULE

Subpart A: GENERAL PROVISIONS
Section 745.101 Scope and Applicability

This Section is a general Section provided for the aid of the public in using the rules. The operative provisions are found in the subsequent Sections cited in the rule.

This Section identifies at Section 745.101(a) that the Part establishes procedures for prior conduct certification of waste disposal site personnel. It is reflective of the emphasis this rule places on prior conduct certification of individuals.

Section 745.101(b) identifies that the chief operator of certain waste disposal sites, as identified in Subpart E, must be certified, and that failure to have a validly certified chief operator is grounds for enforcement action and/or for denial or revocation of operating permits, pursuant to Subpart E.

Section 745.101(c) identifies that any person who does not currently hold prior conduct certification due to denial of certification or due to cancellation or revocation of

certification is prohibited from owning or operating a waste disposal site, or serving as an officer or director of the owner or operator of a waste disposal site, or serving as an employee at a waste disposal site. More detailed discussion of this addition is presented below under the Subpart E discussion.

Section 745.102 Definitions

Throughout this proceeding, the Agency and other participants have stressed the need for uniformity between the definitions in this Part and the remainder of Subtitle G. As noted above, this has impeded the Board's ability to move forward with this proceeding, in that definitions elsewhere within Subtitle G have been subject to alteration in concurrent proceedings. These definitions elsewhere within Subtitle G have now either been finalized or exist in sufficiently certain form so that this impediment no longer exists.

Nevertheless, given the possibility of further flux in definitions, particularly in the on-going R84-17 proceeding, the Board believes it advisable, and most likely to provide durability to this Part, that the terms specifically defined in the Part are limited to those which are unique to or have special meaning within the Part. For definition of other terms, reliance is placed on the Act and the list of definitions found at 35 Ill. Adm. Code 807.104.

The definition of chief operator has been expanded from that proposed in the June 1984 version to identify the chief operator as a "natural person," defined below, and to include within the definition such individual or individuals who, from time to time and in the regular course of business, assume the functions of chief operator during periods of vacation, accident, illness, or the like. Two practical consequences of this latter addition to the definition are that a given site or unit² may have more than one certified chief operator, and that an individual may need certification if he assumes chief operator duties in the absence of the normal chief operator.

In defining "chief operator", the Board has adopted a variant of the Agency's definition of "operator". The word "chief" has been added to make a distinction with other individuals who may be characterized as operators. In researching this area, the Board has noted that industry and the regulatory agencies of other states refer to a spectrum of personnel as "operators", in the same way that personnel working

² The Board notes that use of the term "unit" herein is intended to be consistent with the definition of the term found at 807.104: "any device, mechanism, equipment or area used for storage, treatment or disposal of waste".

in sewage treatment plants are referred to as "operators", even if they may not have overall supervisory responsibilities.

The Board has revised the definition of "chief operator" pursuant to discussions with the JCAR staff. "Natural person" has been defined to mean a human being, with a specific exclusion for artificial persons such as business or governmental entities. "Responsible charge" has also been defined by expanding on concepts present in earlier versions of the definition of "chief operator." A person is in "responsible charge" if he or she is normally present at a site, directs the day-to-day, overall operation of the site and is responsible to the operator for ensuring that operations are carried out in compliance with Board rules.

Subsection (c) specifies that, for the purposes of this Part, waste disposal site is defined as a site for which a waste disposal permit is required by 35 Ill. Adm. Code: Subtitle G. The practical consequence of this definition is to provide that the mandatory certification provisions and the prohibitions of the Part (see Subpart E) are applicable in all cases where a Subtitle G permit is also required. These are specified to include RCRA disposal permits, UIC permits, and general waste site permits.

In its June 1984 proposal the Board had specifically included incinerators within the definition of "waste disposal site" as used in this Part. Based on comments received at hearing, incinerators, which are governed by 35 Ill. Adm. Code: Subtitle B, have been deleted from consideration under Part 745 (see also discussion for Section 745.181, herein).

NSWMA has suggested that the term "waste storage" used in the rule "needs to be clarified" (PC #20). Unfortunately, NSWMA offered no guidance as to the nature of the needed clarification or suggestion. The Board does note that the rule adopted here does not actually contain a definition of waste storage, but rather incorporates the definition as found elsewhere within the Board's waste disposal regulations, pursuant to Section 745.102(a). As previously noted, the entirety of the Board's waste disposal regulations, including the definition of waste storage, are currently under review in a separate Board proceeding, R84-17. Any alteration to the current definition of waste storage which might come about there would carry over into the instant matter. Accordingly, the Board believes that it would be inappropriate to propose an alternative definition here.

Subpart B APPLICATION FOR CERTIFICATION
Section 745.121 Persons Who May Apply

This Section specifies that any natural person may apply for prior conduct certification. It was added in response to concerns expressed at hearing that it would be desirable to allow

persons, other than those for whom certification is mandatory, to also obtain certification. One such circumstance might be the desire of an individual to obtain prior conduct certification in anticipation of obtaining the status of chief operator or as a general qualification useful in obtaining employment in the waste disposal industry. This provision additionally allows owners and other named permittees to have certified staff in employment to substitute for the normal chief operator during times of illness, accidents, vacations, and the like.

Section 745.122 Application

This Section specifies the information that must be included in an application. Items (a) and (b) serve to identify the applicant and to identify the waste disposal sites at which the applicant has had prior significant responsibility. Item (c) identifies the information which is to be used in making the determinations required in Section 22.5(1)-(3) of the Act; this information consists of all final administrative or judicial determinations against the applicant. Item (d) requires that descriptions of any administrative or judicial actions pending against the applicant also be included in the application. Item (e) mandates inclusion of an affidavit attesting to the truth and completeness of the facts asserted in the application.

In the June 1984 proposal this Section, which was there found at Section 745.141, contained the additional requirement that the application specify whether the applicant intends to dispose of hazardous waste. This requirement is being deleted consistent with amendments elsewhere in the Part which change the emphasis of the certification procedure from site-related certification to certification of individuals. An additional reason for its deletion is that prior proposals envisioned circumstances where the Agency might grant certification for non-hazardous waste disposal while simultaneously denying it for hazardous waste disposal. This "two-level" certification not only presents serious problems of workability, but also implies that prior poor conduct may be less relevant in some types of waste management operations than in others. The Board does not believe that this last premise has general merit.

In its first notice comment (PC #18), WMI questioned several provisions of this Section. One was the requirement of Section 745.122(b) that an application include the location and nature of all waste disposal sites owned or operated by the applicant or at which the applicant has served as chief operator. WMI contends that inclusion of this provision is contrary to the intention of not having the regulations address positive qualities associated with waste disposal site operators. The Board does not believe that the application information of necessity reflects on any qualities associated with waste disposal operators, either positively or negatively. Rather, the intent of requiring the specified data is purely informational. The Illinois

Environmental Protection Agency ("Agency"), as the body responsible for certifying, would need to be apprised of the applicant's background, so as to be able to make the most enlightened decision. It seems reasonable to the Board that this background should include identification of the waste disposal sites with which the applicant has had prior association.

WMI also questioned aspects of administrative or judicial determinations which are required as application information pursuant to Section 745.122(c) and (d). As regards Section 745.122(c), WMI pointed out that only final determinations are relevant to the matter of whether certification is granted or denied. The Board agreed with this point, and accordingly at second notice inserted the word "final" before "administrative or judicial determinations" in Section 745.122(c).

WMI also suggested that Section 745.122(d) be deleted. Section 745.122(d) would require applicants to submit information concerning certain pending administrative or judicial determinations. WMI contended that, since only final determinations are relevant in the decision to grant or deny certification, they also constitute the only relevant inquiry. The Board disagreed in its second notice Opinion. Pending administrative or judicial determinations serve to identify the applicant to the Agency, much as does the applicant's prior association with waste disposal sites. While it is clear, pursuant to Subpart C, that the Agency is not to consider pending administrative or judicial actions as grounds for denying an application, this does not constitute sufficient reason for withholding information on pending actions.

The Board rearranged Section 745.122 at second notice. This was done to improve the organization of the Section, and did not alter the content.

Section 745.123 Duty to Supplement Pending Application

This Section requires that an applicant supplement any pending application within 30 days of any change in circumstances which renders the original application for certification inaccurate or incomplete in any respect.

Section 745.124 Duty to Provide Supplemental Information

Section 745.124(a) requires that the information presented in an original application be updated on an annual basis, or earlier if requested by the Agency. Such requests by the Agency are limited to three in any one-year period. The June 1984 proposal (there found at Section 745.143) would have required that the update occur semi-annually. This was changed in the current proposal to annually based on comments at hearing that the shorter time period, particularly given the ability of the Agency to request updates as needed, was unduly burdensome.

WMI pointed out in its first notice comment (PC #18) that the Agency should be required to show cause when requesting updates more often than annually. The Board agreed with this matter in its second notice Opinion, and accordingly inserted the phrase "and for cause show" after "upon Agency request" in Section 745.124(a).

The Board modified this Section pursuant to discussions with the JCAK staff. The Board has eliminated the "for cause shown" language and replaced it with more specific provisions in Section 745.124(a)(1) through (3). The Agency can request supplemental information only if it has a sufficient reason and must state the reason with the request. A "sufficient reason" includes information in the possession of the Agency which indicates that some of the information provided in the original application has changed. The board believes that this modification addresses the WMI comment, as well as that of JCAK.

Subsections 745.124(b) through (d) were added to rectify two perceived deficiencies in the prior proposals. One deficiency is that there was no provision for imposition of a penalty for failure to comply with the provisions of Section 745.124(a). Secondly, there was no mechanism for cancellation of certification, once granted, short of a formal revocation action brought before the Board. Cancellation might be needed for individuals who no longer wish to be certified for reasons of change in job, retirement, relocation outside of Illinois, etc.; these circumstances should not require a formal revocation action. The Board believes that both deficiencies are addressed by the new subsections.

Section 745.124(b) specifies that the Agency shall notify any individual certified pursuant to this Part for failure to comply with the provisions of Section 745.124(a). This notice is to be given no less than 45 days after failure to comply with either the annual report or the supplemental report requested by the Agency. The intent is to allow the certified individual a minimum of 45 days to prepare and submit the information required under Section 745.124(a) before the notification may be made.

Section 745.124(c) specifies that continued failure to comply with Section 745.124(a) after receipt of the Agency's notice of Section 745.124(b) is grounds for certification to be cancelled. Cancellation is effective upon receipt from the Agency of a notice specifying that the person has continued to fail to comply with the requirements of Section 745.124(a) and has also failed to respond to the notice of Section 745.124(b). Receipt of the notice shall be presumed four days after mailing in the same manner as service by mail in 35 Ill. Adm. Code 103.123(c). This additional notice, which actually effectuates cancellation, is seemingly required by due process consideration.

By providing for automatic cancellation, Section 745.124(c) provides a penalty appropriate to failure to comply with Section 745.124(a). Equally important, the automatic cancellation provision provides the Agency with a mechanism for updating its records of certified individuals other than through a tedious revocation proceeding. The Agency might wish, for example, to include in the notification of Section 745.124(b) a statement to the effect that the person need not respond if he/she no longer desires to maintain prior conduct certification. Thus, failure to respond would effect cancellation of the certification.

The fourth subsection, Section 745.124(d), specifies that an individual whose certification has been cancelled pursuant to Section 745.124(c) may reapply for certification at any time by filing a new application.

The Board has modified Section 745.124 and added Section 745.124(e) pursuant to discussions with the JCAR staff. This is to make it clear that the Agency's initial request for supplemental information is to be in writing and sent by certified mail. The Board has shortened the Section by consolidating all of the notice requirements into a single subsection.

Section 745.125. Application Form

This Section identifies that the Agency shall have responsibility for prescribing the form in which the information required under this Subpart shall be submitted. In the June 1984 proposal (found there at Section 745.144) this Section also contained a provision requiring the Agency to conform the application procedures to the Illinois Administrative Procedure Act ("APA"). This provision was deleted at first notice. NSWMA requested that this provision be restored (PC #20). Although the Agency is required to comply with the APA, the Board is without specific statutory authority to require it to do so.

Section 745.126 Incomplete Applications

This Section specifies that an application is not complete until all information required by this Part and related Agency procedures has been filed with the Agency. It further specifies that if the Agency fails to notify an applicant within 45 days that the application is incomplete, the application is deemed complete and deemed to have been filed on the date received by the Agency. Lastly, it specifies that an Agency determination that the application is incomplete equates to a denial of certification for purposes of review pursuant to Section 40 of the Act and to 35 Ill. Adm. Code 105, but not for purposes of Section 745.201.

The latter caveat was added at second notice in response to the Board's own concern that a contrary reading might be

possible. The deemed-denied certification is meant to be only for purposes of administrative review, which thus allows the applicant to appeal the Agency's determination of incompleteness. A deemed-denied application is not intended to be denial of certification in the context of the prohibitions of Section 745.201.

Section 745.127 Registered or Certified Mail

This Section specifies that applications are to be mailed by registered or certified mail, or to be receipted for by a person designated by the Agency. Its intent is to assure a record of all filings.

Subpart C AGENCY ACTION
Section 745.141 Standards for Denial

Section 745.141(a) specifies the grounds upon which the Agency shall deny prior conduct certification. Section 745.141(b) defines the mitigating factors under which the Agency may issue certification to someone who would not otherwise be entitled to certification.

Section 745.141(a) is unchanged from the corresponding provisions of the June 1984 proposal (there found at Section 745.161), other than for slight rewording to more closely conform it to similar language used in Section 22.5 of the Act, and for change of the connective between Section 745.141(a)(4) and (5) from "and" to "or". The latter change was made to make it clear that the Agency may deny certification based on any one of the five grounds, and that it is not necessary that the Agency find cause against the applicant on each of the five grounds.

Section 745.141(a) specifies five showings that must be demonstrated in the application. These are that the applicant has not repeatedly been found to be in violation of laws, regulations, or ordinances governing the operation of waste disposal sites; has not been convicted of a felony; has not been determined to have shown gross carelessness or incompetence in the handling, storing, processing, transporting or disposing of any waste; has not practiced fraud or deceit in obtaining or attempting to obtain certification; and has not failed to timely supplement an application pursuant to Section 745.123.

Section 745.141(b) specifies the mitigating factors to be considered by the Agency if it finds grounds for denial of certification under subsection (a). Three items are included: the severity of the misconduct; how recently the misconduct took place; and, the degree of control exerted by the applicant over waste disposal operations cited for misconduct.

JCAR objected that the standards of Section 745.141(b) were not clear and precise. The Board has modified this Section to make it clear that the standards of this subsection are mitigating factors which the Agency considers only after a determination that the certification ought to be denied under the standards of subsection (a). Toward this end the Board has changed "may" to "shall" in subsection (a). The Board has also modified subsection (b) to make it clear that the Agency may, as a discretionary act, issue a certification based on mitigating factors, even though there are grounds for denial under subsection (a). The main point of this change is to avoid the interpretation, which was possible under earlier versions of this rule, that the factors of subsection (b) are additional grounds for denial to be considered on an equal footing with the factors of subsection (a). At its meeting JCAR itself accepted the Board's offer of this change as meeting the objection.

The Board appreciates the JCAR staff's concern that the mitigating factors may not be as clear and precise as possible. However, as is noted above, this matter has been exposed to numerous public hearings and several public comment periods without any suggestion from the Agency or public that the mitigating factors might be vague. The only way the Board can see to be more specific would be to attempt to list all of the possible forms of misconduct and award points, which would be added to points based on time since the misconduct and degree of control. Mitigation would be determined based on the total points. At the very least this would force the proposal back to first notice to afford the Agency and the public an opportunity to comment. Further delay would be contrary to the intent of Section 22.5 of the Act.

The standards of Section 745.141(a) closely track the language of Section 22.5 of the Act, but there is nothing in the Act which requires mitigating factors to be considered. If the mitigating factors are held to be too vague, it will mean that the Agency will have to deny certification under subsection (a), regardless of any mitigating factors.

The June 1984 proposal contained two additional provisions in what is here Section 745.141(b). These were how directly the misconduct related to disposal operations of hazardous and/or non-hazardous waste, and whether the applicant intends to dispose of hazardous waste. Both of these provisions have been deleted consistent with elimination of "two-level" certification, as discussed previously (see Section 745.122 discussion).

Section 745.141(c) is intended to make it clear that the burden of demonstrating good prior conduct rests with the applicant. Pursuant to discussions with JCAR, the Board has added a reference to Section 39(a) of the Act, and added a sentence to specify the quantum of proof required. Completion of the application form stating that none of the grounds for denial

exist is a sufficient demonstration in the absence of information to the contrary. The Agency could deny the certification if it had independent information of misconduct. However, it is not necessary, for example, for the applicant to produce affidavits from the police in all 50 States to demonstrate lack of misconduct.

Section 745.142 Final Action

This Section specifies that if the Agency denies a certification application based on any of the grounds identified in Section 745.141, it must provide the applicant with a detailed written statement as to the reasons why certification was denied. It further specifies that all notices of final action shall be by registered or certified mail.

Section 745.143 Time Limits

This Section specifies that if the Agency fails to take final action on an application within 90 days of filing, the applicant may deem that certification is granted for one year beginning on the 91st day after the application was filed.

At the present first notice the Board requested comment as to whether this "default" provision is a necessary element of the rule. Although no comments were received regarding the merits of having a default provision, WMI did question whether the one-year duration of the default provision was justified (PC #18).

The Board believes that there is justification in placing a limitation on the duration of a deemed-granted certification. The whole purpose of having a deemed-granted provision is to provide protection against failure of a permitting or certifying agency to act timely on an application. Its purpose is not to provide an avenue by which review might be long or permanently circumvented.

The Board also finds support for a limited duration of the deemed-granted certification in the Act, contrary to WMI's belief otherwise (PC #18). Section 39.1(e) provides that failure of the Agency to timely act on a permit allows that "the applicant may deem the application approved as applied for" (emphasis added). All permits have a specified duration for which the permit is to be applicable. None are permanent licenses. Thus 39.1(e) implicitly requires that the permit be deemed issued for only that specified duration.

The Board also believes that one year is a suitable duration for a deem-granted certification. In this context, the Board notes that Section 745.124(a) requires an annual supplement of the application information, an aspect of the rule to which WMI has not noted objection. Annual supplements would therefore be required even of an application which has been deemed granted.

It would thus seem fully reasonable to have the required review of the deemed-granted application within one year (plus ninety days pursuant to Section 745.143) of the original application filing.

Section 745.144 Waiver of Time Limits

This Section provides that an applicant for certification may waive the requirement of the time within which the Agency must take final action on an application.

The JCAR staff recommended that JCAR object to the lack of procedures for waivers. This died for lack of a motion.

Subpart D APPEAL, REVOCATION AND TRANSFERABILITY
Section 745.161 Appeal of Certification Denial

This Section provides that an applicant to whom certification has been denied by the Agency may appeal the Agency's action to the Board following the procedures of Section 40 of the Act and 35 Ill. Adm. Code 105. The portions of the Act and Board regulations cited are those pertaining to permit appeals, and it is thereby intended that certification appeals be governed by the same statutes, regulations, case law, and precedents which govern permit appeals.

Section 745.162 Revocation

This Section provides that any person may seek revocation of certification based on any of the grounds stated in Section 745.141(a) by filing a complaint with the Board pursuant to Title VIII of the Act and 35 Ill. Adm. Code 103. The term "person" is used here in the broad context, as defined in the Act.

This Section is linked to the discussion of the JCAR objection to the mitigating factors standards discussed above under Section 745.141(b). The Board has modified this Section along the same lines in response to the staff discussions and objection. Specifically, the Section has been modified to provide that, before revoking a certification, the Board will consider the mitigating factors of Section 745.141(b).

Section 745.163 Duration and Transferability

This Section provides that all certifications granted other than pursuant to Section 745.143 shall remain valid unless revoked by Board action pursuant to Section 745.162 or cancelled pursuant to Section 745.124. It further provides that certification is not transferable.

Subpart E PROHIBITIONS
Section 745.180 Applicability of the Subpart

Section 745.180 identifies that the requirements of Subpart E do not apply to waste treatment and storage sites. This Section was found at Section 745.101(c) of the June 1984 draft.

Section 745.181 Chief Operator Requirements

This Section gathers provisions found in several Sections of the previous June 1984 proposal. It sets out the conditions under which possession of prior conduct certification is mandatory. Prior conduction certification is required for that single individual who is chief operator of a waste disposal site. The term "chief operator" is defined in Section 745.102. "Waste disposal site", which is also defined in Section 745.102(c) for the purposes of this Part, is any site for which a waste disposal permit is required by 35 Ill. Adm. Code: Subtitle G.

In its June 1984 version the Board had retained an earlier proposal for the inclusion of incinerators within the definition of waste disposal sites, and thereby the inclusion of incinerator operators under the mandatory prior conduct certification provision. This provision has been deleted based on the desire, at this time, to make prior conduct certification mandatory only for those portions of the waste disposal industry governed by Subtitle G.

In versions prior to the June 1984 version, the Board had also considered including requirements that "owners", instead of or in addition to chief operators, have mandatory prior conduct certification. Industry objected to the inclusion of this provision because of its complexity as applied to the potentially multitudinous shareholders in major corporations. The EcIS also identified this provision as imposing a great cost, and questioned the benefits. Additionally, the clear specification in Section 22.5 that "the Board shall adopt standards for the certification of personnel to operate refuse disposal facilities or sites" seemingly excludes a legislative intent of having certification apply to other than on-site operators. The Board has accordingly eliminated this requirement at this time.

Ownership responsibility pursuant to Section 745.181 is therefore restricted to assuring that a certified operator is in charge of day to day operations. This notwithstanding, there are many situations where the owner and chief operator are the same individual. In these cases, the owner would require certification by virtue of also being chief operator.

Similarly, certification is mandatory only for the "chief operator", as defined in Section 745.102. This provision is meant to exclude the need for certification of every individual

employed at a waste disposal site or unit, and rather limits mandatory certification to just that individual or those individuals who bear actual responsibility for site operations.

Section 745.181(b) was added at the first notice of the present rule on the recommendation of WMI (PC #16) that the Part provide clarification of several matters regarding chief operator status. These are that the owner or other named permittee designate one or more individuals as chief operator(s); that one individual may be chief operator of multiple waste disposal units located at one site; that one individual may not be chief operator at more than one site; and, that a certified chief operator need not be present on-site during all hours of operation as long as the chief operator retains responsibility for site operations.

Section 745.201 Prohibitions

This Section sets out the five basic prohibitions which flow from the mandatory prior certification provision of Section 745.181. These are that no person shall operate a waste disposal site unless the chief operator has prior conduct certification (Section 745.201(a)); that no site owner or other named permittee shall cause or allow operation of a waste disposal site unless the site chief operator has prior conduct certification (Section 745.201(b)); that no person shall own or operate a waste disposal site if the person has had prior conduct certification denied, cancelled, or revoked and the prior conduct certification has not been reestablished (Section 745.201(c)); that no person shall serve as an officer or director of the owner or operator of waste disposal site if the person has had prior conduct certification denied, cancelled, or revoked and the prior conduct certification has not been reestablished (Section 745.201(d)); and that no person shall serve as an employee at a waste disposal site if the person has had prior conduct certification denied, cancelled, or revoked and the prior conduct certification has not been reestablished (Section 745.201(e)).

The prohibitions of Section 745.201(a), and 745.201(b) are unaltered in concept from those found at Section 745.121(c) of the June 1984 proposal. They have been recast to emphasize that the burden of demonstrating that prior conduct certification exists lies with the certified individual or the owner or other named permittee(s).

The prohibitions of Section 745.201(c), (d), and (e) were added to the present rule. The Board believes that they may serve as necessary deterrents to individuals continuing to exercise control at waste disposal sites even though those individuals have failed to show good prior conduct as demonstrated by having been denied certification or having had certification cancelled or revoked. The Board believes that the spirit, as well as perhaps the letter, of Section 22.5 of the Act

would be violated if such circumstances were to occur, and therefore wishes to provide the best deterrent possible.

WMI requested its first notice comment (PC #18) that Section 745.201(c) be modified by deleting reference to "owning" and "owner". WMI contended that these deletions would be consistent with the view that certifications should not be required for owners of sites. WMI is correct in its understanding that the Board does not intend that owners be required to obtain prior conduct certification. The Board reached this determination based on arguments related to the costs and difficulties associated with certifying both large numbers of owners and owners who are other than individuals, and the view that the intent of Section 22.5 seemingly excludes having certification apply to other than on-site operators. In fact, the rule does not require that owners be certified. Rather, the specific reference to owners in Section 745.201(c) goes to an entirely different aspect of owner involvement. That aspect is the prohibition against individuals continuing to participate in the waste disposal business after they have been denied prior conduct certification or while they have had prior conduct certification revoked or cancelled. The Board believes that this provision is consistent with the intent of Section 22.5 of having individuals who have demonstratively poor conduct records from actively engaging in waste management operations. Accordingly, to the extent that individuals who have failed the prior conduct "test" may subsequently seek to become owners of waste disposal sites, they would be denied that ability pursuant to the rule as adopted.

This whole matter may be succinctly put by noting that owners are not required to take the prior conduct test. However, having taken the test and been found deficient, an individual may not continue involvement with waste disposal activities, including ownership of waste disposal sites.

NSWMA also requested that all of Section 745.201(d) be deleted based on the view that it is too restrictive. The Board does not believe that this prohibition is too restrictive. The Board believes that the spirit, as well as perhaps the letter, of Section 22.5 of the Act would be violated if the types of prohibitions set forth in Section 745.201(d) were absent.

The impetus for adding Section 745.201(e) came from the public comment submitted by the Steel Group (PC #19). The Steel Group noted that it has over the years attempted to employ the disadvantaged, released convicts, or others who might not qualify for waste site certification. The Steel Group opines that they, or other large industries, might therefore hire or have in their employ in a position unrelated to its waste operations "persons who either were denied or would not qualify for waste disposal site chief operator certificate".

With the sole exception that the individual may not be employed as a waste disposal site chief operator, the Board does not see how employing a individual who "would not qualify for waste disposal site chief operator certificate" presents any difficulty pursuant to the rule. Such an individual would not be exposed to the prior conduct test even were he employed at the company's waste disposal site in other than chief operator capacity. Similarly, he would not be exposed to the prior conduct test if employed elsewhere within a company.

The second part of the Steel Group's concern did raise a question of apparent import. That is, should an individual who has taken and failed the prior conduct test be denied employment in facets of a company's activities unrelated to its waste disposal operations? As the Board noted in its second notice Opinion, the Board believes that the answer is no. The denial should be constrained to just the waste disposal activities, and any other reading would be contrary to intent. To clarify this matter for the purpose of the rule, the Board modified the first notice language by deleting reference to "employee" in Section 745.201(d) and adding a new Section 745.201(e) which identifies the prohibition peculiar to being a employee.

In the June 1984 proposal the prohibitions Section also contained a provision which identified certification as falling into two categories, one for non-hazardous waste disposal sites only and a second for both hazardous and non-hazardous waste disposal sites. The Section also specified that the chief operator be certified to dispose of the type of waste, non-hazardous or hazardous, for which the site is permitted. These provisions are here deleted consistent with deletion of the "two-level" certification procedure throughout the Part (see discussion, Section 745.122).

Section 745.202 Agency Denial of Waste Disposal Permit

This Section requires that the Agency deny any waste disposal permits required by Subtitle G to any owner or other named permit applicant, unless the applicant demonstrates that the applicant will not be in violation of the prohibitions of Section 745.201.

Pursuant to discussions with the JCAR staff, the Board has added a sentence addressing the quantum of proof required, similar to Section 745.141(c) discussed above. It is sufficient if the operator completes the application form stating that he intends to hire a certified operator. The Agency should deny the permit if the operator omits the statement, or if the Agency has independent information that the operator does not intend to hire a certified operator. For example, the Agency would be justified in denying renewal of a site application if the operator is currently out of compliance with the certified operator requirement for other than temporary reasons (Section 745.204).

In the June 1984 proposal (there found at Section 745.122) this Section also provided that the Agency could deny issuance of any waste disposal permits required under Subtitle G to any chief operator who has not received certification or has had certification revoked. Since the chief operator would not hold permits, other than through dual capacity as owner or other named permittee, this provision has been deleted as unnecessary.

Section 745.203 Revocation of Waste Disposal Permit

This Section provides that revocation of any Subtitle G permit may be sought on the grounds that the waste disposal site is in violation of Section 745.201, and that revocation shall be initiated by filing a complaint with the Board pursuant to Title VIII of the Act and 35 Ill. Adm. Code 103.

Section 745.204 Defense

This Section provides that a waste disposal site or unit has 90 days following termination of employment of its certified chief operator or revocation or cancellation of its chief operator's certification in which to employ a replacement certified chief operator. In the June 1984 proposal (there found at Section 745.124) this time period was 60 days. However, several comments at hearing indicated that this was an unduly tight time frame in which to identify (and perhaps hire) a new chief operator candidate, and for the candidate to actually obtain certification. At first notice the Board specifically requested additional comment on the matter of whether the increase to 90 was sufficient to rectify this perceived problem; no comments were received.

Section 745.205 Effective Date

This Section specifies that the prohibitions of this Subpart shall become effective July 1, 1988. It is presumed to provide for sufficient time during which the Agency may develop application and review procedures, applications may be submitted and reviewed, and final actions on the applications may be taken.

ORDER

The Clerk of the Pollution Control Board is directed to submit the following adopted rule to the Secretary of State for final notice:

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE G: WASTE DISPOSAL
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER g: CERTIFICATIONS

PART 745
PRIOR CONDUCT CERTIFICATION

SUBPART A: GENERAL PROVISIONS

Section
745.101 Scope and Applicability
745.102 Definitions

SUBPART B: APPLICATION FOR CERTIFICATION

Section
745.121 Persons Who May Apply
745.122 Application
745.123 Duty to Supplement Pending Application
745.124 Duty to Provide Supplemental Information
745.125 Application Form
745.126 Incomplete Applications
745.127 Registered or Certified Mail

SUBPART C: AGENCY ACTION

Section
745.141 Standards for Denial
745.142 Final Action
745.143 Time Limits
745.144 Waiver of Time Limits

SUBPART D: APPEAL, REVOCATION AND TRANSFERABILITY

Section
745.161 Appeal of Certification Denial
745.162 Revocation
745.163 Duration and Transferability

SUBPART E: PROHIBITIONS

Section
745.180 Applicability of the Subpart
745.181 Chief Operator Requirements
745.201 Prohibitions
745.202 Agency Denial of Waste Disposal Permit

745.203 Revocation of Waste Disposal Permit
745.204 Defense
745.205 Effective Date

AUTHORITY: Implementing Sections 22.4(b) and 22.5 and authorized by Section 27 of the Environmental Protection Act (Ill. Rev. Stat. 1985 ch. 111¹/₂, pars. 1022.4(b), 1022.5 and 1027).

SOURCE: Adopted at 11 Ill. Reg. , effective

SUBPART A: GENERAL PROVISIONS

Section 745.101 Scope and Applicability

- a) This Part establishes procedures for prior conduct certification for personnel of waste disposal sites.
- b) This Part requires the chief operator of certain waste disposal sites, pursuant to Subpart E, to obtain prior conduct certification. Otherwise, permits for operation of the site may be denied or revoked, and the owners or other named permittees, as well as the chief operator, are subject to an enforcement action for continued operation without a certified operator, pursuant to Subpart E.
- c) This Part also prohibits any person who has had prior conduct certification denied, cancelled or revoked, unless the person has a current valid prior conduct certification, from owning or operating a waste disposal site or serving as an officer or director of the owner or operator of a waste disposal site, or serving as an employee at a waste disposal site, pursuant to Subpart E.

Section 745.102 Definitions

- a) Unless otherwise stated or unless the context clearly indicates a different meaning, the definitions of terms used in this Part are the same as those found in the Environmental Protection Act (Ill. Rev. Stat. 1985, ch. 111¹/₂, pars. 1001 et seq.) and at 35 Ill. Adm. Code 807.104.
- b) Notwithstanding subsection (a), the following terms are defined for purposes of this Part:

"Act" means the Environmental Protection Act, Ill. Rev. Stat. 1985, ch. 111¹/₂, pars. 1001 et seq., as amended.

"Agency" means the Illinois Environmental Protection Agency.

"Board" means the Illinois Pollution Control Board.

"Chief Operator" means the one natural person in responsible charge of a waste disposal site on a 24-hour basis. "Chief Operator" also means any person who may from time to time and in the regular course of business be designated by a waste disposal site's chief operator to assume the functions of chief operator during periods of vacation, accident, illness or the like.

"Natural person" means a human being. The term excludes "artificial persons," such as business or governmental entities.

"Owner" means the person who owns a waste disposal site or part of a waste disposal site, or who owns the land on which the site is located.

A person is in "responsible charge" if the person:

Is normally present at a waste disposal site;

Directs the day-to-day, overall operation at the site; and

Either is the owner or operator, or is employed by or under contract with the owner or operator to assure that the day-to-day operations at the site are carried out in compliance with 35 Ill. Adm. Code 724, 725, 730, 807 and other Board rules governing operations at waste disposal sites.

c) As used in this Subpart, "waste disposal site" means a site for which a waste disposal permit is required by 35 Ill. Adm. Code: Subtitle G, including but not necessarily limited to:

- 1) RCRA disposal permit required by 35 Ill. Adm. Code 703;
- 2) UIC permit required by 35 Ill. Adm. Code 704; or
- 3) Waste disposal permit required by 35 Ill. Adm. Code 807.

SUBPART B: APPLICATION FOR CERTIFICATION

Section 745.121 Persons Who May Apply

Any natural person may apply for prior conduct certification pursuant to this Part.

Section 745.122 Application

An application for prior conduct certification shall include:

- a) The name and address of the applicant;
- b) Identification of each waste disposal site at any time owned or operated by the applicant, or at which the applicant served as chief operator, including:
 - 1) The name and address of each site; and
 - 2) A description of the nature of each site and the type of waste disposed there (e.g., hazardous waste, municipal waste); and
 - 3) A description of the length of and nature of involvement with each site;
- c) A copy of any final administrative or judicial determination, made after opportunity for an adversarial proceeding, that the applicant has:
 - 1) Violated federal, state or local laws, regulations or ordinances governing the operation of any waste disposal site;
 - 2) Been convicted in Illinois or another state of any crime which is a felony under Illinois law, or been convicted of a felony in a federal court;
 - 3) Shown gross carelessness or incompetence in the handling, storing, processing, transporting or disposing of any hazardous waste in any state;
- d) A description, including the name of the agency or court, title, docket number and status, of any administrative or judicial proceeding, which is still pending, which:
 - 1) Could result in a determination against the application of the type described in subsection (c); or
 - 2) Could result in a reversal of any administrative or judicial determination provided by the applicant in response to subsection (c);
- e) An affidavit attesting to the truth and completeness of the facts asserted in the application.

Section 745.123 Duty to Supplement Pending Application

The applicant shall supplement any pending application for prior conduct certification within 30 days after any change of circumstances which renders, in any respect, the original application for prior conduct certification inaccurate or incomplete.

Section 745.124 Duty to Provide Supplemental Information

- a) Any person who holds prior conduct certification shall provide on an annual basis a supplemental information report to the Agency which identifies change in any of the information required by Section 745.122. A person who holds prior conduct certification shall additionally, upon Agency request, provide a supplemental information report which identifies change in any of the information required by Section 745.122 prior to the first anniversary of the submission of the previous report, so long as the person has not been required to submit more than three such reports during the previous one year period.
 - 1) The Agency can request supplemental information only if it has a sufficient reason.
 - 2) The Agency shall state the reason at the time it requests supplemental information.
 - 3) "Sufficient reason" includes information in the possession of the Agency which indicates that some of the information required in Section 745.122 has changed.
- b) The Agency shall provide notice to any individual certified pursuant to this Part who has failed to comply with the provisions of subsection (a). Such notice shall be mailed no less than 45 days after the due date of the annual report, or no less than 45 days after the request for supplemental information has been mailed.
- c) If a person certified pursuant to this Part fails to comply with the provisions of subsection (a) within 45 days after receipt of the notice of subsection (b), the Agency shall notify the person that prior conduct certification is cancelled effective upon receipt of the notice.
- d) Any person whose prior conduct certification has been cancelled pursuant to subsection (c) may reapply for certification at any time upon filing of an application pursuant to this Part.

- e) The Agency notices and requests of this Section shall be in writing and mailed to the person by registered or certified mail, return receipt requested.

Section 745.125 Application Form

The Agency shall prescribe the form in which all information required under this Subpart shall be submitted and may adopt such procedures as are necessary for carrying out its duties under this Part.

Section 745.126 Incomplete Applications

An application for prior conduct certification shall not be deemed filed until the Agency has received, at the designated address, all information and documents, in the form and with the content required by this Part and related Agency procedures. If the Agency fails to notify the applicant within 45 days after the receipt of an application that the application is incomplete, and of the reasons the application is considered to be incomplete, the application shall be deemed complete and deemed filed on the date received by the Agency. An applicant may deem the Agency's notification that the application is incomplete as a denial of prior conduct certification for purposes of review pursuant to the procedures of Section 40 of the Act and 35 Ill. Adm. Code 105. A prior conduct certification which has been deemed to be denied pursuant to this Section shall not constitute denial of certification for the purposes of Section 745.201.

Section 745.127 Registered or Certified Mail

All prior conduct certification applications shall be mailed or delivered to the appropriate address designated by the Agency, and, if mailed, shall be sent by registered or certified mail, return receipt requested. Applications which are hand-delivered shall be delivered to and receipted for by a person designated by the Agency.

SUBPART C: AGENCY ACTION

Section 745.141 Standards for Denial

- a) The Agency shall deny prior conduct certification to any person who has:
 - 1) Been repeatedly found, after opportunity for an adversarial proceeding before any judicial or administrative body, to be in violation of any federal, state or local laws, regulations or ordinances governing the operation of waste disposal sites in any state;

- 2) Been convicted in any state of a crime which would be a felony under Illinois law, or been convicted of a felony in federal court;
 - 3) Been judicially or administratively determined, after opportunity for an adversarial proceeding, to have shown gross carelessness or incompetence in the handling, storing, processing, transporting or disposing of any waste in any state;
 - 4) Practiced any fraud or deceit in obtaining or attempting to obtain prior conduct certification;
or
 - 5) Failed to timely file a supplemental application pursuant to Section 745.123.
- b) Subsection (a) notwithstanding, the Agency may, in its discretion, grant prior conduct certification if mitigating factors exist such that certification should issue. Mitigating factors include:
- 1) The severity of the misconduct;
 - 2) How recently the misconduct took place;
 - 3) The degree of control exerted over waste disposal operations at a site by the applicant at the time misconduct described in subsection (a)(3) was committed.
- c) Pursuant to Section 39(a) of the Act, a person requesting certification has the burden of demonstrating that the person is entitled to the certification. Completion of the application form stating that none of the reasons for denial exist is a sufficient demonstration in the absence of information to the contrary.

Section 745.142 Final Action

- a) If the Agency denies any prior conduct certification under Section 745.141, it shall transmit to the applicant, within the time limits specified in this Part, a specific, detailed written statement as to the reasons why the prior conduct certification application was denied.
- b) The Agency shall send all notices of final action by registered or certified mail, return receipt requested. Final action shall take place on the date that such notice is mailed.

Section 745.143 Time Limits

If the Agency fails to take final action on the application for prior conduct certification within 90 days after its filing, the applicant may deem the prior conduct certification granted for one year beginning on the 91st day after the application was filed.

Section 745.144 Waiver of Time Limits

Any applicant for prior conduct certification may waive the requirement of the time within which the Agency must take final action on the application.

SUBPART D: APPEAL, REVOCATION AND TRANSFERABILITY

Section 745.161 Appeal of Certification Denial

If the Agency denies prior conduct certification under this Part, the applicant may appeal that action to the Board pursuant to Section 40 of the Act and 35 Ill. Adm. Code 105.

Section 745.162 Revocation

- a) Any person may file a complaint with the Board, pursuant to Title VIII of the Act and 35 Ill. Adm. Code 103, seeking revocation of a prior conduct certification which has been granted by the Agency, or which was issued by reason of Agency failure to comply with the time limits of Section 745.143. Such action may be based upon grounds stated in Section 745.141(a).
- b) Before revoking a certification, the Board will consider the mitigating factors listed in Section 745.141(b).

Section 745.163 Duration and Transferability

- a) Except as otherwise provided in Section 745.124 or Section 745.143, a prior conduct certification made pursuant to this Part remains valid until revoked pursuant to Section 745.162.
- b) A prior conduct certification is not transferable.

SUBPART E: PROHIBITIONS

Section 745.180 Applicability of the Subpart

This Subpart does not apply to sites used solely for waste treatment or waste storage.

Section 745.181 Chief Operator Requirements

- a) The individual who is chief operator of a waste disposal site, as defined pursuant to Section 745.102(c), shall have prior conduct certification.
- b) The owner or other named permittee shall designate one or more chief operators for each waste disposal site.
 - 1) One certified chief operator may serve in that capacity for multiple waste disposal units located at one waste disposal site.
 - 2) One certified chief operator shall not serve in that capacity for units located at two or more waste disposal sites.
 - 3) A certified waste operator need not be present during all hours a site is operating, provided that the chief operator retains responsibility for site operations during the period of absence, and can be contacted by waste disposal site personnel during the absence.

Section 745.201 Prohibitions

- a) No person shall operate a waste disposal site unless the site chief operator has prior conduct certification.
- b) No site owner or other named permittee shall cause or allow operation of a waste disposal site unless the site chief operator has prior conduct certification.
- c) No person shall own or operate a waste disposal site if the person has had prior conduct certification denied, cancelled or revoked, unless the person has a current, valid prior conduct certification.
- d) No person shall serve as an officer or director of the owner or operator of a waste disposal site if the person has had prior conduct certification denied, cancelled or revoked, unless the person has a current, valid prior conduct certification.
- e) No person shall serve as an employee at a waste disposal site if the person has had prior conduct certification denied, cancelled or revoked, unless the person has a current, valid prior conduct certification.

Section 745.202 Agency Denial of Waste Disposal Permit

The Agency shall deny any waste disposal permit to any owner or other named permit applicant, unless the applicant demonstrates

that the applicant will not violate Section 745.201. Completion of the application form stating that the applicant intends to comply is a sufficient demonstration in the absence of information to the contrary.

Section 745.203 Revocation of Waste Disposal Permit

Any person may seek revocation of any waste disposal permit on the grounds that the waste disposal site is in violation of Section 745.201. Such action shall be initiated by filing a complaint with the Board pursuant to Title VIII of the Act and 35 Ill. Adm. Code 103.

Section 745.204 Defense

It shall be a complete defense to an action brought pursuant to Section 745.203 that a replacement certified chief operator has been employed within 90 days after the date of termination of employment of a certified chief operator, or cancellation or revocation of the chief operator's prior conduct certification.

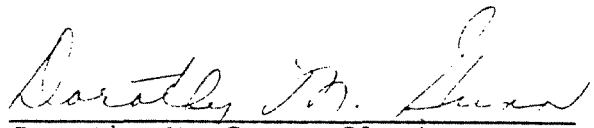
Section 745.205 Effective Date

The prohibitions of this Subpart shall become effective July 1, 1988.

IT IS SO ORDERED.

Board Member Bill Forcade concurred.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order was adopted on the 11th day of September, 1987, by a vote of 6-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board