

ILLINOIS POLLUTION CONTROL BOARD  
May 13, 1982

IN THE MATTER OF: )  
 )  
WASTE DISPOSAL SITE OWNER/OPERATOR AND ) R81-18  
MANAGER PRIOR CONDUCT CERTIFICATION: )  
ILL. ADM. CODE TITLE 35, SUBTITLE G, )  
CHAPTER I, SUBCHAPTER g. )

PROPOSED RULE. FIRST NOTICE.

ORDER OF THE BOARD (by J. Anderson):

Section 22(b) of the Environmental Protection Act provides that the Board may adopt regulations to prescribe "[s]tandards for the certification of personnel to operate refuse disposal facilities or sites." The following proposal is a revision of the rules as proposed in the Board's Order of June 10, 1981.

The original proposal was for addition of a new Part IV to existing Chapter 7. This revision has been drafted in codified form as Subchapter g to Ill. Admin. Code Title 35, Subtitle G, Chapter I. This has been done in anticipation of the codification of Chapters 7 and 9 in the course of the R80-22 proceeding.

The Clerk is accordingly directed to cause publication in the Illinois Register of the First Notice of the following proposed rules. Hearings shall be scheduled and held in this matter as expeditiously as is practicable.

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

## PART 745

## OWNER, OPERATOR, AND MANAGER PRIOR CONDUCT CERTIFICATION

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AUTHORITY: Implementing Section 22(b) of the Environmental Protection Act and authorized by Section 27 of the Environmental Protection Act (Ill. Rev. Stat. 1981 Ch. 111½, pars. 1022(b) and 1027)

SOURCE: Added at 6 Ill. Reg. \_\_\_\_\_

## SUBPART A: GENERAL PROVISIONS

## Section 745.101 Scope and Applicability

a) This Part applies to owners, operators and managers of waste disposal sites or facilities required to have RCRA or general waste disposal permits by Subchapter b, or Chapter 7.

b) This Part requires the owner, operator and manager to obtain certification. Otherwise, permits for operation of the site or facility may be denied or revoked, and the owner, operator or manager is subject to an enforcement action for continued operation, ownership or management without certification.

## Section 745.102 Relationship to Other Rules

The certification requirements are supplemental to the RCRA and general waste site permit requirements and operating standards.

## Section 745.103 Compliance Dates

Compliance with these regulations is required upon the earliest of the following dates:

- a) Upon issuance of certification;
- b) 35 days after mailing of a statement of reason for denial of certification;
- c) 180 days after the date these rules are filed with the Secretary of State.

## Section 711.110 Definitions Incorporated by Reference

The definitions of Rule 104 of Chapter 7: Solid Waste and of Section 3 of the Environmental Protection Act, Ill. Rev. Stat. Ch. 111½, §1003 are hereby incorporated by reference.

## Section 745.111 Definitions

Manager - a natural person having on-going, direct supervisory responsibility for the overall operation of a site.

Owner - any person who owns a site or part of a site. For the purposes of this Part, any person holding both legal and equitable title to a site, any person having equitable title to or interest in a site pursuant to a land trust, any person making a contract to purchase a site contingent upon receipt of RCRA or general waste disposal permits required by Subchapter (b) or Chapter 7.

## SUBPART B: PROHIBITIONS

## Section 745.121 Prohibition

No person shall own or operate or cause or allow management of a waste disposal site or facility for which a RCRA or general waste disposal permit is required by Subchapter (b) or Chapter 7, unless each requirement of this Part is performed. No natural person shall manage waste disposal site or facility unless each requirement of this Part is performed.

## Section 745.122 Permit Denial

The Agency may deny issuance of any RCRA or general waste disposal permit required by Subchapter (b) or Chapter 7 to any owner and/or operator who has not received certification or whose certification has been suspended or revoked, and to any owner and/or operator who employs a manager who has not received certification or whose certification has been suspended or revoked.

## Section 745.123 Duty to Apply

a) The owner and operator of a waste disposal site or facility shall apply to the Agency for certification under this Part prior to or at the time of application for any RCRA or general waste disposal permit required by Subchapter (b) or Chapter 7.

b) The manager of a waste disposal site or facility shall apply to the Agency for certification under this Part prior to managing any site for which a permit is required.

## Section 745.124 Duty to Supplement Pending Application

a) Before certification is received or denied, the owner and/or operator of a waste disposal site or facility shall supplement the application for certification within 30 days of any change of circumstances which renders an application for certification inaccurate or incomplete in any respect.

b) Before certification is received or denied, the manager of a waste disposal site or facility shall supplement the application for certification within 30 days of any change of circumstances which renders an application for certification inaccurate or incomplete in any respect.

Section 745.125      Duty to Provide Supplemental Information

a) From the time certification is received until such time as the certified owner and/or site operator ceases to own and/or operate a site for which a permit is required, supplemental information as required by Section 745.124 shall be submitted to the Agency on a semi-annual basis, or upon earlier receipt from the Agency of a written request for such supplemental information.

b) After certification is received, supplemental information as required by Section 745.124 shall be submitted to the Agency on a semi-annual basis, or upon earlier receipt from the Agency of a written request for such supplemental information.

SUBPART C: APPLICATIONS FOR CERTIFICATION

Section 745.141      Owner/Operator Applications

An application filed by the owner or operator shall include:

a) Type of permit the applicant for certification is seeking or intends to seek;

b) Name and address of applicant;

c) Name and title of the individual preparing the application;

d) A brief description of the structure of the applicant's business (e.g. partnership, sole proprietorship, corporation, association or other);

e) The names and addresses of the actual and constructive owners or stockholders of 5% of the applicant's stock, and identification of the percentage of interest held by each person named;

f) The names and addresses of the members, officers and/or directors of the business and their titles;

g) The names and addresses of any waste disposal site or facility at any time owned or operated by the applicant;

h) The names and addresses of any member, officer, and/or director of the applicant's business who have at any time owned or operated a waste disposal site or facility and the names and addresses of such site or facility;

i) The names and addresses of any parent business;

j) The names and addresses of the actual and constructive owners or stockholders of 5% of the stock of the parent business and identification of the percentage of interest held by each person named;

k) A copy of any administrative or judicial determination, made after opportunity for an adversarial proceeding, that any of the persons identified in the application pursuant to subsections (e), (f) and (h);

- 1) violated federal, state or local laws, regulations or ordinances governing the operation of waste disposal sites or regulations
- 2) committed in any state a crime which would be a felony under Illinois law, or has committed a crime which is a felony under Illinois law
- 3) has shown gross carelessness or incompetence in the handling, storing, processing, transporting or disposing of any hazardous waste in any state;

l) A description of any still pending administrative or judicial proceeding to include title, docket number, status which could result in a determination against any person identified in the application pursuant to subsections (e), (f) and (h) of the type described in subsection (k);

m) An affidavit attesting to the truth and completeness of the facts asserted in the application.

#### Section 745.142      Manager Applications

An application filed by a manager shall include:

- a) Name and address of applicant;
- b) The names and addresses of any waste disposal site or facility at any time owned, operated or managed by the applicant, and a description of the length of and nature of involvement with each facility;
- c) A copy of any 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 waste disposal sites or regulations;
  - 2) committed in any state a crime which would be a felony under Illinois law, or committed a crime which is a felony under Illinois law;

3) Shown gross carelessness or incompetence in the handling, storing, processing, transporting or disposing of any hazardous waste in any state;

d) A description of any still pending administrative or judicial proceeding to include title, docket number, status which could result in a determination against the application of the type described in subsection (c);

e) An affidavit attesting to the truth and completeness of the facts asserted in the application.

#### Section 745.143 Application Form

The Agency shall prescribe the form in which all information required under this Part shall be submitted and may adopt such procedures as are necessary for certification under this Part. In adopting new or revised procedures, the Agency shall comply with the requirements of the Illinois Administrative Procedure Act, Ill. Rev. Stat. 1979 ch. 127, pars. 1001 et seq.

#### Section 745.144 Incomplete Applications

An application for 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 to have been filed on the date received by the Agency. However, if the application for certification accompanies an application for a RCRA or general waste disposal permit required by Subchapter (a) or Chapter 7 which requires Agency notification of incompleteness within a shorter time period, the Agency shall make any notification of incompleteness of the certification application within such shorter time period. An applicant may deem the Agency's notification that the application is incomplete as a denial of certification for purposes of review pursuant to the procedures of Section 40 of the Act and Part 105 of Subtitle A.

(Note: Prior to codification, Part 105 was Part V of the Procedural Rules.)

#### Section 745.145 Registered or Certified Mail

All 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 D: AGENCY ACTION

## Section 745.161 Notification of Governmental Officials

Upon receipt of an application for certification required by Subpart C which identifies a waste disposal site or facility which is, or is intended to be, owned, operated, or managed by the applicant, the Agency shall send notification of its receipt of said application to

- a) the States Attorney and Chairman of the County Board of the county in which the identified site or facility is, or is intended to be, located;
- b) each member of the General Assembly from the legislative district in which the identified site or facility is, or is intended to be, located; and
- c) the Clerk of each municipality any portion of which is within 3 miles of the actual or intended location of the identified site or facility.

## Section 745.162 Standards for Denial

- a) The Agency may deny certification to any person who:
  - 1) has 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 or facilities in any state;
  - 2) has been convicted in any state of a crime which would be a felony under Illinois law, or has been convicted of a felony in federal court;
  - 3) has 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 hazardous waste in any site;
  - 4) has practiced any fraud or deceit in obtaining or attempting to obtain certification; and
  - 5) has failed to timely file a supplemental application pursuant to Sec. 745.124.
- b) In making a determination to deny certification, the Agency shall consider:

- 1) how directly the misconduct relates to waste disposal operations;
- 2) the severity of the misconduct;
- 3) how recently the misconduct has taken place; and
- 4) the degree of control over waste disposal operations at a site or facility which is exerted by the person committing the misconduct.

#### Section 745.163 Final Action

a) If the Agency denies any certification under Sec. 745.161, it shall transmit to the applicant within the time limits specified in this Part specific, detailed statements as to the reasons why the 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 be deemed to have taken place on the date that such notice is mailed.

#### Section 745.164 Time Limits

If the Agency fails to take final action on the application for certification within 90 days from the filing thereof, the applicant may deem the certification granted on the 91st day after the application was filed for purposes of review pursuant to the procedures of Sec. 745.181 and Part 105 of Subtitle A. However, if the application for certification accompanies an application for a RCRA or general waste disposal permit required by Subchapter (a) or Chapter 7 which requires the Agency to take final action within a shorter time period, the Agency shall take final action on certification during such shorter time period, the applicant may deem the certification granted on the first day after such shorter time period expires.

(Note: Prior to codification, Part 105 of Subtitle A was Part V of the Procedural Rules.)

#### Section 745.165 Waiver of Time Limits

Any applicant for a permit may waive the requirement of the time within which the Agency shall take final action on the application.

SUBPART E: APPEAL, SUSPENSION REVOCATION  
AND TRANSFERABILITY

Section 745.181 Appeal of Certification Denial

If the Agency denies certification under this Part, the applicant may appeal that action to the Board following the procedures of Section 40 of the Act and Part 105 of Subtitle A.

(Note: Prior to Codification, Part 105 was Part V of the Procedural Rules.)

Section 745.182 Suspension or Revocation

a) The Agency or any person may seek suspension or revocation of a certification which has been granted by the Agency, or which was issued by reason of Agency failure to comply with the time limits of Sec. 745.164. Such action may be based upon grounds stated in Sec. 745.162(a), and may be initiated by filing a complaint with the Board pursuant to Title VIII of the Act.

b) In making its determination in such action, the Board shall consider the factors listed in Sec. 745.162(b).

Section 745.183 Duration and Transferability

Agency certifications made pursuant to this Part shall remain valid until suspended or revoked pursuant to Sec. 745.182. Such certifications are not transferable.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the 12<sup>th</sup> day of May, 1982 by a vote of 5-0.

  
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Christan L. Moffett, Clerk  
Illinois Pollution Control Board