

ILLINOIS POLLUTION CONTROL BOARD
June 10, 1981

IN THE MATTER OF:)
)
WASTE DISPOSAL SITE) R81-18
OWNER/OPERATOR CERTIFICATION,)
CHAPTER 7: SOLID WASTE, PART IV)
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." As no regulatory proposals to implement this legislation have been submitted to the Board, the Board will itself initiate the rulemaking process.

The Clerk is accordingly directed to cause publication in the Illinois Register of the First Notice of the following proposed new Part IV of Chapter 7: Solid Waste. Hearings shall be scheduled and held in this matter as expeditiously as is practicable.

Chapter 7: Solid Waste

Part IV Agency Certification of Owners and Operators
of Waste Disposal Sites and Facilities

Rule 401 Prohibition

No person shall own or operate a waste disposal site or facility unless each requirement of this Part is performed.

Rule 402 Required Original and Supplemental Applications for Certification

(a) The owner and operator of a waste disposal site or facility shall apply to the Agency for certification under this Part prior or at the time of application for any development, experimental, or operating permit required by this Chapter.

(b) Such application, which shall be supported by an affidavit attesting to the truth and completeness of the facts asserted therein, shall include:

1. Type of permit the applicant for certification is seeking or intends to seek;
2. Name and title of applicant;
3. Name of the business which the individual preparing the application owns or is employed by;
4. A brief description of the structure of the business (e.g. partnership, sole proprietorship, corporation, association or other);
5. The names and addresses of the officers and directors of the business and their titles;
6. The names and addresses of any other members or employees of the business who own or have owned or operate or have operated a waste disposal site or facility and the names and addresses of such site or facility;
7. The names and addresses of any parent business;
8. The names, and addresses of the owners or stockholders of any parent business; provided, however, that if there are more than 20 such owners or stockholders, only the 20 persons with the largest holdings in such firm need be listed; and
9. A copy of any administrative or judicial determination made that any of the persons identified in the application has
 - A. violated federal, state, or local laws, regulations or ordinances governing the operation of waste disposal sites or regulations
 - B. 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
 - C. has shown gross carelessness or incompetence in the handling, storing, processing, transporting, or disposing of any hazardous waste in any state.
10. 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 of the type described in subsection (8).

(c) The owner and 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, at any time before or after certification is received.

Rule 403 Original and Supplemental Application Procedures

(a) The Agency may 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 Procedures Act, Ill. Rev. Stat. 1979, Ch. 127, §1001 et. seq.

(b) 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.

(c) 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 these Rules 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 permit required by this Chapter 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 V of the Board's Procedural Rules.

(d) 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 denied on the 91st day after the application was filed. However, if the application for certification accompanies an application for a permit required by this Chapter 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.

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

(f) 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.

(g) Upon receipt of a request for certification required by these regulations, the Agency shall notify the States Attorney and the Chairman of the County Board of the county in which the subject facility is located and each member of the General Assembly from the legislative district in which that facility is located and the clerk of each municipality any portion of which is within 3 miles of the site or facility owner or operated by the person seeking certification.

Rule 404 Standards for Denial, Suspension, or Revocation of Certification

(a) Prior to the issuance of any permit required by this Chapter to any person, the Agency shall certify that such person is not disqualified by reasons of character or experience from ownership or operation of a waste disposal site or facility.

(b) The Agency may deny, suspend, or revoke 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 Rule 402(c).

(c) In making a determination to refuse, suspend, or revoke certification, the Agency shall consider:

1. How directly the misconduct relates to waste disposal operations;

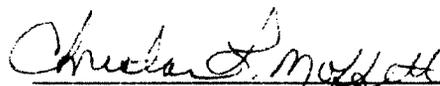
2. The severity of the misconduct;
3. How recently the misconduct has taken place; and
4. The degree of control over waste disposal operations at the applicant's site or facility which is exerted by the person committing the misconduct.

Rule 405 Appeals to the Board

If the Agency denies, revokes, or suspends certification under this Part, the applicant may appeal that action to the Board following the procedures of Section 40 of the Act and Part V of the Board's Procedural Rules.

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 10th day of June, 1981 by a vote of 4-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board