

ILLINOIS POLLUTION CONTROL BOARD  
June 14, 1984

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

PROPOSED RULE. FIRST NOTICE.

ORDER OF THE BOARD (by J. Anderson):

Section 22.1 of the Environmental Protection Act (P.A. 83-0425) provides that the Board shall 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 May 13, 1982.

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  
  
CHIEF OPERATOR PRIOR CONDUCT CERTIFICATION  
  
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AUTHORITY: Implementing Section 22(b) and authorized by Section 27 of the Environmental Protection Act (Ill. Rev. Stat. 1983 ch. 111½, pars. 1022(b) and 1027).

SOURCE: Adopted and codified at 8 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART A: GENERAL PROVISIONS

## Section 745.101 Scope and Applicability

- a) This Part applies to owners and chief operators of:
  - 1) Waste disposal sites and facilities for which a waste disposal permit is required by 35 Ill. Adm. Code Subtitle G under both the RCRA and general waste provisions;
  - 2) Incinerators disposing of wastes for which a permit is required by 35 Ill. Adm. Code Subtitle B.
- b) This Part requires the chief operator of a waste disposal site to obtain certification. Otherwise, permits for operation of the site may be denied or revoked, and the owner, as well as the chief operator, is subject to an enforcement action for continued operation without a certified operator.
- c) This Part does not apply to waste treatment or storage sites or facilities.

## Section 745.102 Relationship to Other Rules

The certification requirements are supplemental to the RCRA and general waste site permit requirements and operating standards of 35 Ill. Adm. Code Subtitle G.

## Section 745.103 Compliance Dates

These rules shall take effect 180 days after filing with the Secretary of State.

## Section 745.110 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 (Act), (Ill. Rev. Stat. 1983, ch. 111½, pars. 1001 et seq.).
- b) Notwithstanding paragraph (a), the following terms are defined for purposes of the Part:
  - 1) "Act" means the Environmental Protection Act, Ill. Rev. Stat. 1983, ch. 111½, par. 1001 et seq., as amended;

- 2) "Chief operator" means the person responsible for the day to day, overall operation of a site;
- 3) "Owner" means the person who owns a waste disposal site or part of a waste site, or the land on which said site is located;
- 4) "Waste" means "solid waste", as defined in 35 Ill. Adm. Code Section 721.102 or "waste" as defined in Section 3 of the Act;
- 5) "Waste Disposal Site" means any site or facility on or in which waste is disposed, including incinerators. (Specific reference in this Part to incinerators is not intended to exclude other types of sites or facilities, but is instead necessitated by their regulation in the air regulations of 35 Ill. Adm. Code Subtitle B, rather than in the waste disposal regulations of 35 Ill. Adm. Code Subtitle G.)

#### SUBPART B: PROHIBITIONS

##### Section 745.121 Prohibition

- a) No person shall operate and no site owner or other named permittee shall cause or allow operation of a waste disposal site for which a waste disposal permit is required by 35 Ill. Adm. Code Subtitle G, unless each requirement of this Part is performed.
- b) Certifications issued pursuant to this Part shall specify whether the chief operator is authorized to dispose of:
  - 1) Non-hazardous waste only; or
  - 2) Both hazardous and non-hazardous wastes.
- c) No person shall operate or cause or allow operation of a waste disposal site without a chief operator having certification to dispose of the type of waste for which the site is permitted.

##### Section 745.122 Agency Denial of Waste Disposal Permit

The Agency shall deny issuance of any waste disposal permit required by 35 Ill. Adm. Code Subtitle G to any chief operator who has not received the required certification or whose certification has been suspended or revoked, and to any owner or other named permit applicant who does not employ a certified operator.

Section 745.123            Revocation of Waste Disposal Permit

The Agency or any other person may seek revocation of any waste disposal permit issued pursuant to 35 Ill. Adm. Code Subtitle G on the grounds that the waste disposal site is in violation of Section 745.121. Such action shall be initiated by filing a complaint with the Board pursuant to Title VIII of the Act.

Section 745.124            Defense

In the event that the alleged violation of the prohibition of Section 745.121 is the result of termination of employment of a certified chief operator, or suspension or revocation of the chief operator's certification, it shall be a complete defense to an action brought pursuant to Section 745.123 that a replacement certified chief operator has been employed within 60 days of the date of the start of alleged violation.

SUBPART C:    APPLICATIONS FOR CERTIFICATION

Section 745.141            Applications

An application filed by a prospective chief operator shall include:

- a)    Name and address of applicant;
- b)    The name and address of each waste disposal site at any time owned, or operated by the applicant, a description of the nature of the site and the type of waste there disposed of (e.g. hazardous waste, municipal waste) and a description of the length of and nature of involvement with each site;
- c)    A statement whether the applicant intends to dispose of hazardous waste;
- d)    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;
  - 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.
- e) A description of any still pending administrative or judicial proceeding to include the name of the agency or court and the action's title, docket number, and status which:
  - 1) Could result in a determination against the application of the type described in subsection (d); and/or
  - 2) Could result in a reversal of any administrative or judicial determination provided by the applicant in response to subsection (d).
- f) An affidavit attesting to the truth and completeness of the facts asserted in the application.

#### Section 745.142 Duty to Supplement Pending Application

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

#### Section 745.143 Duty to Provide Supplemental Information

Once certified, a chief operator shall submit supplemental information as required by Section 745.124 to the Agency on a semi-annual basis, or upon earlier receipt from the Agency of a written request for such supplemental information.

#### Section 745.144 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. 1983, ch. 127, pars. 1001 et seq.).

#### Section 745.145 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. 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 35 Ill. Adm. Code 105.

Section 745.146 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 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 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 Section 745.142.
- b) In making a determination to grant or deny certification, the Agency shall consider:

- 1) How directly the misconduct related to waste disposal operations;
  - 2) The severity of the misconduct;
  - 3) How recently the misconduct took place; and
  - 4) Whether the application intends to dispose of hazardous waste;
  - 5) The degree of control exerted over waste disposal operations at a site by the person at the time misconduct described in subsection (a)(3) was committed.
- c) In making a determination to grant or deny an application for certification to handle hazardous waste, the Agency may deny the request as to hazardous waste but grant it as to non-hazardous waste.

Section 745.162 Final Action

- a) If the Agency denies any certification under Section 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 745.163 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 for one year on the 91st day after the application was filed.

Section 745.164 Waiver of Time Limits

Any applicant for certification 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 35 Ill. Adm. Code 105.

Section 745.182 Revocation

- a) The Agency or any person may seek 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 Section 745.163. Such action may be based upon grounds stated in Section 745.161(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. 745.161(b).

Section 745.183 Duration and Transferability

Except as otherwise provided in Section 745.163, Agency certifications made pursuant to this Part shall remain valid until revoked pursuant to Section 745.182. Such certifications are not transferable.

Board Members J. Marlin and J. Theodore Meyer abstain.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the 14<sup>th</sup> day of June, 1984 by a vote of 4-0.

  
Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board