**Section 403.104 Construction Authorization**

a) If an NPDES permit is required to prepare land for mining activities or construct a mine related facility, a person must, before preparing land or constructing a facility:

1) Hold an NPDES permit including a condition authorizing the permit holder to prepare land or construct a facility; or

2) Hold a construction permit under 35 Ill. Adm. Code 404.101 to prepare land or construct a facility.

b) A permittee must not construct a new mine related facility or modify a mining activity or mine related facility for which the permittee holds an NPDES permit unless the NPDES permit includes a condition authorizing the construction or modification. If the modification is already covered under the existing permit condition, a separate authorization from the Agency is not required.

c) Any person required to obtain a construction authorization must apply at least 180 days before the date construction or modification begins.

d) Any person seeking a construction authorization must submit an application under 35 Ill. Adm. Code 405.104. The rules governing issuance of an NPDES permit, including 35 Ill. Adm. Code 405.101 and 405.102, also apply to issuing a construction authorization.

(Source: Amended at 43 Ill. Reg. 11591, effective September 25, 2019)