**Section 845.200 Permit Requirements and Standards of Issuance**

a) Permit Requirements

1) No person may construct, install, or modify a CCR surface impoundment or related treatment or mitigation facilities, including corrective action measures under Subpart F, without a construction permit issued by the Agency under this Part.

2) Except as provided in Section 845.230(d), no person may operate a CCR surface impoundment without an operating permit issued by the Agency under this Part. For purposes of this Part, a CCR surface impoundment starts operation upon initial receipt of CCR.

3) No person may perform corrective action at a CCR surface impoundment without obtaining a construction permit for corrective action and modifying the facility's operating permit, or modifying the facility's operating permit when the approved corrective action does not require the modification of the CCR surface impoundment or the installation or modification of related treatment or mitigation facilities.

4) Except as provided in Section 22.59(e) of the Act, no person may close a CCR surface impoundment without obtaining a construction permit for closure issued by the Agency under this Part.

5) A CCR surface impoundment must maintain an operating permit until:

A) The completion of post-closure care when the CCR surface impoundment is closed with a final cover system; or

B) The completion of groundwater monitoring under Section 845.740(b) when the CCR surface impoundment is closed by removal.

6) The Agency may issue a joint construction and operating permit.

b) Standards for Issuance

1) Except as provided in subsection (b)(2), the Agency may not issue any construction or operating permit required by this Part unless the applicant submits adequate proof that the CCR surface impoundment will be constructed, modified or operated so as not to cause a violation of the Act or Board rules.

2) The existence of a violation of the Act, Board regulation, or Agency regulation will not prevent the issuance of a construction or operating permit under this Part if:

A) The applicant has been granted a variance or an adjusted standard from the regulation by the Board;

B) The permit application is for construction, installation, or operation of equipment to alleviate or correct a violation; or

C) The permit application is for construction, installation, or operation of equipment necessary to restore, protect or enhance the environment.

3) *In granting permits, the Agency may impose reasonable conditions specifically related to the applicant's past compliance history with the Act as necessary to correct, detect, or prevent noncompliance. The Agency may impose such other conditions as may be necessary to accomplish the purpose of the Act and as are not inconsistent with this Part.* [415 ILCS 5/39(a)]

4) *In making its determinations on permit applications under this* Part*, the Agency may consider prior adjudications of noncompliance with the Act by the applicant that involved a release of a contaminant into the environment*. [415 ILCS 5/39(a)]