**Section 845.770 Retrofitting**

Retrofit of a CCR surface impoundment must be completed in accordance with the requirements of this Section.

a) To retrofit an existing CCR surface impoundment, the owner or operator must:

1) First remove all CCR, including any liners except as specified in subsection (a)(4), as necessary, and contaminated soils and sediments from the CCR surface impoundment;

2) Comply with the requirements in Sections 845.410 and 845.420; and

3) Within 30 days after April 21, 2021, the owner or operator electing to retrofit a CCR surface impoundment under this Section must submit a written preliminary retrofit plan to the Agency and post the written preliminary retrofit plan in the facility's operating record as required by Section 845.800(d)(27). The written preliminary retrofit plan must include a prioritization categorization under Section 845.700(g) and the expected construction permit application date under Section 845.700(h); and

4) An owner or operator may request the Agency to approve the use of an existing competent geomembrane liner as a supplemental liner by submitting visual inspection, and analytical testing results to demonstrate that the existing liner is not contaminated with CCR constituents.

b) A CCR surface impoundment undergoing a retrofit remains subject to all other requirements of this Part, including the requirement to conduct any necessary corrective action.

c) Written Retrofit Plan

1) Content of the Plan. The owner or operator must prepare a written retrofit plan that describes the steps necessary to retrofit the CCR surface impoundment consistent with recognized and generally accepted engineering practices. The written retrofit plan must include, at a minimum, all the following information:

A) A narrative description of the specific measures that will be taken to retrofit the CCR surface impoundment in accordance with this Section.

B) A description of the procedures to remove all CCR, liners as necessary, and contaminated soils and sediments from the CCR surface impoundment.

C) An estimate of the maximum amount of CCR and other contaminated materials that will be removed as part of the retrofit operation.

D) An estimate of the largest area of the CCR surface impoundment that will be affected by the retrofit operation.

E) A schedule for completing all activities necessary to satisfy the retrofit criteria in this Section, including an estimate of the year in which retrofit activities of the CCR surface impoundment will be completed.

2) The owner or operator must submit the written retrofit plan with the construction permit application and must obtain a construction permit before retrofitting a CCR surface impoundment.

3) Amendment of a Written Retrofit Plan

A) The owner or operator may submit a permit modification application to amend the initial or any subsequent written retrofit plan at any time.

B) The owner or operator must seek to amend the written retrofit plan whenever:

i) There is a change in the operation of the CCR surface impoundment that would substantially affect the written retrofit plan in effect; or

ii) unanticipated events necessitate a revision of the written retrofit plan either before or after retrofit activities have started.

C) The owner or operator must seek to amend the retrofit plan at least 60 days before a planned change in the operation of the facility or CCR surface impoundment, or within 60 days after an unanticipated event requires the revision of an existing written retrofit plan. If a written retrofit plan needs to be revised after retrofit activities have started for a CCR surface impoundment, the owner or operator must submit a request to modify the construction permit within 60 days following the triggering event.

4) The owner or operator of the CCR surface impoundment must obtain a written certification from a qualified professional engineer that the activities outlined in the written retrofit plan, including any amendment of the plan, meet the requirements of this Section.

d) By the date the owner or operator submits a construction permit application to the Agency to retrofit a CCR surface impoundment, the owner or operator must prepare a notification of intent to retrofit a CCR surface impoundment. The owner or operator has completed the notification when it has been placed in the facility's operating record as required by Section 845.800(d)(28).

e) When activities related to retrofitting the CCR surface impoundment include the removal of CCR from the surface impoundment, the handling and removal of CCR must be performed in a manner consistent with the requirements of Section 845.740.

f) Deadline for Completion of Activities Related to the Retrofit of a CCR Surface Impoundment. Any CCR surface impoundment that is being retrofitted must complete all retrofit activities within the timeframe approved by the Agency in the retrofit plan, or within five years after obtaining a construction permit, whichever is less. The same procedures specified for the extension closure timeframes in Section 845.760(b) apply to extension of retrofit timeframes.

g) Upon completion of all retrofit activities required by this Part and approved by the Agency in a construction permit, the owner or operator of the CCR surface impoundment must submit to the Agency a retrofit completion report and certification.

1) The retrofit completion report must contain supporting documentation, including:

A) Engineering and hydrogeology reports, including monitoring well completion reports and boring logs, all CQA reports, certifications, and designations of CQA officers-in-absentia required by Section 845.290;

B) Photographs, including time, date and location information of the photographs, of the liner system and leachate collection system, and any other photographs relied upon to document construction activities;

C) A written summary of retrofit requirements and completed activities as stated in the construction permit and this Part; and

D) Any other information relied upon by the qualified professional engineer in making the closure certification.

2) The retrofit certification must include a statement from a qualified professional engineer that retrofit has been completed in accordance with the retrofit plan specified in subsection (c) and the requirements of this Part.

3) The owner or operator must place the retrofit completion report and certification in the facility's operating record as required by Section 845.800(d)(29).

h) Within 30 days after the Agency's approval of the retrofit completion report and certification submitted under subsection (g), the owner or operator must prepare a notification of completion of retrofit activities. The notification must include the certification by a qualified professional engineer as required by subsection (g)(2). The owner or operator has completed the notification when it has been placed in the facility's operating record as required by Section 845.800(d)(30).

i) At any time after the initiation of a CCR surface impoundment retrofit, the owner or operator may stop the retrofit and seek to initiate closure of the CCR surface impoundment in accordance with the requirements of this Subpart G. The owner or operator of the CCR surface impoundment must obtain an approved construction permit for closure.