**Section 845.900 General Provisions**

a) This Subpart provides procedures by which the owner or operator of a CCR surface impoundment subject to this Part provides financial assurance satisfying the requirements of Section 22.59(f) of the Act.

b) The owner or operator must provide financial assurance to ensure the following:

1) Completion of closure;

2) Completion of post-closure care, if applicable; and

3) Remediation of releases from a CCR surface impoundment.

c) The owner or operator must maintain financial assurance equal to or greater than the current cost estimates always calculated under Section 845.930, except as otherwise provided by Section 845.910.

d) Financial assurance must be provided by a trust agreement, a surety bond guaranteeing payment, a surety bond guaranteeing payment or performance, or an irrevocable letter of credit (see Section 845.950). The owner or operator must provide financial assurance to the Agency within the timeframes in Section 845.950(c).

e) This Subpart does not apply to the State of Illinois, its agencies and institutions, any unit of local government, or any not-for-profit electric cooperative as defined in Section 3.4 of the Electric Supplier Act [220 ILCS 30].

f) The Agency is authorized to enter into contracts and agreements necessary to carry out the purposes of this Subpart and of Section 22.59(f) of the Act. Neither the State, nor the Director of the Agency, nor any State employee will be liable for any damages or injuries arising out of, or resulting from, any action taken under this Part.

g) The Agency may sue in any court of competent jurisdiction to enforce its rights under financial instruments. The filing of an enforcement action before the Board is not a condition precedent to such an Agency action, except when this Subpart or the terms of the instrument provide otherwise.

h) The Agency must have the authority to approve or disapprove any financial assurance mechanism posted or submitted under this Subpart.

i) The following Agency actions may be appealed to the Board as a permit denial under Section 845.270(e) and Section 22.59(f)(3) of the Act:

1) A refusal to accept financial assurance tendered by the owner or operator;

2) A refusal to release the owner or operator from the requirement to maintain financial assurance;

3) A refusal to release excess funds from a trust;

4) A refusal to approve a reduction in the penal sum of a bond; and

5) A refusal to approve a reduction in the amount of a letter of credit.

j) An owner or operator must notify the Agency by certified mail of the beginning of a voluntary or involuntary proceeding under Title 11 of the United States Code (Bankruptcy) naming any of the owners or operators as debtor, within 10 days after the proceeding starts.

k) An owner or operator that fulfills the requirements of Section 845.960, 845.970, 845.980, or 845.990 by obtaining a trust fund, surety bond, or letter of credit will be deemed to be without the required financial assurance in the event of bankruptcy of the trustee or issuing institution, or a suspension or revocation of the authority of the trustee institution to act as trustee or of the institution issuing the surety bond or letter of credit to issue those instruments. The owner or operator must establish alternative financial assurance within 60 days after such an event.