**Section 900.706 Financial Responsibility Proceeds**

a) A financial institution issuing a surety instrument evidencing financial responsibility for closure of a livestock waste lagoon becomes liable on the surety instrument when a lagoon is removed from service and:

1) The owner fails to submit the lagoon closure plan required by Section 900.608 of this Part and:

A) cannot be found; or

B) fails to cure such failure within 30 days after notice from the Department;

2) The owner fails to obtain Department approval of a lagoon closure plan within eight months after the date that the lagoon is removed from service, unless the lagoon is maintained or serviced; or

3) The owner fails to comply with an approved lagoon closure plan and:

A) cannot be found; or

B) fails to cure such noncompliance within 30 days after notice from the Department.

b) The Department must provide notice to the financial institution providing surety for the lagoon:

1) when it determines that the lagoon has been removed from service; and

2) when it determines that one of the criteria for liability set forth in subsection (a) of this Section has been met.

c) Within 30 days after notice of liability from the Department, the financial institution must either assume liability for closure of the lagoon and notify the Department of its election to assume liability, or deposit the amount for which it is liable in connection with the lagoon into an account from which the Department is authorized to disburse funds for the purpose of closing the lagoon.

1) If the financial institution assumes liability for closure of the lagoon, it must submit a lagoon closure plan that meets the requirements of Section 900.608 of this Part within 60 days after notifying the Department of its election. Notwithstanding the financial institution's assumption of liability for closure of the lagoon, the Department may require the financial institution to deposit funds up to the amount for which the financial institution is liable under the surety instrument into an account from which the Department is authorized to disburse funds for the purpose of closing the lagoon if:

A) The financial institution does not submit the lagoon closure plan as required and fails to cure such omission within 30 days after notice from the Department;

B) The financial institution fails to obtain Department approval of a lagoon closure plan within eight months after the date that it elects to assume liability for closure of the lagoon, unless the lagoon is maintained or serviced; or

C) The financial institution fails to comply with an approved lagoon closure plan and fails to cure such noncompliance within 30 days after notice from the Department.

2) A financial institution that assumes liability for closure of a lagoon under this Section remains liable for the full amount of the surety instrument until the Department issues written notification of completion of closure in accordance with Section 900.608 of this Part, notwithstanding the expiration of the instrument utilized to evidence financial responsibility by the owner.

3) Any amounts that a financial institution may expend for service or maintenance of the lagoon pending closure or partial closure of the lagoon do not reduce the amount of the financial institution's obligation under this subsection (c).

4) If the financial institution elects, or is required under subsection (c)(1) of this Section, to deposit the funds required by the Department into an account from which the Department is authorized to disburse funds for the purpose of closing the lagoon, then the Department shall close the lagoon within the time frame established under Section 15(e) of the Livestock Management Facilities Act [510 ILCS 77/15(e)] or as soon as practicable, to the extent possible utilizing the funds deposited by the financial institution. The Department may use any interest earned on deposited funds to close the lagoon. The Department must release any funds remaining in the account, including any remaining interest earned on funds in the account, to the financial institution upon completion of closure.

d) The Department may sue in any court of competent jurisdiction to enforce its rights under any surety instrument.