**Section 807.605 Application of Proceeds and Appeal**

a) 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 except when this Subpart or the terms of the instrument so provide.

b) As provided in Titles VIII and IX of the Act and 35 Ill. Adm. Code 103 and 104, the Board may order modifications in permits to change the type or amount of financial assurance pursuant to an enforcement action or a variance petition. Also, the Board may order a closure or post-closure care plan modified, and order proceeds from financial assurance applied to execution of a closure or post-closure care plan.

c) The following Agency actions may be appealed as a permit denial to the Board pursuant to 35 Ill. Adm. Code 105 and Section 21.1(e) of the Act:

1) Refusal to accept financial assurance tendered by the operator.

2) Refusal to release the operator from the requirement to maintain financial assurance.

3) Refusal to release excess funds from a trust.

4) Refusal to approve a reduction in the penal sum of a bond.

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

6) Refusal to approve a reduction in the face amount of an insurance policy.

7) Determination that an operator no longer meets the gross revenue test or financial test.

(Source: Amended at 9 Ill. Reg. 18942, effective November 25, 1985)