**Section 811.703 Application of Proceeds and Appeals**

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 to such an Agency action, except when this Subpart or the terms of the instrument provide otherwise.

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 that an owner or operator modify a closure or post-closure care plan or order that proceeds from financial assurance be applied to the execution of a closure or post-closure care plan.

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

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

6) A refusal to approve a reduction in the face amount of an insurance policy; or

7) A determination that an owner or operator no longer meets the gross revenue test or financial test.

(Source: Amended at 35 Ill. Reg. 10842, effective June 22, 2011)