**Section 848.403 Application of Proceeds and Appeal**

a) The Agency may sue in any court of competent jurisdiction to enforce its rights under financial instruments used to provide the financial assurance required under this Subpart. 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 that an owner or operator modify a removal plan or order that proceeds from financial assurance be applied to the execution of a removal plan.

c) The following Agency actions may be appealed to the Board as a permit denial pursuant to 35 Ill. Adm. Code 105:

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; or

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

(Source: Amended at 39 Ill. Reg. 12934, effective September 8, 2015)