**Section 1828.405 Review of Agency Determination**

a) A submitter who is adversely affected, in whole or in part, by a determination of the Agency pursuant to this Subpart may appeal the denial, within 35 days of the date of the Agency's final determination, to the Director of the Agency by filing a notice of appeal.

b) The notice of appeal:

1) must be made in writing;

2) must be clearly marked "APPEAL OF CLAIM OF EXEMPTION FROM DISCLOSURE"; and

3) must include a copy of the denial received by the submitter and a statement of the reasons that the claim should be granted on appeal.

c) Within 7 working days after receipt of a written notice of appeal, the Director shall notify the submitter, by certified mail, return-receipt requested, either that the Agency's denial has been confirmed or that the submitter's claim of exemption from disclosure is granted.

d) In reviewing the decision, the Director shall consider:

1) Whether the procedures in this Subpart have been correctly applied; and

2) Whether additional information available to the Director supports exempting the public record from disclosure.

e) If the Director confirms the Agency's denial, the submitter may petition the Circuit Court for review within 35 days of the date of the Director's final determination.

f) In instances of a contemporaneous claim of exemption from disclosure and FOIA request, the Agency, if properly served with notice of the filing of a petition for review of its determination on the claim of exemption from disclosure, shall notify the requester of such action.

g) The Agency shall continue to protect the public record or the portion thereof that is claimed exempt from disclosure pending the exhaustion or lapse of the appeal rights of the submitter.

(Source: Amended at 34 Ill. Reg. 9028, effective June 22, 2010)