**Section 734.215 Free Product Removal**

a) Under any circumstance in which conditions at a site indicate the presence of free product, owners or operators must remove, to the maximum extent practicable, free product exceeding one-eighth of an inch in depth as measured in a groundwater monitoring well, or present as a sheen on groundwater in the tank removal excavation or on surface water, while initiating or continuing any actions required pursuant to this Part or other applicable laws or regulations. In meeting the requirements of this Section, owners or operators must:

1) Conduct free product removal in a manner that minimizes the spread of contamination into previously uncontaminated zones by using recovery and disposal techniques appropriate to the hydrogeologic conditions at the site and that properly treats, discharges or disposes of recovery byproducts in compliance with applicable local, State, and federal regulations;

2) Use abatement of free product migration as a minimum objective for the design of the free product removal system;

3) Handle any flammable products in a safe and competent manner to prevent fires or explosions;

4) Within 45 days after the confirmation of presence of free product from a UST, prepare and submit to the Agency a free product removal report. The report must, at a minimum, provide the following:

A) The name of the persons responsible for implementing the free product removal measures;

B) The estimated quantity, type and thickness of free product observed or measured in wells, boreholes, and excavations;

C) The type of free product recovery system used;

D) Whether any discharge will take place on-site or off-site during the recovery operation and where this discharge will be located;

E) The type of treatment applied to, and the effluent quality expected from, any discharge;

F) The steps that have been or are being taken to obtain necessary permits for any discharge;

G) The disposition of the recovered free product;

H) The steps taken to identify the source and extent of the free product; and

I) A schedule of future activities necessary to complete the recovery of free product still exceeding one-eighth of an inch in depth as measured in a groundwater monitoring well, or still present as a sheen on groundwater in the tank removal excavation or on surface water. The schedule must include, but not be limited to, the submission of plans and budgets required pursuant to subsections (c) and (d) of this Section; and

5) If free product removal activities are conducted more than 45 days after confirmation of the presence of free product, submit free product removal reports quarterly or in accordance with a schedule established by the Agency.

b) For purposes of payment from the Fund, owners or operators are not required to obtain Agency approval for free product removal activities conducted within 45 days after the confirmation of the presence of free product.

c) If free product removal activities will be conducted more than 45 days after the confirmation of the presence of free product, the owner or operator must submit to the Agency for review a free product removal plan. The plan must be submitted with the free product removal report required under subsection (a)(4) of this Section. Free product removal activities conducted more than 45 days after the confirmation of the presence of free product must not be considered early action activities.

d) Any owner or operator intending to seek payment from the Fund must, prior to conducting free product removal activities more than 45 days after the confirmation of the presence of free product, submit to the Agency a free product removal budget with the corresponding free product removal plan. The budget must include, but not be limited to, an estimate of all costs associated with the development, implementation, and completion of the free product removal plan, excluding handling charges. The budget should be consistent with the eligible and ineligible costs listed in Sections 734.625 and 734.630 of this Part and the maximum payment amounts set forth in Subpart H of this Part. As part of the budget the Agency may require a comparison between the costs of the proposed method of free product removal and other methods of free product removal.

e) Upon the Agency's approval of a free product removal plan, or as otherwise directed by the Agency, the owner or operator must proceed with free product removal in accordance with the plan.

f) Notwithstanding any requirement under this Part for the submission of a free product removal plan or free product removal budget, an owner or operator may proceed with free product removal in accordance with this Section prior to the submittal or approval of an otherwise required free product removal plan or budget. However, any such removal plan and budget plan must be submitted to the Agency for review and approval, rejection, or modification in accordance with the procedures contained in Subpart E of this Part prior to payment for any related costs or the issuance of a No Further Remediation Letter.

BOARD NOTE: Owners or operators proceeding under subsection (f) of this Section are advised that they may not be entitled to full payment from the Fund. Furthermore, applications for payment must be submitted no later than one year after the date the Agency issues a No Further Remediation Letter. See Subpart F of this Part.

g) If, following approval of any free product removal plan or associated budget, an owner or operator determines that a revised plan or budget is necessary in order to complete free product removal, the owner or operator must submit, as applicable, an amended free product removal plan or associated budget to the Agency for review. The Agency must review and approve, reject, or require modification of the amended removal plan and budget plan in accordance with Subpart E of this Part.

BOARD NOTE: Owners and operators are advised that the total payment from the Fund for all free product removal plans and associated budgets submitted by an owner or operator must not exceed the amounts set forth in Subpart H of this Part.