review, the Department may request additional information from the licensee to clarify or provide support for any provision or estimate contained in the plan. The Department may also consult with NRC or an Agreement State concerning any provision or estimate contained in the plan. Upon approval, approval with modifications, or rejection of a plan, the Department shall inform and explain to the licensee its decision.

(d) If the Department rejects a plan for subsequent remedial action submitted by a licensee, the licensee may appeal the Department’s rejection or prepare and submit a revised plan. The licensee may continue to submit revised plans for subsequent remedial action until the Department approves a plan, or September 30, 2007, whichever occurs first. A failure by a licensee to receive approval from the Department of a plan prior to December 31, 2007 will preclude that licensee from receiving any reimbursement for costs of remedial action incurred after that date.

(e) The Department shall determine, in approving a plan for subsequent remedial action, the maximum reimbursement amount for which the licensee may be eligible. This maximum reimbursement amount shall be the smaller of the following two quantities:

1. The amount obtained by multiplying the total cost of remedial action at the site, as determined in the approved plan for subsequent remedial action, by the Federal reimbursement ratio established for such site; or

2. For the uranium site licensees only, $8.25, as adjusted for inflation, multiplied by the number of Federal-related dry short tons of byproduct material. For all licensees, the Department shall subtract from the maximum reimbursement amount any reimbursement already approved to be paid to the licensee. The resulting sum shall be the potential additional reimbursement to which the licensee may be entitled. This resulting sum will be adjusted after the approval of claims for work performed through December 31, 2007, to reflect the actual approved costs of work performed through that date.

§ 765.32 Reimbursement of excess funds.

(a) No later than December 31, 2008, the Department shall determine if the aggregate amount authorized for appropriation pursuant to section 1003 of the Act (42 U.S.C. 2296a-2), as adjusted for inflation pursuant to §765.12, exceed as of that date the combined total of all reimbursements which have been paid to licensees under this part, any amounts approved for reimbursement and owed to any licensee, and any anticipated additional reimbursements to be made in accordance with approved plans for subsequent remedial action.

(b) If the Department determines that the amount authorized pursuant to section 1003 of the Act (42 U.S.C. 2296a-2) is less than the combined total of all reimbursements which have been paid to licensees under this part, any amounts approved for reimbursement and owed to any licensee, and any anticipated additional reimbursements to be made in accordance with approved plans for subsequent remedial action, the Department shall notify the licensees affected and the Agreement States or NRC licensees. The Department shall also notify the NRC and the Agreement States of the determination.