

10. The plan shall implement a state-administered administrative process that is simple, streamlined, informal, uniform throughout the state, and accessible to parties without counsel no later than July 1, 1994.

Sec. 59. **PURPOSE.**

The purpose of the amendment to Minnesota Statutes 1992, section 518.64, subdivision 2, paragraph (a), dealing with the presumption of a substantial change in circumstances and self-limited income, is to conform to Code of Federal Regulations, title 42, section 303.8(d)(2).

Sec. 60. **REPEALER.**

(a) Minnesota Statutes 1992, section 256.979, is repealed.

(b) Minnesota Statutes 1992, section 609.37, is repealed.

Sec. 61. **EFFECTIVE DATE; APPLICATION.**

(a) Except as otherwise provided in this section, this act is effective August 1, 1993.

(b) Sections 8 to 14 and 56 to 58 are effective July 1, 1993.

(c) Sections 21, 22, and 33 apply to child support and medical support orders entered or modified on or after the effective date.

(d) Sections 54, 55, and 60, paragraph (b), are effective August 1, 1993, and apply to crimes committed on or after that date.

(d) Sections 36 and 37 are effective January 1, 1994.

Presented to the governor May 20, 1993

Signed by the governor May 24, 1993, 12:14 p.m.

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**CHAPTER 341—H.F.No. 514**

*An act relating to the environment; providing for passive bioremediation; providing for review of agency employee decisions; increasing membership of petroleum tank release compensation board; establishing a fee schedule of costs or criteria for evaluating reasonableness of costs submitted for reimbursement; modifying petroleum tank release cleanup fee; modifying reimbursements; modifying consultant and contractor registration requirements; authorizing board to delegate its reimbursement powers and duties to the commissioner of commerce; requiring a report; authorizing rulemaking; notice of drain tile installation; petroleum tank release compensation board membership; liability of responder to oil discharges; oil spill response plans; assessment of damages; appropriating money; amending Minnesota Statutes 1992, sections 115.061; 115C.02, subdivisions 10 and 14; 115C.03, by adding subdi-*

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*visions; 115C.07; 115C.08, subdivisions 1, 2, 3, and 4; 115C.09, subdivisions 1, 3, 3a, 3c, and by adding subdivisions; 115C.11, subdivision 1; 115E.03, subdivision 2; 115E.04, subdivision 4; 116I.07, subdivision 2; 216D.01, subdivision 5; 216D.04, subdivision 1; 299A.50, by adding a subdivision; and 299J.06, subdivision 4; proposing coding for new law in Minnesota Statutes, chapters 115C; and 115E; repealing Minnesota Statutes 1992, sections 115C.01; 115C.02; 115C.021; 115C.03; 115C.04; 115C.045; 115C.05; 115C.06; 115C.065; 115C.07; 115C.08; 115C.09; 115C.10; 115C.11; and 115C.12.*

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

## ARTICLE 1

Section 1. Minnesota Statutes 1992, section 115.061, is amended to read:

### 115.061 DUTY TO NOTIFY AND AVOID WATER POLLUTION.

(a) Except as provided in paragraph (b), it is the duty of every person to notify the agency immediately of the discharge, accidental or otherwise, of any substance or material under its control which, if not recovered, may cause pollution of waters of the state, and the responsible person shall recover as rapidly and as thoroughly as possible such substance or material and take immediately such other action as may be reasonably possible to minimize or abate pollution of waters of the state caused thereby.

(b) Notification is not required under paragraph (a) for a discharge of five gallons or less of petroleum, as defined in section 115C.02, subdivision 10. This paragraph does not affect the other requirements of paragraph (a).

Sec. 2. Minnesota Statutes 1992, section 115C.02, subdivision 10, is amended to read:

Subd. 10. **PETROLEUM.** "Petroleum" means:

~~(1) gasoline and fuel oil as defined in section 296.01; subdivisions 13 and 21;~~

~~(2) crude oil or a fraction of crude oil that is liquid at a temperature of 60 degrees Fahrenheit and pressure of 14.7 pounds per square inch absolute; or~~

~~(3) constituents of gasoline and fuel oil under clause (1) and crude oil under clause (2); liquid petroleum products as defined in section 296.01;~~

(2) new and used lubricating oils; and

(3) new and used hydraulic oils used in lifts to raise motor vehicles or farm equipment and for servicing or repairing motor vehicles or farm equipment.

Sec. 3. Minnesota Statutes 1992, section 115C.02, subdivision 14, is amended to read:

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Subd. 14. **TANK.** "Tank" means any one or a combination of containers, vessels, and enclosures, including structures and appurtenances connected to them, that is, or has been, used to contain or dispense petroleum.

"Tank" does not include:

(1) a mobile storage tank with a capacity of 500 gallons or less used to transport petroleum ~~from one location to another~~ only on the person's private property and which is used only for home heating fuel; or

(2) pipeline facilities, including gathering lines, regulated under the Natural Gas Pipeline Safety Act of 1968, United States Code, title 49, chapter 24, or the Hazardous Liquid Pipeline Safety Act of 1979, United States Code, title 49, chapter 29.

Sec. 4. Minnesota Statutes 1992, section 115C.03, is amended by adding a subdivision to read:

Subd. 1a. PASSIVE BIOREMEDIATION. Passive bioremediation must be used for petroleum tank cleanups whenever an assessment of the site determines that there is a low potential risk to public health and the environment.

Sec. 5. Minnesota Statutes 1992, section 115C.03, is amended by adding a subdivision to read:

Subd. 7a. REVIEW OF AGENCY EMPLOYEE DECISIONS. A person aggrieved by a decision made by an employee of the agency relating to the need for or implementation of a corrective action may seek review of the decision by the commissioner. An application for review must state with specificity the decision for which review is sought, the name of the leak site, the leak number, the date the decision was made, the agency employee who made the decision, the ramifications of the decision, and any additional pertinent information. The commissioner shall review the application and schedule a time, date, and place for the aggrieved person to explain the grievance and for the agency employee to explain the decision under review. The commissioner shall issue a decision either sustaining or reversing the decision of the employee. The aggrieved person may appeal the commissioner's decision to the pollution control agency board in accordance with Minnesota Rules, part 7000.0500, subpart 6.

Sec. 6. Minnesota Statutes 1992, section 115C.07, is amended to read:

#### 115C.07 PETROLEUM TANK RELEASE COMPENSATION BOARD.

Subdivision 1. **ESTABLISHMENT.** The petroleum tank release compensation board consists of the commissioner of the pollution control agency, the commissioner of commerce, ~~two representatives~~ one representative from the petroleum industry, one public member, and ~~one representative from the insurance industry~~ person with experience in claims adjustment. The governor shall appoint the members ~~from the insurance and petroleum industry of the board~~. The filling of positions reserved for ~~industry representatives~~, vacancies, member-

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ship terms, payment of compensation and expenses, and removal of members are governed by section 15.0575. The governor shall designate the chair of the board.

Subd. 2. **STAFF.** The commissioner of commerce shall provide staff to support the activities of the board at the board's request.

Subd. 3. **RULES.** (a) The board shall adopt rules regarding its practices and procedures, the form and procedure for applications for compensation from the fund, procedures for investigation of claims and specifying the costs that are eligible for reimbursement from the fund.

(b) The board may adopt emergency rules under this subdivision for one year after June 4 ~~1, 1987~~ 1993.

(c) ~~The board shall adopt emergency rules within four months of May 25, 1991, and permanent rules within one year of May 25, 1991, designed to ensure that costs submitted to the board for reimbursement are reasonable. The rules shall include a requirement that persons taking corrective action solicit competitive bids, based on unit service costs, except in circumstances where the board determines that such solicitation is not feasible. The board shall adopt emergency rules on competitive bidding that specify a bid format and an invoice format that are consistent with each other and with an application for reimbursement.~~

(d) The board shall adopt emergency rules under sections 14.29 and 14.385 to establish costs that are not eligible for reimbursement.

(e) By January 1, 1994, the board shall publish proposed rules establishing a fee schedule of costs or criteria for evaluating the reasonableness of costs submitted for reimbursement. The board shall adopt the rules by June 1, 1994.

~~(f)~~ (f) The board may adopt rules requiring certification of environmental consultants.

(g) The board may adopt other rules necessary to implement this chapter.

Sec. 7. Minnesota Statutes 1992, section 115C.08, subdivision 1, is amended to read:

Subdivision 1. **REVENUE SOURCES.** Revenue from the following sources must be deposited in the state treasury and credited to a petroleum tank release cleanup account in the environmental fund ~~in the state treasury:~~

(1) the proceeds of the fee imposed by subdivision 3;

(2) money recovered by the state under sections 115C.04, 115C.05, and 116.491, including administrative expenses, civil penalties, and money paid under an agreement, stipulation, or settlement;

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(3) interest attributable to investment of money in the account;

(4) money received by the board and agency in the form of gifts, grants other than federal grants, reimbursements, or appropriations from any source intended to be used for the purposes of the account; ~~and~~

(5) fees charged for the operation of the tank installer certification program established under section 116.491; and

(6) money obtained from the return of reimbursements, civil penalties, or other board action under this chapter.

Sec. 8. Minnesota Statutes 1992, section 115C.08, subdivision 2, is amended to read:

Subd. 2. **IMPOSITION OF FEE.** The board shall notify the commissioner of revenue if the unencumbered balance of the account falls below ~~\$2,000,000~~ \$4,000,000, and within 60 days after receiving notice from the board, the commissioner of revenue shall impose the fee established in subdivision 3 on the use of a tank for four calendar months, with payment to be submitted with each monthly distributor tax return.

Sec. 9. Minnesota Statutes 1992, section 115C.08, subdivision 3, is amended to read:

Subd. 3. **PETROLEUM TANK RELEASE CLEANUP FEE.** A petroleum tank release cleanup fee is imposed on the use of tanks that contain petroleum products defined in section 296.01. On products other than gasoline, the fee must be paid in the manner provided in section 296.14 by the first licensed distributor receiving the product in Minnesota, as defined in section 296.01. When the product is gasoline, the distributor responsible for payment of the gasoline tax is also responsible for payment of the petroleum tank cleanup fee. The fee must be imposed as required under subdivision 3, at a rate of ~~\$10~~ \$20 per 1,000 gallons of petroleum products, rounded to the nearest 1,000 gallons. A distributor who fails to pay the fee imposed under this section is subject to the penalties provided in section 296.15.

Sec. 10. Minnesota Statutes 1992, section 115C.08, subdivision 4, is amended to read:

Subd. 4. **EXPENDITURES.** (a) Money in the account may only be spent:

(1) to administer the petroleum tank release cleanup program established in ~~sections 115C.03 to 115C.10~~ this chapter;

(2) for agency administrative costs under sections 116.46 to 116.50, sections 115C.03 to 115C.06, and costs of corrective action taken by the agency under section 115C.03, including investigations;

(3) for costs of recovering expenses of corrective actions under section 115C.04;

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(4) for training, certification, and rulemaking under sections 116.46 to 116.50;

(5) for agency administrative costs of enforcing rules governing the construction, installation, operation, and closure of aboveground and underground petroleum storage tanks; ~~and~~

(6) for reimbursement of the harmful substance compensation account under sections 115B.26, subdivision 4; and 115C.08, subdivision 5; and

(7) for administrative and staff costs as set by the board to administer the petroleum tank release program established in this chapter.

(b) Money in the account is appropriated to the board to make reimbursements or payments under this section.

Sec. 11. Minnesota Statutes 1992, section 115C.09, subdivision 1, is amended to read:

Subdivision 1. **REIMBURSABLE COSTS.** (a) The board shall provide partial reimbursement to eligible responsible persons for reimbursable costs incurred after June 4, 1987.

(b) The following costs are reimbursable for purposes of this section:

(1) corrective action costs incurred by the responsible person and documented in a form prescribed by the board, except the costs related to the physical removal of a tank;

(2) costs that the responsible person is legally obligated to pay as damages to third parties for bodily injury or property damage caused by a release if the responsible person's liability for the costs has been established by a court order or a consent decree; and

(3) up to 180 days worth of interest costs, incurred after May 25, 1991, associated with the financing of corrective action. Interest costs are not eligible for reimbursement to the extent they exceed two percentage points above the adjusted prime rate charged by banks, as defined in section 270.75, subdivision 5, at the time the financing contract was executed.

(c) A cost for liability to a third party is incurred by the responsible person when an order or consent decree establishing the liability is entered. Except as provided in this paragraph, reimbursement may not be made for costs of liability to third parties until all eligible corrective action costs have been reimbursed. If a corrective action is expected to continue in operation for more than one year after it has been fully constructed or installed, the board may estimate the future expense of completing the corrective action and, after subtracting this estimate from the total reimbursement available under subdivision 3, reimburse the costs for liability to third parties. The total reimbursement may not exceed the limit set forth in subdivision 3.

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Sec. 12. Minnesota Statutes 1992, section 115C.09, subdivision 3, is amended to read:

Subd. 3. **REIMBURSEMENTS; SUBROGATION; APPROPRIATION.**

(a) The board shall reimburse a responsible person who is eligible under subdivision 2 from the account for ~~90 percent of the portion of the total reimbursable costs or \$1,000,000, whichever is less~~ 90 percent of the total reimbursable costs on the first \$250,000 and 75 percent on any remaining costs in excess of \$250,000 on a site.

Not more than \$1,000,000 may be reimbursed for costs associated with a single release, regardless of the number of persons eligible for reimbursement, and not more than \$2,000,000 may be reimbursed for costs associated with a single tank facility.

(b) A reimbursement may not be made from the account under this subdivision until the board has determined that the costs for which reimbursement is requested were actually incurred and were reasonable.

(c) A reimbursement may not be made from the account under this subdivision in response to either an initial or supplemental application for costs incurred after June 4, 1987, that are payable under an applicable insurance policy, except that if the board finds that the responsible person has made reasonable efforts to collect from an insurer and failed, the board shall reimburse the responsible person under this subdivision.

(d) If the board reimburses a responsible person for costs for which the responsible person has petroleum tank leakage or spill insurance coverage, the board is subrogated to the rights of the responsible person with respect to that insurance coverage, to the extent of the reimbursement by the board. The board may request the attorney general to bring an action in district court against the insurer to enforce the board's subrogation rights. Acceptance by a responsible person of reimbursement constitutes an assignment by the responsible person to the board of any rights of the responsible person with respect to any insurance coverage applicable to the costs that are reimbursed. Notwithstanding this paragraph, the board may instead request a return of the reimbursement under subdivision 5 and may employ against the responsible party the remedies provided in that subdivision, except where the board has knowingly provided reimbursement because the responsible person was denied coverage by the insurer.

(e) Money in the account is appropriated to the board to make reimbursements under this section. A reimbursement to a state agency must be credited to the appropriation account or accounts from which the reimbursed costs were paid.

(f) The board shall reduce the amount of reimbursement to be made under this section if it finds that the responsible person has not complied with a provision of this chapter, a rule or order issued under this chapter, or one or more of the following requirements:

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(1) at the time of the release the tank was in substantial compliance with state and federal rules and regulations applicable to the tank, including rules or regulations relating to financial responsibility;

(2) the agency was given notice of the release as required by section 115.061;

(3) the responsible person, to the extent possible, fully cooperated with the agency in responding to the release; and

(4) if the responsible person is an operator, the person exercised due care with regard to operation of the tank, including maintaining inventory control procedures.

(g) The reimbursement shall be reduced as much as 100 percent for failure by the responsible person to comply with the requirements in paragraph (f), clauses (1) to (4). In determining the amount of the reimbursement reduction, the board shall consider:

(1) the likely environmental impact of the noncompliance;

(2) whether the noncompliance was negligent, knowing, or willful;

(3) the deterrent effect of the award reduction on other tank owners and operators; and

(4) the amount of reimbursement reduction recommended by the commissioner.

(h) A ~~responsible~~ person may assign the right to receive reimbursement to each lender, who advanced funds to pay the costs of the corrective action, or to each contractor, or consultant who provided corrective action services. An assignment must be made by filing with the board a document, in a form prescribed by the board, indicating the identity of the responsible person, the identity of the assignee, the dollar amount of the assignment, and the location of the corrective action. An assignment signed by the responsible person is valid unless terminated by filing a termination with the board, in a form prescribed by the board, which must include the written concurrence of the assignee. The board shall maintain an index of assignments filed under this paragraph. The board shall pay the reimbursement to the responsible person and to one or more assignees by a multiparty check. The board has no liability to a responsible person for a payment under an assignment meeting the requirements of this paragraph.

Sec. 13. Minnesota Statutes 1992, section 115C.09, subdivision 3a, is amended to read:

Subd. 3a. **ELIGIBILITY OF OTHER PERSONS.** Notwithstanding the provisions of subdivisions 1 to 3, the board shall provide full reimbursement to a person who has taken corrective action if the board or commissioner of commerce determines that:

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(1) the person took the corrective action in response to a request or order of the commissioner made under this chapter;

(2) the commissioner has determined that the person was not a responsible person under section 115C.02; and

(3) the costs for which reimbursement is requested were actually incurred and were reasonable.

Sec. 14. Minnesota Statutes 1992, section 115C.09, subdivision 3c, is amended to read:

Subd. 3c. **RELEASE AT REFINERIES AND TANK FACILITIES NOT ELIGIBLE FOR REIMBURSEMENT.** Notwithstanding other provisions of subdivisions 1 to 3b, a reimbursement may not be made under this section for costs associated with a release:

(1) from a tank located at a petroleum refinery; or

(2) from a tank facility, including a pipeline terminal, with more than 1,000,000 gallons of total petroleum storage capacity at the tank facility.

Clause (2) does not apply to reimbursement for costs associated with a release from a tank facility owned or operated by a person engaged in the business of mining iron ore or taconite.

Sec. 15. Minnesota Statutes 1992, section 115C.09, is amended by adding a subdivision to read:

Subd. 9. INSUFFICIENT FUNDS. The board may not approve an application for reimbursement if there are insufficient funds available to pay the reimbursement.

Sec. 16. Minnesota Statutes 1992, section 115C.09, is amended by adding a subdivision to read:

Subd. 10. DELEGATION OF BOARD'S POWERS. The board may delegate to the commissioner of commerce its powers and duties under this section.

Sec. 17. Minnesota Statutes 1992, section 115C.11, subdivision 1, is amended to read:

Subdivision 1. **REGISTRATION.** (a) All consultants and contractors must register with the board in order to participate in the petroleum tank release cleanup program.

(b) The board must maintain a list of all registered consultants and a list of all registered contractors including an identification of the services offered.

(c) An applicant who applies for reimbursement must use a registered consultant and contractor in order to be eligible for reimbursement.

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(d) The commissioner must inform any person who notifies the agency of a release under section 115.061 that the person must use a registered consultant or contractor to qualify for reimbursement and that a list of registered consultants and contractors is available from the board.

(e) Work performed by an unregistered consultant or contractor is ineligible for reimbursement.

(f) Work performed by a consultant or contractor prior to being removed from the registration list may be reimbursed by the board.

(g) If the information in an application for registration becomes inaccurate or incomplete in any material respect, the registered consultant or contractor must promptly file a corrected application with the board.

(h) Registration is effective on the date a complete application is received by the board. The board may reimburse the cost of work performed by an unregistered contractor if the contractor performed the work within 30 days of the effective date of registration.

#### Sec. 18. [115C.12] APPEAL OF REIMBURSEMENT DETERMINATION.

(a) A person may appeal to the board within 90 days after notice of a reimbursement determination made under section 115C.09 by submitting a written notice setting forth the specific basis for the appeal.

(b) The board shall consider the appeal within 90 days of the notice of appeal. The board shall notify the appealing party of the date of the meeting at which the appeal will be heard at least 30 days before the date of the meeting.

(c) The board's decision must be based on the written record and written arguments and submissions unless the board determines that oral argument is necessary to aid the board in its decision making. Any written submissions must be delivered to the board at least 15 days before the meeting at which the appeal will be heard. Any request for the presentation of oral argument must be in writing and submitted along with the notice of appeal.

Sec. 19. Minnesota Statutes 1992, section 116I.07, subdivision 2, is amended to read:

Subd. 2. NOTICE REQUIREMENT. ~~An owner or lessee of any real property; or A person acting with the authority of an owner or lessee, who installs or repairs agricultural drainage tile on that property shall be relieved of liability as provided in subdivision 1 only if that owner, lessee or other person acting with authority notifies the designated agent of the owner or operator of the pipeline of the intention to install or repair drainage tile on the property at least seven days before that work commences. An owner or operator of a pipeline shall provide to the county auditor of each county in which that pipeline is located the name, address and phone number of the individual to whom notice shall be~~

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given as provided in this subdivision. Notice is effective if made in writing by certified mail to this designated agent of the owner or operator of the pipeline person gives oral or written notice to the One Call Excavation Notice System in compliance with section 216D.04.

Sec. 20. Minnesota Statutes 1992, section 216D.01, subdivision 5, is amended to read:

Subd. 5. **EXCAVATION.** "Excavation" means an activity that moves, removes, or otherwise disturbs the soil by use of a motor, engine, hydraulic or pneumatically powered tool, or machine-powered equipment of any kind, or by explosives. Excavation does not include:

(1) ~~the repair or installation of agricultural drainage tile for which notice has been given as provided by section 116I.07, subdivision 2;~~

~~(2)~~ the extraction of minerals;

~~(3)~~ (2) the opening of a grave in a cemetery;

~~(4)~~ (3) normal maintenance of roads and streets if the maintenance does not change the original grade and does not involve the road ditch;

~~(5)~~ (4) plowing, cultivating, planting, harvesting, and similar operations in connection with growing crops, trees, and shrubs, unless any of these activities disturbs the soil to a depth of 18 inches or more;

~~(6)~~ landscaping ~~or~~ (5) gardening unless ~~one of the activities it~~ disturbs the soil to a depth of 12 inches or more; or

~~(7)~~ (6) planting of windbreaks, shelterbelts, and tree plantations, unless any of these activities disturbs the soil to a depth of 18 inches or more.

Sec. 21. Minnesota Statutes 1992, section 216D.04, subdivision 1, is amended to read:

Subdivision 1. **NOTICE OF EXCAVATION REQUIRED; CONTENTS.**

(a) Except in an emergency, an excavator ~~or land surveyor~~ shall and a land surveyor may contact the notification center and provide an excavation or location notice at least 48 hours before beginning any excavation or boundary survey, excluding Saturdays, Sundays, and holidays. An excavation or boundary survey begins, for purposes of this requirement, the first time excavation or a boundary survey occurs in an area that was not previously identified by the excavator or land surveyor in an excavation or boundary survey notice.

(b) The excavation or boundary survey notice may be oral or written, and must contain the following information:

(1) the name of the individual providing the excavation or boundary survey notice;

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- (2) the precise location of the proposed area of excavation or boundary survey;
- (3) the name, address, and telephone number of the excavator or land surveyor or excavator's or land surveyor's company;
- (4) the excavator's or land surveyor's field telephone number, if one is available;
- (5) the type and the extent of the proposed excavation or boundary survey work;
- (6) whether or not the discharge of explosives is anticipated; and
- (7) the date and time when excavation or boundary survey is to commence.

Sec. 22. Minnesota Statutes 1992, section 299J.06, subdivision 4, is amended to read:

Subd. 4. **TERMS; COMPENSATION; REMOVAL.** The terms, compensation, and removal of members are governed by section 15.0575. ~~The council expires on June 30, 1993.~~

**Sec. 23. PRIORITIES FOR CLEANUP; REPORT.**

The commissioner of the pollution control agency shall determine whether, and based on what criteria, a priority list should be established for the purposes of accomplishing more efficient cleanups of petroleum tank releases under Minnesota Statutes, chapter 115C. The commissioner shall consider the experience with the list of priorities established under Minnesota Statutes 1992, section 115B.17, subdivision 13, including the criteria for establishing that list in the statute and in rules adopted under the statute and any other criteria the commissioner determines appropriate, and whether a similar list of priorities is appropriate for petroleum tank cleanups. If the commissioner determines a priority list is appropriate, the commissioner, by January 15, 1994, shall recommend proposed legislation to the environment and natural resources committees of the legislature to govern establishment of the list and the criteria for establishing priorities for cleanup.

**Sec. 24. [115C.091] PHASE-IN PROCEDURE.**

In approving applications for reimbursement under Minnesota Statutes, chapter 115C, the petroleum tank release compensation board shall ensure that:

- (1) the difference between the total amount of reimbursements approved by the board in fiscal year 1995 and the funds available to pay the reimbursements as of June 30, 1995, is at least 30 percent less than the difference between the total amount of reimbursements approved by the board as of June 30, 1993, and the funds available to pay the reimbursements as of that date; and

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(2) the difference between the total amount of reimbursements approved by the board in fiscal year 1996 and the funds available to pay the reimbursements as of June 30, 1996, is at least 70 percent less than the difference between the total amount of reimbursements approved by the board as of June 30, 1993, and the funds available to pay the reimbursements as of that date.

Sec. 25. **APPROPRIATION.**

\$678,000 in fiscal year 1994 and \$618,000 in fiscal year 1995 is appropriated from the petroleum tank release cleanup account in the environmental fund to the commissioner of commerce for providing staff support to the petroleum tank release compensation board under Minnesota Statutes, section 115C.07, subdivision 2.

Sec. 26. **REPEALER.**

Minnesota Statutes 1992, sections 115C.01; 115C.02; 115C.021; 115C.03; 115C.04; 115C.045; 115C.05; 115C.06; 115C.065; 115C.07; 115C.08; 115C.09; 115C.10; 115C.11; and 115C.12, are repealed effective June 30, 2000.

Sec. 27. **EFFECTIVE DATE.**

The amendment to Minnesota Statutes, section 115C.09, subdivision 3, paragraph (a) by this article is effective for corrective actions begun on or after September 1, 1993. Section 14 is effective for applications for reimbursement received by the petroleum tank release compensation board on and after July 1, 1993. Section 9 is effective July 1, 1993. Section 15 is effective July 1, 1997. The remainder of this article is effective August 1, 1993.

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**ARTICLE 2**

Section 1. Minnesota Statutes 1992, section 115E.03, subdivision 2, is amended to read:

Subd. 2. **SPECIFIC PREPAREDNESS.** The following persons shall comply with the specific requirements of subdivisions 3 and 4 and section 115E.04:

(1) persons who own or operate a vessel that is constructed or adapted to carry, or that carried, oil or hazardous substances in bulk as cargo or cargo residue;

(2) ~~persons who own or operate trucks or cargo trailer rolling stock transporting an average monthly aggregate total of more than 100,000 gallons of oil or hazardous substance as cargo in Minnesota;~~

(3) persons who own or operate railroad car rolling stock transporting an aggregate total of more than 100,000 gallons of oil or hazardous substance as cargo in Minnesota in any calendar month;

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(4) ~~(3)~~ persons who own or operate facilities containing ~~100,000~~ 1,000,000 gallons or more of oil or hazardous substance in tank storage at any time;

~~(5)~~ (4) persons who own or operate facilities where there is transfer of an average monthly aggregate total of more than ~~100,000~~ 1,000,000 gallons of oil or hazardous substances to or from vessels, tanks, rolling stock, or pipelines, except for facilities where the primary transfer activity is the retail sales of motor fuels;

~~(6)~~ (5) persons who own or operate hazardous liquid pipeline facilities through which more than 100,000 gallons of oil or hazardous substance is transported in any calendar month; and

~~(7)~~ (6) persons required to demonstrate preparedness under section 115E.05.

Sec. 2. Minnesota Statutes 1992, section 115E.04, subdivision 4, is amended to read:

Subd. 4. **REVIEW OF PREVENTION AND RESPONSE PLAN.** (a) A person required to show specific preparedness under section 115E.03, subdivision 2, must submit a copy of the prevention and response plan ~~must be submitted~~ to any of the commissioners who request it and to an official of a political subdivision with appropriate jurisdiction upon the official's request, or the plan and equipment and material named in the plan may be examined upon the request of an authorized agent of a commissioner or official.

(b) Upon the request of one or more of the commissioners, a person shall demonstrate the adequacy of prevention and response plans and preparedness measures by conducting announced or unannounced drills, calling persons and organizations named in a prevention and response plan and verifying roles and capabilities, locating and testing response equipment, questioning response personnel, or other means that in the judgment of the requesting commissioner demonstrate preparedness. Before requesting an unannounced drill, the requesting commissioner shall notify the other commissioners that a drill will be requested and invite them to participate in or witness the drill. If an unannounced drill is conducted to the satisfaction of the commissioners, the person conducting the drill may not be required to conduct an additional unannounced drill in the same calendar year.

Sec. 3. **[115E.045] RESPONSE PLANS FOR TRUCKS AND CERTAIN TANK FACILITIES.**

Subdivision 1. RESPONSE PLAN FOR TRUCKS. (a) By June 1, 1994, a person who owns or operates trucks or cargo trailer rolling stock transporting an average monthly aggregate total of more than 10,000 gallons of oil or hazardous substances as bulk cargo in this state shall prepare and maintain a prevention and response plan in accordance with this subdivision. The plan must include:

(1) the name and business and nonbusiness telephone numbers of the individual or individuals having full authority to implement response action;

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(2) the telephone number of the local emergency response organizations, as defined in section 299K.01, subdivision 3, if the organizations cannot be reached by calling 911;

(3) a description of the type of rolling stock and the maximum potential discharge that could occur from the equipment;

(4) the telephone number of the single answering point system established under section 115E.09;

(5) the telephone number of an individual or company with adequate personnel and equipment available to respond to a discharge, along with evidence that the individual or company and the individual responsible for preparing the plan have made arrangements for such response;

(6) a description of the training that the owner or operator's truck or cargo trailer operators have received in handling hazardous materials and the emergency response information available in the vehicle; and

(7) a description of the action that will be taken by a truck or cargo trailer owner or operator in response to a discharge.

(b) The response plan must be retained on file at the person's principal place of business.

**Subd. 2. RESPONSE PLAN FOR TANK FACILITIES WITH BETWEEN 10,000 AND 1,000,000 GALLONS OF STORAGE. (a) By June 1, 1994, a person who owns or operates a facility that stores more than 10,000 gallons but less than 1,000,000 gallons of oil or hazardous substances shall prepare and maintain a prevention and response plan in accordance with this subdivision. The abbreviated plan must include:**

(1) the name and business and nonbusiness telephone numbers of the individual or individuals having full authority to implement response action;

(2) the telephone number of the local emergency response organizations, as defined in section 299K.01, subdivision 3, if the organizations cannot be reached by calling 911;

(3) a description of the facility, tank capacities, spill prevention and secondary containment measures at the facility, and the maximum potential discharge that could occur at the facility;

(4) the telephone number of the single answering point system established under section 115E.09;

(5) documentation that adequate personnel and equipment will be available to respond to a discharge, along with evidence that prearrangements for such response have been made;

New language is indicated by underline, deletions by ~~strikeout~~.

(6) a description of the training employees at the facility receive in handling hazardous materials and in emergency response information; and

(7) a description of the action that will be taken by the facility owner or operator in response to a discharge.

(b) The response plan must be retained on file at the person's principal place of business.

Subd. 3. NOTICE OF PLAN COMPLETION. A person required to prepare a response plan under this section shall notify the commissioner of public safety when the plan has been completed. Upon request, the person shall provide a copy of the plan to the commissioner of the pollution control agency.

Subd. 4. AGRICULTURAL CHEMICALS EXEMPT. This section does not apply to agricultural chemicals, as defined in section 18D.01, subdivision 3, that are subject to chapter 18B or 18C.

#### Sec. 4. [115E.061] RESPONDER IMMUNITY; OIL DISCHARGES.

(a) A person identified in section 115E.06, paragraph (a), who is rendering assistance in response to a discharge of oil is not liable for damages that result from actions taken or failed to be taken in the course of rendering care, assistance, or advice in accordance with the national contingency plan under the Oil Pollution Act of 1990, or as directed by the federal on-scene coordinator, the commissioner of the pollution control agency, the commissioner of agriculture, the commissioner of natural resources, or the commissioner of public safety.

(b) Paragraph (a) does not apply:

(1) to a responsible person under chapter 115B or 115C;

(2) with respect to personal injury or wrongful death; or

(3) if the person rendering assistance is grossly negligent or engages in willful misconduct.

#### Sec. 5. [115E.11] DISPOSITION OF PENALTIES.

Penalties collected for violations of this chapter or section 115.061 that are related to discharges or threatened discharges of petroleum must be deposited in the state treasury and credited to the petroleum tank release cleanup account.

Sec. 6. Minnesota Statutes 1992, section 299A.50, is amended by adding a subdivision to read:

Subd. 3. LONG-TERM OVERSIGHT; TRANSITION. When a regional hazardous materials response team has completed its response to an incident, the commissioner shall notify the commissioner of the pollution control agency, which is responsible for assessing environmental damage caused by the incident and providing oversight of monitoring and remediation of that damage from the time the response team has completed its activities.

New language is indicated by underline, deletions by ~~strikeout~~.



## Sec. 7. APPROPRIATION.

(a) \$100,000 in fiscal year 1994 and \$118,500 in fiscal year 1995 is appropriated from the petroleum tank release cleanup account in the environmental fund to the commissioner of the pollution control agency for the purposes of Minnesota Statutes, chapter 115E.

(b) Of the amounts appropriated from the environmental fund to the commissioner of the pollution control agency for the biennium ending June 30, 1995, \$195,000 in fiscal year 1994 and \$235,000 in fiscal year 1995 is available for the purposes of Minnesota Statutes, chapter 115E.

Presented to the governor May 20, 1993

Signed by the governor May 24, 1993, 5:50 p.m.

## CHAPTER 342—H.F.No. 1060

*An act relating to agriculture; making technical changes in eligibility for certain rural finance authority loan programs; authorizing an ethanol development program; appropriating money; amending Minnesota Statutes 1992, sections 41B.02, subdivisions 7, 12, 14, 15, and by adding subdivisions; 41B.03, subdivision 3; 41B.04, subdivision 9, and by adding a subdivision; 41B.14; and 41C.05, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 41B.*

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1992, section 41B.02, is amended by adding a subdivision to read:

Subd. 1a. AMORTIZED RESTRUCTURED LOAN. "Amortized restructured loan" means a loan after it has been modified pursuant to section 41B.04, subdivision 9, paragraph (d).

Sec. 2. Minnesota Statutes 1992, section 41B.02, subdivision 7, is amended to read:

Subd. 7. **DEFERRED INTEREST.** "Deferred interest" means that portion of the interest on primary principal and secondary principal the payment of which is deferred for the term of the deferred restructured loan. The deferred interest on primary principal may accrue at a different rate from the deferred interest on secondary principal as described in section 41B.04.

Sec. 3. Minnesota Statutes 1992, section 41B.02, is amended by adding a subdivision to read:

Subd. 7b. DEFERRED RESTRUCTURED LOAN. "Deferred restructured

New language is indicated by underline, deletions by ~~strikeout~~.