

2890.0065 REDUCTION OF REIMBURSEMENT AMOUNT.

Subpart 1. **Amount of reduction.** Pursuant to Minnesota Statutes, section 115C.09, subdivision 3, paragraph (i), the board must reduce the amount of reimbursement to be made to an applicant as follows:

A. The board must reduce the amount of reimbursement for failure to comply with state and federal rules and regulations applicable to the tank as follows:

- (1) by 15 percent for failure to provide corrosion protection;
- (2) by 15 percent for failure to provide leak detection;
- (3) by 15 percent for failure to provide spill and overfill protection;
- (4) by 15 percent for failure to provide secondary containment; and

(5) by up to 50 percent for failure to comply with a state or federal rule or regulation applicable to the tank not specifically cited in this subpart.

B. For failure to give the agency notice of the release as required by Minnesota Statutes, section 115.061, the board must consider the timeliness of the release reporting in determining the amount of the reduction. The board must reduce the amount of reimbursement by a minimum of \$1,000. The minimum amount of the reduction must be \$200, rather than \$1,000, for a limited use applicant unaware of the reporting requirement.

C. For failure to cooperate fully with the agency in responding to the release, the board must reduce the amount of reimbursement by up to 50 percent.

Subp. 2. [Repealed, 18 SR 1471]

Subp. 2a. **Calculations of reductions.** Percentage or dollar reductions must be applied as specified in this subpart. If the board imposes more than one dollar reduction on an application, the dollar amounts must be added together and the total dollar amount of reduction must be applied to the application. If the board imposes more than one percentage reduction on an application, the percentage amounts must be added together and then applied to the reimbursement request to determine a dollar amount of the reduction. If the board imposes both percentage and dollar amount reductions on an application, the dollar amount reductions must be applied after the percentage reductions.

Subp. 3. **Deviations.** The board may increase or decrease the amount of reduction by up to 100 percent of the original amount of reimbursement, or use either dollar amounts or percentages for a reduction, based on the following factors:

A. the reasonable determination by the agency that the noncompliance poses a threat to the environment;

B. whether the noncompliance was negligent, knowing, or willful;

- C. the deterrent effect of the award reduction on other tank owners and operators;
 - D. the amount of reimbursement reduction recommended by the commissioner;
- and
- E. the documentation of noncompliance provided by the commissioner.

Subp. 4. Supplemental applications.

A. When the board imposes a reduction in the form of a percentage, the percentage for that reduction must continue to be imposed on supplemental applications for the same release.

B. When the board imposes a reduction in the form of a dollar amount, the amount of the reduction must be a onetime penalty. That dollar amount reduction must not continue to be imposed on supplemental applications unless necessary to fully impose the reduction.

Statutory Authority: *MS s 115C.07*

History: *15 SR 2266; 18 SR 1471; 28 SR 383*

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