

1 Department of Commerce

2

3 Adopted Permanent Rules Relating to Petroleum Tank Release

4 Compensation Board

5

6 Rules as Adopted

7 2890.0010 DEFINITIONS.

8 Subpart 1. to 6. [Unchanged.]

9 Subp. 7. **Volunteer.** "Volunteer" means a person who:

10 A. is not a responsible person under Minnesota

11 Statutes, section 115C.02;

12 B. holds legal or equitable title to the property

13 where a release occurred; and

14 C. incurs reimbursable costs on or after May 22, 1989.

15 2890.0060 REIMBURSEMENT OF COSTS.

16 Subpart 1. **Generally.** Each responsible person who has
17 incurred reimbursable costs after June 4, 1987, in response to a
18 release, and each volunteer who has incurred reimbursable costs
19 on or after May 22, 1989, in response to a release, may apply to
20 the board for partial reimbursement of eligible costs.

21 Subp. 2. **Conditions for reimbursement.** A reimbursement
22 may not be made unless the board determines that the
23 commissioner has determined that the corrective action has, or
24 when completed will have, adequately addressed the release in
25 terms of public health, welfare, and the environment.

26 Subp. 2a. **Amount of reimbursement.** The board shall
27 reimburse a responsible person or volunteer who is eligible for
28 90 percent of the portion of the total reimbursable costs less
29 than \$250,000.

30 Subp. 2b. **Reduced reimbursement.** The board shall reduce
31 the amount of reimbursement to be made under this part if it
32 finds that the responsible person or volunteer has not complied
33 with one or more of the following requirements:

34 A. at the time of the release the tank was in
35 substantial compliance with state and federal rules and

1 regulations applicable to the tank, including rules or
2 regulations relating to financial responsibility;

3 B. the agency was given notice of the release as
4 required by Minnesota Statutes, section 115.061;

5 C. the responsible person or volunteer, to the extent
6 possible, fully cooperated with the agency in responding to the
7 release;

8 D. if the responsible person is an operator, the
9 person exercised due care with regard to operation of the tank,
10 including maintaining inventory control procedures; and

11 E. the reimbursement shall be reduced as much as 100
12 percent for failure by the responsible person or volunteer to
13 comply with items A to D. In determining the amount of the
14 reimbursement reduction, the board shall consider:

15 (1) the likely environmental impact of the
16 noncompliance;

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

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

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

23 Subp. 3. Multiple responsible persons. If there is more
24 than one responsible person or volunteer who incurs reimbursable
25 costs for a single release or at a single corrective action
26 site, each responsible person or volunteer must apply separately
27 for reimbursement. Not more than \$250,000 may be reimbursed for
28 cost associated with a single release, regardless of the number
29 of persons eligible for reimbursement.

30 Subp. 4. Eligibility of other persons. Notwithstanding
31 Minnesota Statutes, section 115.09, subdivisions 1 to 3, the
32 board shall provide full reimbursement to a person who has taken
33 corrective action if the board determines that:

34 A. [Unchanged.]

35 B. the commissioner has determined that the person
36 was not a responsible person or volunteer under Minnesota

1 Statutes, section 115C.02; and

2 C. [Unchanged.]

3 2890.0070 ELIGIBLE COSTS.

4 Subpart 1. Reimbursable corrective actions. Costs
5 associated with the following corrective actions may be eligible
6 for reimbursement from the fund:

7 A. to F. [Unchanged.]

8 Subp. 2. Documentation of reasonableness. It is the
9 responsibility of the applicant to prove the reasonableness of
10 all incurred eligible costs. Upon request of the board or the
11 board's staff, the applicant shall document the reasonableness
12 of any costs included on the reimbursement application by
13 providing one or more of the following:

14 A. evidence that the work was performed by a person
15 or persons whose services were solicited through a competitive
16 bidding procedure;

17 B. evidence that the cost is substantially equivalent
18 to that charged by comparable person or persons in the same
19 geographical area;

20 C. evidence that there was only one party reasonably
21 available to perform the necessary work; or

22 D. evidence that there was only one party reasonably
23 qualified to perform the necessary work.

24 The board shall reimburse only those costs which it
25 determines to be reasonable.

26 2890.0090 APPLICATION PROCESS.

27 Subpart 1. Applications. A person who requests
28 compensation from the fund shall complete, sign, and submit to
29 the board a written application. The application shall be made
30 on a form prescribed by the board and shall contain at least the
31 following:

32 A. the name of the person making the application;

33 B. to D. [Unchanged.]

34 Subp. 2. [Unchanged.]

35 Subp. 3. Subsequent applications. An eligible responsible

1 person or volunteer who has already obtained partial
2 reimbursement from the board and who has incurred additional or
3 continuing eligible costs due to the same release may reapply if:

4 A. the amount of the person's original reimbursement
5 was less than 90 percent of the eligible costs up to \$250,000.

6 B. the eligible costs submitted on a subsequent
7 application are not related to any new releases at the site.

8 The total reimbursement to a responsible person or volunteer for
9 a release shall not exceed 90 percent of the total eligible
10 costs up to \$250,000 regardless of the number of applications
11 for reimbursement submitted by the responsible person or
12 volunteer.

13 Subp. 4. to 6. [Unchanged.]