

1 Department of Commerce

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3 Adopted Permanent Rules Relating to the Petroleum Tank Release

4 Compensation Board

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6 Rules as Adopted

7 2890.0010 DEFINITIONS.

8 [For text of subps 1 to 6, see M.R.]

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 23, 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 23, 1989, in response to a release, may apply to
20 the board for partial reimbursement of eligible costs.

21 [For text of subp 2, see M.R.]

22 Subp. 2a. **Amount of reimbursement.** The board shall
23 reimburse a responsible person or volunteer who is eligible for
24 90 percent of the portion of the total reimbursable costs or
25 \$1,000,000, whichever is less.

26 [For text of subp 2b, see M.R.]

27 Subp. 3. **Multiple responsible persons.** If there is more
28 than one responsible person or volunteer who incurs reimbursable
29 costs for a single release or at a single corrective action
30 site, each responsible person or volunteer must apply separately
31 for reimbursement. Not more than \$1,000,000 may be reimbursed
32 for costs associated with a single release, regardless of the
33 number of persons eligible for reimbursement.

34 [For text of subp 4, see M.R.]

1 2890.0065 REDUCTION OF REIMBURSEMENT AMOUNT.

2 Subpart 1. Amount of reduction. Pursuant to Minnesota
3 Statutes, section 115C.09, subdivision 2, the board shall reduce
4 the amount of reimbursement to be made to a noncompliant
5 responsible person as follows:

6 A. For failure to comply with state and federal rules
7 and regulations applicable to the tank, the board shall reduce
8 the amount of reimbursement by ten to 25 percent upon
9 consideration of the likely environmental impact of the failure
10 to comply. Notwithstanding the foregoing, the board shall
11 reduce the amount of reimbursement by five percent, with a
12 minimum reduction of \$200, for failure to register a tank
13 pursuant to Minnesota Statutes, section ~~115.061~~ 116.48.

14 B. For failure to report a release as required by
15 Minnesota Statutes, section 115.061, the board shall reduce the
16 amount of reimbursement by ten to 25 percent upon consideration
17 of the likely environmental impact of the failure to report.

18 C. For failure to cooperate with the agency in
19 responding to the release, the board shall reduce the amount of
20 reimbursement by 25 to 50 percent upon consideration of the
21 likely environmental impact of the failure to cooperate.

22 D. For failure to exercise due care with regard to
23 operation of the tank, the board shall reduce the amount of
24 reimbursement by 25 to 50 percent upon consideration of the
25 likely environmental impact of the failure to exercise due care.

26 Subp. 2. Cumulative application. The reduction
27 percentages specified in subpart 1 shall be applied on a
28 cumulative basis.

29 Subp. 3. Deviations. The board may increase or decrease
30 the amount of reduction by up to 50 percent of the original
31 amount of reimbursement if warranted upon consideration of the
32 following factors:

33 A. the public interest;

34 B. the deterrent effect of the award reduction on
35 other tank owners and operators;

36 C. the amount of reimbursement reduction recommended

1 by the commissioner; and

2 D. whether the noncompliance was knowing or willful.

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 [For text of items A to E, see M.R.]

8 [For text of subp 2, see M.R.]

9 2890.0090 APPLICATION PROCESS.

10 [For text of subps 1 and 2, see M.R.]

11 Subp. 3. Subsequent applications. An eligible responsible
12 person or volunteer who has already obtained partial
13 reimbursement from the board and who has incurred additional or
14 continuing eligible costs due to the same release may reapply if:

15 A. the amount of the person's original reimbursement
16 was less than 90 percent of the eligible costs or \$1,000,000,
17 whichever is less.

18 B. the eligible costs submitted on a subsequent
19 application are not related to any new releases at the site.
20 The total reimbursement to a responsible person or volunteer for
21 a release shall not exceed 90 percent of the total eligible
22 costs or \$1,000,000, whichever is less, regardless of the number
23 of applications for reimbursement submitted by the responsible
24 person or volunteer.

25 [For text of subp 4, see M.R.]

26 Subp. 5. Certification. A person who signs an application
27 for reimbursement shall make the following certification: "I
28 certify under penalty of law that this document and all
29 attachments were prepared under my direction or supervision in
30 accordance with a system designed to assure that qualified
31 personnel properly gather and evaluate the information
32 submitted. Based on my inquiry of the person or persons who
33 manage the system, or those persons directly responsible for
34 gathering the information, the information submitted is, to the
35 best of my knowledge and belief, true, accurate, and complete.

1 I certify that if I have submitted invoices for costs that
 2 I have incurred but that remain unpaid, I will pay those
 3 invoices within 30 days of receipt of reimbursement from the
 4 board. I understand that if I fail to do so, the board may
 5 demand return of all or any portion of reimbursement paid to me
 6 and that if I fail to comply with the board's demand, that the
 7 board may recover the reimbursement, plus administrative and
 8 legal expenses in a civil action in district court. I
 9 understand that I may also be subject to a civil penalty."

10 Additionally, if the responsible person is not an
 11 individual, the person authorized under subpart 4 shall make the
 12 following certification: "I further certify that I am
 13 authorized to sign and submit this application on behalf of
 14 (entity)."

15 Subp. 6. Report of the commissioner. Upon notification by
 16 the board's staff that a complete application has been received,
 17 the commissioner shall, in a timely manner, provide the board
 18 with a written report on the applicant's compliance or
 19 noncompliance with Minnesota Statutes, section 115C.09,
 20 subdivision 2, paragraphs (b) and (c). The report shall include
 21 documentation supporting the commissioner's findings. The
 22 commissioner shall file the report with the board no later than
 23 15 days after notification.

24 In addition, the board may, as it deems necessary, request
 25 additional information from the commissioner or can request
 26 participation of agency staff at a board meeting. All responses
 27 to requests for information shall be delivered in a timely
 28 manner. The board may delegate these powers to its staff.

29 2890.0110 RIGHT TO APPEAL.

30 ~~if-a-request-is-denied,-the-responsible~~ A person may appeal
 31 ~~the-decision~~ a determination by the board as a contested case
 32 hearing under chapter 14.