

1 Harmful Substance Compensation Board

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3 Adopted Permanent Rules Relating to Compensation for Property

4 Damage Losses

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6 Rules as Adopted

7 7190.1100 DEFINITIONS.

8 Subpart 1. **Scope.** The terms used in parts 7190.1110 to
9 7190.2010 have the meanings given them in this part.

10 Subp. 2. **Contamination.** "Contamination" means:

11 A. the presence of a harmful substance in or on
12 property that resulted from an intentional or accidental release
13 of the harmful substance from a facility; or

14 B. the imminent and substantial threat of
15 contamination due to the movement of the harmful substance in
16 the direction of the property, as determined by the Pollution
17 Control Agency or the Department of Health or for agricultural
18 chemical contamination, as determined by the Department of
19 Agriculture or the Department of Health.

20 Subp. 3. **Date of discovery of contamination.** "Date of
21 discovery of contamination" means the date a claimant discovered
22 or should have discovered the contamination of the property.

23 Subp. 4. **Harmful substance.** "Harmful substance" has the
24 meaning given in Minnesota Statutes, section 115B.25.

25 Subp. 5. **Residential homestead.** "Residential homestead"
26 means property that qualifies as the owner's homestead under
27 Minnesota Statutes, section 273.124. If the homestead is also a
28 family farm as defined in Minnesota Statutes, section 500.24,
29 subdivision 2, paragraph (b), the property includes one acre of
30 the land surrounding the residence, but does not include any
31 other structures that may be located on it.

32 7190.1110 PRINCIPAL RESIDENCE.

33 For purposes of identifying property losses eligible for
34 compensation under Minnesota Statutes, section 115B.34, the
35 principal residence of the claimant is the property that is:

- 1 A. the claimant's current principal residence under
2 part 7190.1120;
- 3 B. a residence owned but not occupied by the claimant
4 under part 7190.1130;
- 5 C. a residence that was purchased by the claimant
6 after the date of discovery under part 7190.1140;
- 7 D. the claimant's intended principal residence under
8 part 7190.1150;
- 9 E. the claimant's past principal residence under part
10 7190.1160; or
- 11 F. sold by the claimant under part 7190.1170.

12 7190.1120 CURRENT PRINCIPAL RESIDENCE.

13 The current principal residence of the claimant is the
14 property that is the claimant's residential homestead, except
15 that the residence must be owned and occupied by the claimant,
16 and used for the purposes of a homestead as of the date of
17 discovery of contamination, not the date of assessment.

18 7190.1130 RESIDENCE OWNED BUT NOT OCCUPIED.

19 A residence owned but not occupied by the claimant is
20 eligible as the claimant's principal residence if it otherwise
21 qualifies under part 7190.1120 and:

22 A. the claimant no longer resides at the residence
23 because of marital separation or divorce; or

24 B. the claimant is a resident of a nursing home or
25 boarding care facility.

26 7190.1140 PROPERTY PURCHASED AFTER DATE OF DISCOVERY.

27 A residence purchased by the claimant for use as a
28 residential homestead after the date of discovery of
29 contamination is eligible as the claimant's principal residence
30 if it is used as the claimant's residential homestead and the
31 claimant can show that:

32 A. a written purchase agreement or contract which
33 committed the claimant to purchase the property was made prior
34 to the date of discovery of contamination; or

1 B. the property was purchased with the reasonable
2 expectation that the property damage would be fully remedied by
3 public or other funding sources without cost to the claimant.

4 7190.1150 INTENDED PRINCIPAL RESIDENCE.

5 Subpart 1. Description. Property purchased by the
6 claimant for the purpose of owning and occupying a residence
7 including construction of a new residence on that property is
8 eligible as the claimant's principal residence if the claimant:

9 A. had purchased the property, or contracted for the
10 purchase of the property, as shown by a written purchase
11 agreement, before the date of discovery of contamination; and

12 B. can demonstrate to the board that before the date
13 of discovery of contamination the claimant intended to occupy a
14 home as a residential homestead on the property.

15 Subp. 2. Claimant's intent. The intent to occupy a
16 principal residence on the property before the date of discovery
17 of contamination, as required in subpart 1, item B, may be
18 demonstrated by construction contracts or plans, a public
19 listing or advertisement to sell the current residence, or other
20 documents or actions that make a similar showing.

21 7190.1160 PAST PRINCIPAL RESIDENCE.

22 Residential property owned by the claimant that is
23 unoccupied and actively on the market for sale at the time of
24 the discovery of contamination is eligible as the claimant's
25 principal residence if:

26 A. the property was the residential homestead of the
27 claimant immediately before or at the time of placing the
28 property on the market; and

29 B. the commitment to change residence and sell the
30 property, evidenced by a purchase agreement, contract for sale,
31 contract with a realtor, or other documentation of active sale
32 listing by the claimant, was made before the date of discovery
33 of contamination.

34 7190.1170 RESIDENTIAL PROPERTY THAT HAS BEEN SOLD.

1 Residential property that has been sold by the claimant is
2 eligible as the claimant's principal residence if:

3 A. the property was the residential homestead of the
4 claimant on the date of discovery of contamination; and

5 B. the claimant was assessed or otherwise realized
6 the loss before the sale or at the time of the sale, or the
7 claimant expressly agrees in the sale agreement to reimburse the
8 buyer when the amount of loss becomes known.

9 7190.1180 TWO PROPERTIES MAY QUALIFY.

10 If a claimant owns both a current principal residence under
11 part 7190.1120 and an intended principal residence under part
12 7190.1150, both properties are eligible as the claimant's
13 principal residence.

14 If a claimant owns both a current principal residence under
15 part 7190.1120 and a past principal residence under part
16 7190.1160, both properties are eligible as the claimant's
17 principal residence.

18 7190.1190 ELIGIBLE LOSSES RELATED TO REPLACEMENT OR
19 DECONTAMINATION OF PRIMARY SOURCE OF DRINKING WATER.

20 Subpart 1. **Limitation.** Property damage losses related to
21 the replacement or decontamination of the primary source of
22 drinking water are limited to the costs of replacement or
23 decontamination of the system that:

24 A. services the individual claimant's property only;
25 or

26 B. extends distribution of an existing municipal
27 water supply to the property.

28 The cost of construction of a system that provides for the
29 expansion of the community water system or that provides
30 benefits to the community in general is not eligible.

31 Subp. 2. **Operational as of date of discovery.** Except as
32 provided in subpart 3, to be eligible for replacement or
33 decontamination expenses, the primary source of drinking water
34 for a claimant's property as described in subpart 1 must be
35 operational and in use by the property owner on the date of

1 discovery of contamination.

2 Subp. 3. Private wells under construction. A private
3 drinking water well located on property that qualifies as the
4 claimant's principal residence under part 7190.1110 is eligible
5 for replacement or decontamination expenses that exceed the
6 anticipated contract costs for construction of the well if at
7 the time of discovery of contamination:

8 A. the well is under construction on the property; or

9 B. a binding contract for construction of the well
10 has been entered into.

11 7190.2000 HARDSHIP.

12 For purposes of determining eligibility for compensation
13 for losses incurred in the sale of a principal residence under
14 Minnesota Statutes, section 115B.34, subdivision 2, paragraph
15 (a), clause (2), or losses incurred as a result of the inability
16 of an owner to sell a principal residence under Minnesota
17 Statutes, section 115B.34, subdivision 2, paragraph (a), clause
18 (3), the factors in item A or B constitute a hardship to the
19 owner.

20 A. An urgent need to sell the residence based on a
21 special circumstance, including the following:

22 (1) loss of household income;

23 (2) owner's job relocation;

24 (3) catastrophic medical expenses for which the
25 owner is responsible; or

26 (4) owner's physical disability.

27 B. An urgent need to sell a property due to a
28 commitment to purchase a new residence, if the claimant:

29 (1) committed in writing to the purchase of the
30 new residence and publicly listed or advertised to sell the
31 property before the date of discovery of contamination; and

32 (2) the discovery of contamination occurred
33 during the time the property was on the market.

34 7190.2010 ELIGIBLE LOSSES ASSOCIATED WITH THE NEED TO MAINTAIN
35 TWO RESIDENCES.

1 Subpart 1. **Eligible losses.** Losses eligible for
2 reimbursement under Minnesota Statutes, section 115B.34,
3 subdivision 2, paragraph (a), clause (3), include all essential
4 utilities, property tax, necessary homeowner's insurance,
5 mortgage interest expenses, and other property maintenance
6 expenses. The claimant must have incurred the expenses on the
7 principal residence after it had been on the market for a time
8 equal to the average days on the market for comparable home
9 sales outside the area of contamination. Average days on the
10 market shall be determined from the multiple listing service
11 data of the local real estate association for the listing year
12 and locale.

13 Subp. 2. **Additional expenses.** Additional property
14 maintenance expenses are compensable to the extent that they are
15 determined by the board to be necessary to maintain the property
16 value and marketability.