

9-1010-9231-1

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

FOR THE PETROLEUM TANK RELEASE COMPENSATION BOARD

In the Matter of Proposed
Adoption of Rules Relating to
the Petroleum Tank Release
Compensation Board.

REPORT OF THE
ADMINISTRATIVE LAW JUDGE

The above-entitled matter came on for hearing before Administrative Law Judge Phyllis A. Reha on January 27, 1995, at 9:00 a.m. in the Capitol Ballroom of the St. Paul Radisson Hotel, 11 East Kellogg Boulevard, St. Paul, Minnesota.

Proposed Rule 2890.0070 - Eligible Costs

12. The Board has proposed a new subpart to the existing rule part 2890.0070 that requires the applicant for reimbursement to maintain the documentation for incurred costs. The rule was not controversial, but the subpart provides a list of records with the phrase "includes, but are not limited to" This open-ended list is a defect in the proposed rules. The usual way to correct the defect is to replace the offending phrase. In this case, the language could read:

It is the responsibility of the applicant to obtain and maintain all records that document incurred costs. Among the records required are all invoices, time records, equipment records, receipts, proposals, for consultant services, and bids for contractor services.

The suggested language corrects the defect and is not a substantial change. The Board could also choose to delete the second sentence altogether. The language is not critical to effectuate the intent of the rule.

Proposed Rule 2890.0071 - Ineligible Costs

13. Proposed rule 2890.0071 makes costs "that do not minimize, eliminate, or clean up a release to protect the public health and welfare or the environment" ineligible for reimbursement. In addition, the proposed rule identifies a list of costs that "include, but are not limited to" and makes those costs ineligible. As with Finding 12, above, that language is a defect. The Board can cure this defect by changing the open-ended language to "Among ineligible costs are:" and retaining the list of items. This modification does not constitute a substantial change.