

CHAPTER 115B

ENVIRONMENTAL RESPONSE AND LIABILITY

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115B.175 VOLUNTARY RESPONSE ACTIONS; LIABILITY PROTECTION; PROCEDURES.

[For text of subds 1 to 3, see M.S.1992]

Subd. 4. **Performance of response actions does not associate persons with release.** Persons specified in subdivision 6 or 6a, paragraph (c), do not associate themselves with, or aggravate or contribute to, any release or threatened release identified in an approved voluntary response action plan for the purpose of subdivision 7, clause (1), or section 115B.03, subdivision 3, clause (d), as a result of performance of the response actions required in accordance with the plan and the direction of the commissioner. Nothing in this section relieves a person of any liability for failure to exercise due care in performing a response action.

[For text of subds 5 and 6, see M.S.1992]

Subd. 6a. **Voluntary response actions by responsible persons.** (a) Notwithstanding subdivision 1, paragraph (a), when a person who is responsible for a release or threatened release under sections 115B.01 to 115B.18 undertakes and completes response actions, the protection from liability provided by this section applies to persons described in paragraph (c) if the response actions are undertaken and completed in accordance with this subdivision.

(b) The response actions must be undertaken and completed in accordance with a voluntary response action plan approved as provided in subdivision 3. Notwithstanding subdivision 2, a voluntary response action plan submitted by a person who is responsible for the release or threatened release must require remedy or removal of all releases and threatened releases at the identified area of real property. The identified area of real property must correspond to the boundaries of a parcel that is either separately platted or is the entire parcel.

(c) Subject to the provisions of subdivision 7, when the commissioner issues a certificate of completion under subdivision 5 for response actions completed at an identified area of real property in accordance with this subdivision, the liability protection under this section applies to:

(1) a person who acquires the identified real property after approval of the voluntary response action plan;

(2) a person providing financing for response actions or development at the identified real property after approval of the response action plan, whether the financing is provided to the person undertaking the response actions or other person who acquires or develops the property; and

(3) a successor or assign of a person to whom the liability protection applies under this paragraph.

Subd. 7. **Persons not protected from liability.** The protection from liability provided by this section does not apply to:

(1) a person who aggravates or contributes to a release or threatened release that was not remedied under an approved voluntary response action plan;

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(2) a person who was responsible under sections 115B.01 to 115B.18 for a release or threatened release identified in the approved voluntary response action plan before taking an action that would have made the person subject to the protection under subdivision 6 or 6a; or

(3) a person who obtains approval of a voluntary response action plan for purposes of this section by fraud or misrepresentation, or by knowingly failing to disclose material information, or who knows that approval was so obtained before taking an action that would have made the person subject to the protection under subdivision 6 or 6a.

[For text of subd 8, see M.S.1992]

History: 1993 c 287 s 1-3

115B.178 ASSOCIATION WITH RELEASE; COMMISSIONER'S DETERMINATION.

Subdivision 1. **Determination.** The commissioner may issue determinations that certain actions proposed to be taken at real property subject to a release or threatened release of a hazardous substance or pollutant or contaminant will not constitute conduct associating the person with the release or threatened release for the purpose of section 115B.03, subdivision 3, clause (d). Proposed actions that may be covered by a determination under this section include response actions approved by the commissioner to address the release or threatened release, actions to improve or develop the real property, or other similar actions. A determination may be subject to terms and conditions deemed reasonable by the commissioner. When a person takes actions in accordance with a determination issued under this subdivision, the actions do not associate the person with the release for the purpose of section 115B.03, subdivision 3, clause (d).

Subd. 2. **Scope and effect of determination.** Section 115B.177, subdivision 2, applies to a determination by the commissioner under this section.

History: 1993 c 287 s 4

115B.179 COMMISSIONER'S AUTHORITY NOT LIMITED.

The commissioner's authority to make a determination or enter into an agreement under section 115B.177 and to make a determination under section 115B.178 does not limit or preclude any other authority of the commissioner under any law.

History: 1993 c 287 s 5

115B.20 ENVIRONMENTAL RESPONSE, COMPENSATION, AND COMPLIANCE ACCOUNT.

[For text of subds 1 to 5, see M.S.1992]

Subd. 6. **Report to legislature.** Each year, the commissioner of agriculture and the agency shall submit to the senate finance committee, the house ways and means committee, and the legislative commission on waste management a report detailing the activities for which money from the account has been spent during the previous fiscal year.

History: 1993 c 4 s 14

115B.21 TAXES; DEFINITIONS.

[For text of subds 1 to 3, see M.S.1992]

Subd. 4. [Repealed, 1993 c 172 s 93]

[For text of subd 5, see M.S.1992]

Subd. 6. [Repealed, 1993 c 172 s 93]

115B.22 HAZARDOUS WASTE GENERATOR TAX.

Subdivision 1. [Repealed, 1993 c 172 s 93]

Subd. 1a. **Taxes imposed.** Until January 1, 2004, a generator of hazardous waste shall pay a tax in an amount equal to the greater of the applicable base tax under subdivision 2a or the quantity tax determined under subdivision 3a.

Subd. 2. [Repealed, 1993 c 172 s 93]

Subd. 2a. **Base tax.** (a) The base tax for large quantity generators, as defined in rules of the agency, is \$500.

(b) The base tax for small quantity generators, as defined in rules of the agency, is \$200.

(c) The base tax for very small quantity generators, as defined in rules of the agency, that produce more than 100 pounds per year of hazardous waste is \$50.

(d) There is no base tax for very small quantity generators, as defined in rules of the agency, that produce 100 pounds or less per year of hazardous waste.

Subd. 3. [Repealed, 1993 c 172 s 93]

Subd. 3a. **Quantity tax.** (a) The quantity tax does not apply to very small quantity generators, as defined in the rules of the agency. The quantity tax is determined as provided in paragraphs (b) to (d).

(b) Generators of hazardous waste managed using either of the following methods as defined in rules adopted under sections 115.03, 116.07, and 116.37 shall pay taxes on the waste at the rate of 1.5 cents per pound of solid or 15 cents per gallon of liquid:

(1) hazardous wastes that are hazardous prior to discharge to a publicly owned wastewater treatment works; and

(2) hazardous wastes managed as a hazardous waste fuel or using thermal treatment.

(c) Generators of hazardous waste managed using any of the following methods as defined in rules adopted under sections 115.03, 116.07, and 116.37 are exempt from paying taxes on the wastes:

(1) hazardous wastes that are destined for recycling, including waste accumulated, stored, or treated prior to recycling;

(2) hazardous waste that is destined for incineration at a permitted hazardous waste incineration facility in Minnesota;

(3) hazardous wastes that are either (i) pretreated to a nonhazardous state prior to discharge to a publicly owned treatment works, or (ii) treated to a nonhazardous state after treatment in an on-site treatment system, if the publicly owned treatment works or on-site treatment system is operated in accordance with a national pollution discharge elimination system permit, state disposal system permit, or both, issued by the agency; and

(4) hazardous wastes that are neutralized and are not otherwise hazardous waste after neutralizing.

(d) Generators of hazardous waste shall pay taxes on hazardous wastes managed using any other method not mentioned in this subdivision at the rate of three cents per pound of solid or 30 cents per gallon of liquid.

Subd. 4. [Repealed, 1993 c 172 s 93]

Subd. 4a. **Hazardous wastes not subject to tax.** The taxes imposed by this section do not apply to hazardous wastes generated as a result of a response action or hazardous wastes generated as a result of lead acid battery smelting.

Subd. 5. [Repealed, 1993 c 172 s 93]

Subd. 6. [Repealed, 1993 c 172 s 93]

Subd. 7. **Disposition of proceeds.** After reimbursement to the department of revenue for costs incurred in administering sections 115B.22 and 115B.24, the proceeds of the taxes imposed under this section including any interest and penalties shall be deposited in the environmental response, compensation, and compliance account.

[For text of subd 8, see M.S.1992]

History: 1993 c 172 s 64-67; 1993 c 375 art 9 s 13

115B.223 HAZARDOUS WASTE GENERATOR LOAN PROGRAM.

Subdivision 1. **Establishment.** A hazardous waste generator revolving loan program is established to provide loans to small businesses for the purpose of conducting response actions to clean up releases of hazardous waste.

Subd. 2. **Rules.** (a) The commissioner of the pollution control agency may adopt rules regarding practices and procedures including, but not limited to:

- (1) form and procedure for loan application;
- (2) terms for loans and loan repayment; and
- (3) criteria for eligibility.

(b) The commissioner of the pollution control agency may adopt emergency rules under this subdivision for one year following July 1, 1993.

Subd. 3. **Eligible borrower.** To be eligible for a loan under this section, a borrower must:

- (1) be a generator of hazardous waste;
- (2) have a release or suspected release of hazardous waste;
- (3) own or operate the facility at which the release of hazardous waste occurred;
- (4) have less than 50 full-time employees;
- (5) have an after-tax profit of less than \$500,000; and
- (6) have a net worth of less than \$1,000,000.

Subd. 4. **Loan application procedure.** An eligible borrower may apply for a loan after the commissioner approves a plan for the response actions. Loans will be awarded to eligible borrowers in the order that applications are received by the pollution control agency.

Subd. 5. **Limitation on loan obligation.** A loan made under this section is limited to the money available in the hazardous waste generator loan account.

Subd. 6. **Loan conditions.** A loan made under this section must include:

- (1) an interest rate of one percent less than the prime rate;
- (2) a term of payment of not more than five years; and
- (3) an amount not less than \$1,000 or exceeding \$50,000.

History: 1993 c 172 s 68

115B.224 HAZARDOUS WASTE GENERATOR LOAN ACCOUNT.

The hazardous waste generator loan account is established in the environmental response, compensation, and compliance account for the purposes described in section 115B.223. Money in the account is annually appropriated to the commissioner of the pollution control agency for the purposes of this section. Loan repayments must be credited to the hazardous waste generator loan account.

History: 1993 c 172 s 69

115B.24 TAX ADMINISTRATION AND ENFORCEMENT.

[For text of subs 1 to 5, see M.S.1992]

Subd. 6. **Payment by out-of-state generators.** A generator of any hazardous waste which is generated outside of this state and is transported into this state for treatment or disposal shall pay the tax imposed by section 115B.22 at the first point at which the hazardous wastes are received by a person in this state for treatment or disposal. The tax shall be paid to the person who first receives the wastes in this state at the time the waste is received and shall be remitted by that person to the commissioner of revenue quarterly in the form and manner provided by the commissioner.

[For text of subs 7 to 9, see M.S.1992]

Subd. 10. [Repealed, 1993 c 375 art 9 s 50]

History: 1993 c 172 s 70

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115B.241 REPEALER.

Sections 115B.21 to 115B.24 are repealed effective January 1, 2004.

History: 1993 c 172 s 94

115B.42 LANDFILL CLEANUP ACCOUNT.

[For text of subd 1, see M.S.1992]

Subd. 2. **Expenditures.** Subject to appropriation, money in the account may be spent for:

- (1) inspection of mixed municipal solid waste disposal facilities to:
 - (i) evaluate the adequacy of final cover, slopes, vegetation, and erosion control;
 - (ii) determine the presence and concentration of hazardous substances, pollutants or contaminants, and decomposition gases; and
 - (iii) determine the boundaries of fill areas; and
- (2) response actions at mixed municipal solid waste disposal facilities under this chapter.

History: 1993 c 172 s 71