

CHAPTER 115B

ENVIRONMENTAL RESPONSE AND LIABILITY

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115B.03 RESPONSIBLE PERSON.

[For text of subds 1 to 7, see M.S.1994]

Subd. 8. Trustees. A trustee who is not otherwise a responsible party for a release or threatened release of a hazardous substance from a facility is not a responsible person under this section solely because the facility is among the trust assets or solely because the trustee has the capacity to direct the operation of the facility.

Subd. 9. Personal representatives of estates. A personal representative of an estate who is not otherwise a responsible party for a release or threatened release of a hazardous substance from a facility is not a responsible person under this section solely because the facility is among the assets of the estate or solely because the personal representative has the capacity to direct the operation of the facility.

History: 1995 c 168 s 1,2

115B.17 STATE RESPONSE TO RELEASES.

[For text of subds 1 and 2, see M.S.1994]

Subd. 2a. Cleanup standards. In determining the appropriate standards to be achieved by response actions taken or requested under this section to protect public health and welfare and the environment from a release or threatened release, the commissioner shall consider the planned use of the property where the release or threatened release is located.

[For text of subds 3 to 16, see M.S.1994]

History: 1995 c 168 s 3

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

[For text of subd 1, see M.S.1994]

Subd. 2. Partial response action plans; criteria for approval. (a) The commissioner may approve a voluntary response action plan submitted under this section that does not require removal or remedy of all releases and threatened releases at an identified area of real property if the commissioner determines that all of the following criteria have been met:

(1) if reuse or development of the property is proposed, the voluntary response action plan provides for all response actions required to carry out the proposed reuse or development in a manner that meets the same standards for protection that apply to response actions taken or requested under section 115B.17, subdivision 1 or 2;

(2) the response actions and the activities associated with any reuse or development proposed for the property will not aggravate or contribute to releases or threatened releases that are not required to be removed or remedied under the voluntary response action plan, and

will not interfere with or substantially increase the cost of response actions to address the remaining releases or threatened releases; and

(3) the owner of the property agrees to cooperate with the commissioner or other persons acting at the direction of the commissioner in taking response actions necessary to address remaining releases or threatened releases, and to avoid any action that interferes with the response actions.

(b) Under paragraph (a), clause (3), an owner may be required to agree to any or all of the following terms necessary to carry out response actions to address remaining releases or threatened releases:

(1) to provide access to the property to the commissioner and the commissioner's authorized representatives;

(2) to allow the commissioner, or persons acting at the direction of the commissioner, to undertake activities at the property including placement of borings, wells, equipment, and structures on the property; and

(3) to grant easements or other interests in the property to the agency for any of the purposes provided in clause (1) or (2).

(c) An agreement under paragraph (a), clause (3), must apply to and be binding upon the successors and assigns of the owner. The owner shall record the agreement, or a memorandum approved by the commissioner that summarizes the agreement, with the county recorder or registrar of titles of the county where the property is located.

Subd. 3. Submission and approval of voluntary response action plans. (a) A person shall submit a voluntary response action plan to the commissioner under section 115B.17, subdivision 14. The commissioner may provide assistance to review voluntary response action plans or supervise response action implementation under that subdivision.

(b) A voluntary response action plan submitted for approval of the commissioner must include an investigation report that describes the methods and results of an investigation of the releases and threatened releases at the identified area of real property. The commissioner must not approve the voluntary response action plan unless the commissioner determines that the nature and extent of the releases and threatened releases at the identified area of real property have been adequately identified and evaluated in the investigation report.

(c) Response actions required in a voluntary response action plan under this section must meet the same standards for protection that apply to response actions taken or requested under section 115B.17, subdivision 1 or 2.

(d) When the commissioner approves a voluntary response action plan, the commissioner may include in the approval an acknowledgment that, upon certification of completion of the response actions as provided in subdivision 5, the person submitting the plan will receive the protection from liability provided under this section.

[For text of subs 4 to 8, see M.S.1994]

History: 1995 c 168 s 4,5

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

Subdivision 1. Determination. (a) 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, loans secured by 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).

(b) The commissioner may also issue a determination under paragraph (a) that certain actions taken in the past at the real property did not constitute conduct associating the person

requesting the determination with the release or threatened release for purposes of section 115B.03, subdivision 3, clause (d). The person requesting a determination under this paragraph shall conduct an investigation approved by the commissioner that identifies the nature and extent of the release or threatened release or shall take response actions in accordance with a response action plan approved by the commissioner. Any such determination shall be limited to the represented facts of the past actions and shall not apply to actions that are not represented or disclosed. The determination may be subject to such other terms and conditions as the commissioner deems reasonable.

[For text of subd 2, see M.S.1994]

History: 1995 c 168 s 6

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

Subdivision 1. Establishment. (a) The environmental response, compensation, and compliance account is in the environmental fund in the state treasury and may be spent only for the purposes provided in subdivision 2.

(b) The commissioner of finance shall administer a response account for the agency and the commissioner of agriculture to take removal, response, and other actions authorized under subdivision 2, clauses (1) to (4) and (11) to (13). The commissioner of finance shall transfer money from the response account to the agency and the commissioner of agriculture to take actions required under subdivision 2, clauses (1) to (4) and (11) to (13).

(c) The commissioner of finance shall administer the account in a manner that allows the commissioner of agriculture and the agency to utilize the money in the account to implement their removal and remedial action duties as effectively as possible.

(d) Amounts appropriated to the commissioner of finance under this subdivision shall not be included in the department of finance budget but shall be included in the pollution control agency and department of agriculture budgets.

(e) All money recovered by the state under section 115B.04 or any other law for injury to, destruction of, or loss of natural resources resulting from the release of a hazardous substance, or a pollutant or contaminant, must be credited to the environmental response, compensation, and compliance account in the environmental fund and is appropriated to the commissioner of natural resources for purposes of subdivision 2, clause (6), consistent with any applicable term of judgments, consent decrees, consent orders, or other administrative actions requiring payments to the state for such purposes. Before making an expenditure of money appropriated under this paragraph, the commissioner of natural resources shall provide written notice of the proposed expenditure to the chairs of the senate committee on finance, the house of representatives committee on ways and means, the finance division of the senate committee on environment and natural resources, and the house of representatives committee on environment and natural resources finance.

Subd. 2. Purposes for which money may be spent. Subject to appropriation by the legislature the money in the account may be spent for any of the following purposes:

(1) preparation by the agency and the commissioner of agriculture for taking removal or remedial action under section 115B.17, or under chapter 18D, including investigation, monitoring and testing activities, enforcement and compliance efforts relating to the release of hazardous substances, pollutants or contaminants under section 115B.17 or 115B.18, or chapter 18D;

(2) removal and remedial actions taken or authorized by the agency or the commissioner of the pollution control agency under section 115B.17, or taken or authorized by the commissioner of agriculture under chapter 18D including related enforcement and compliance efforts under section 115B.17 or 115B.18, or chapter 18D, and payment of the state share of the cost of remedial action which may be carried out under a cooperative agreement with the federal government pursuant to the Federal Superfund Act, under United States Code, title 42, section 9604(c)(3) for actions related to facilities other than commercial hazardous waste facilities located under the siting authority of chapter 115A;

(3) reimbursement to any private person for expenditures made before July 1, 1983, to provide alternative water supplies deemed necessary by the agency or the commissioner of

agriculture and the department of health to protect the public health from contamination resulting from the release of a hazardous substance;

(4) removal and remedial actions taken or authorized by the agency or the commissioner of agriculture or the pollution control agency under section 115B.17, or chapter 18D, including related enforcement and compliance efforts under section 115B.17 or 115B.18, or chapter 18D, and payment of the state share of the cost of remedial action which may be carried out under a cooperative agreement with the federal government pursuant to the Federal Superfund Act, under United States Code, title 42, section 9604(c)(3) for actions related to commercial hazardous waste facilities located under the siting authority of chapter 115A;

(5) compensation as provided by law, after submission by the office of environmental assistance of the report required under section 115A.08, subdivision 5, to mitigate any adverse impact of the location of commercial hazardous waste processing or disposal facilities located pursuant to the siting authority of chapter 115A;

(6) planning and implementation by the commissioner of natural resources of the rehabilitation, restoration, or acquisition of natural resources to remedy injuries or losses to natural resources resulting from the release of a hazardous substance;

(7) inspection, monitoring, and compliance efforts by the agency, or by political subdivisions with agency approval, of commercial hazardous waste facilities located under the siting authority of chapter 115A;

(8) grants by the agency or the office of environmental assistance to demonstrate alternatives to land disposal of hazardous waste including reduction, separation, pretreatment, processing and resource recovery, for education of persons involved in regulating and handling hazardous waste;

(9) intervention and environmental mediation by the legislative commission on waste management under chapter 115A; and

(10) grants by the agency to study the extent of contamination and feasibility of cleanup of hazardous substances and pollutants or contaminants in major waterways of the state;

(11) acquisition of a property interest under section 115B.17, subdivision 15;

(12) reimbursement, in an amount to be determined by the agency in each case, to a political subdivision that is not a responsible person under section 115B.03, for reasonable and necessary expenditures resulting from an emergency caused by a release or threatened release of a hazardous substance, pollutant, or contaminant; and

(13) reimbursement to a political subdivision for expenditures in excess of the liability limit under section 115B.04, subdivision 4.

[For text of subs 3 to 6, see M.S.1994]

History: 1995 c 220 s 98; 1995 c 247 art 2 s 54

115B.25 DEFINITIONS.

[For text of subd 1, see M.S.1994]

Subd. 1a. **Account.** Except when another account is specified, "account" means the environmental response, compensation, and compliance account established in section 115B.20.

[For text of subs 2 to 9, see M.S.1994]

History: 1995 c 220 s 99

115B.26 HARMFUL SUBSTANCE COMPENSATION ACCOUNT.

Subdivision 1. [Repealed, 1995 c 220 s 141]

Subd. 2. **Appropriation.** The amount necessary to pay claims of compensation granted by the agency under sections 115B.25 to 115B.37 is appropriated to the agency from the account.

[For text of subd 3, see M.S.1994]

Subd. 4. **Account transfer request.** At the end of each fiscal year, the board shall submit a request to the petroleum tank release compensation board for transfer to the harmful substance compensation account from the petroleum tank release cleanup fund under section 115C.08, subdivision 5, of an amount equal to the compensation granted by the board for claims related to petroleum releases plus administrative costs related to determination of those claims.

History: 1995 c 220 s 100; 1995 c 254 art 1 s 96

115B.40 PROGRAM.

[For text of subds 1 to 3, see M.S.1994]

Subd. 4. **Qualified facility not under cleanup order; duties.** (a) The owner or operator of a qualified facility that is not subject to a cleanup order shall:

(1) complete closure activities at the facility, or enter into a binding agreement with the commissioner to do so, as provided in paragraph (d), within one year from the date the owner or operator is notified by the commissioner under subdivision 3 of the closure activities that are necessary to properly close the facility in compliance with facility's permit, closure orders, or enforcement agreement with the agency, and with the solid waste rules in effect at the time the facility stopped accepting waste;

(2) undertake or continue postclosure care at the facility until the date of notice of compliance under subdivision 7;

(3) transfer to the commissioner of revenue for deposit in the solid waste fund established in section 115B.42 any funds required for proof of financial responsibility under section 116.07, subdivision 4h, that remain after facility closure and any postclosure care and response action undertaken by the owner or operator at the facility including, if proof of financial responsibility is provided through a letter of credit or other financial instrument or mechanism that does not accumulate money in an account, the amount that would have accumulated had the owner or operator utilized a trust fund, less any amount used for closure, postclosure care, and response action at the facility;

(4) provide the commissioner with a copy of all applicable comprehensive general liability insurance policies and other liability policies relating to property damage, certificates, or other evidence of insurance coverage held during the life of the facility; and

(5) enter into a binding agreement with the commissioner to:

(i) take any actions necessary to preserve the owner or operator's rights to payment or defense under insurance policies included in clause (4); cooperate with the commissioner in asserting claims under the policies; and, within 60 days of a request by the commissioner, but no earlier than July 1, 1996, assign only those rights under the policies related to environmental response costs;

(ii) cooperate with the commissioner or other persons acting at the direction of the commissioner in taking additional environmental response actions necessary to address releases or threatened releases and to avoid any action that interferes with environmental response actions, including allowing entry to the property and to the facility's records and allowing entry and installation of equipment; and

(iii) refrain from developing or altering the use of property described in any permit for the facility except after consultation with the commissioner and in conformance with any conditions established by the commissioner for that property, including use restrictions, to protect public health and welfare and the environment.

(b) The owner or operator of a qualified facility that is a political subdivision may use a portion of any funds established for response at the facility, which are available directly or through a financial instrument or other financial arrangement, for closure or postclosure care at the facility if funds available for closure or postclosure care are inadequate and shall assign the rights to any remainder to the commissioner.

(c) The agreement required in paragraph (a), clause (5), must be in writing and must apply to and be binding upon the successors and assigns of the owner. The owner shall record the agreement, or a memorandum approved by the commissioner that summarizes the agreement, with the county recorder or registrar of titles of the county where the property is located.

(d) A binding agreement entered into under paragraph (a), clause (1), may include a provision that the owner or operator will reimburse the commissioner for the costs of closing the facility to the standard required in that clause.

[For text of subds 5 to 8, see M.S.1994]

History: 1995 c 220 s 130

115B.41 ALLOCATION OF COSTS; FAILURE TO COMPLY.

Subdivision 1. Allocation and recovery of costs. (a) A person who is subject to the requirements in section 115B.40, subdivision 4 or 5, paragraph (b), is responsible for all environmental response costs incurred by the commissioner at or related to the facility until the date of notice of compliance under section 115B.40, subdivision 7. The commissioner may use any funds available for closure, postclosure care, and response action established by the owner or operator. If those funds are insufficient or if the owner or operator fails to assign rights to them to the commissioner, the commissioner may seek recovery of environmental response costs against the owner or operator in the county of Ramsey or in the county where the facility is located or where the owner or operator resides.

(b) In an action brought under this subdivision in which the commissioner prevails, the court shall award the commissioner reasonable attorney fees and other litigation expenses incurred by the commissioner to bring the action. All costs, fees, and expenses recovered under this subdivision must be deposited in the solid waste fund established in section 115B.42.

Subd. 2. Environmental response costs; liens. All environmental response costs, including administrative and legal expenses, incurred by the commissioner at a qualified facility before the date of notice of compliance under section 115B.40, subdivision 7, constitute a lien in favor of the state upon any real property located in the state, other than homestead property, owned by the owner or operator who is subject to the requirements of section 115B.40, subdivision 4 or 5. A lien under this subdivision attaches when the environmental response costs are first incurred and continues until the lien is satisfied or becomes unenforceable as for an environmental lien under section 514.672. Notice, filing, and release of the lien are governed by sections 514.671 to 514.676, except where those requirements specifically are related to only cleanup action expenses as defined in section 514.671. Relative priority of a lien under this subdivision is governed by section 514.672, except that a lien attached to property that was included in any permit for the solid waste disposal facility takes precedence over all other liens regardless of when the other liens were or are perfected. Amounts received to satisfy all or a part of a lien must be deposited in the solid waste fund.

Subd. 3. Local government aid; offset. If an owner or operator fails to comply with section 115B.40, subdivision 4, or 5, paragraph (b), fails to remit payment of environmental response costs incurred by the commissioner before the date of notice of compliance under section 115B.40, subdivision 7, and is a local government unit, the commissioner may seek payment of the costs from any state aid payments, except payments made under section 115A.557, subdivision 1, otherwise due the local government unit. The commissioner of revenue, after being notified by the commissioner that the local government unit has failed to pay the costs and the amount due, shall pay an annual proportionate amount of the state aid payment otherwise payable to the local government unit into the solid waste fund that will, over a period of no more than five years, satisfy the liability of the local government unit for the costs.

[For text of subds 4 and 5, see M.S.1994]

History: 1995 c 220 s 101, 130

115B.42 SOLID WASTE FUND.

Subdivision 1. Establishment; appropriation; separate accounting. (a) The solid waste fund is established in the state treasury. The fund consists of money credited to the fund and interest earned on the money in the fund. Except as provided in subdivision 2, clause (7), money in the fund is annually appropriated to the commissioner for the purposes listed in subdivision 2.

(b) The commissioner of finance shall separately account for revenue deposited in the fund from financial assurance funds or other mechanisms, the metropolitan landfill contingency action trust fund, and all other sources of revenue.

Subd. 2. Expenditures. (a) Money in the fund may be spent by the commissioner to:

- (1) inspect permitted 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;
- (2) monitor and take, or reimburse others for, environmental response actions, including emergency response actions, at qualified facilities;
- (3) acquire and dispose of property under section 115B.412, subdivision 3;
- (4) recover costs under sections 115B.39 and 115B.46;
- (5) administer, including providing staff and administrative support for, sections 115B.39 to 115B.46;
- (6) enforce sections 115B.39 to 115B.46;
- (7) subject to appropriation, administer the agency's groundwater and solid waste management programs;
- (8) reimburse persons under section 115B.43; and
- (9) reimburse mediation expenses up to a total of \$250,000 annually or defense costs up to a total of \$250,000 annually for third-party claims for response costs under state or federal law as provided in section 115B.414.

History: 1995 c 185 s 3; 1995 c 220 s 102

115B.44 INVESTIGATION AND PURSUIT OF INSURANCE CLAIMS.

[For text of subd 1, see M.S.1994]

Subd. 2. Attorney general to pursue assigned claims. The attorney general shall pursue available insurance claims under rights assigned under subdivision 1 or section 115B.40 and may contract for legal services for this purpose. All money recovered under this subdivision must be credited to the solid waste fund.

History: 1995 c 220 s 130

115B.45 VOLUNTARY BUY-OUT FOR INSURERS.

In full satisfaction of any rights assigned to the state under sections 115B.40 and 115B.44, an insurer may tender to the commissioner before January 1, 1998, the voluntary buy-out amount calculated under section 115B.46. In consideration of the amount tendered to the commissioner, an insurer shall be released by the state from liability for defense or indemnification relating to environmental response costs incurred by the commissioner at qualified facilities, except that no liability protection exists under this section until the commissioner has received buy-out commitments totaling \$30,000,000. Any amounts received by the commissioner must be credited to the solid waste fund.

History: 1995 c 220 s 130

DRYCLEANER ENVIRONMENTAL RESPONSE AND REIMBURSEMENT LAW

115B.47 CITATION.

Sections 115B.47 to 115B.51 may be cited as the "drycleaner environmental response and reimbursement law."

History: 1995 c 252 s 1

115B.48 DEFINITIONS.

Subdivision 1. Applicability. The definitions in section 115B.02 and this section apply to sections 115B.47 to 115B.51.

Subd. 2. **Drycleaner environmental response and reimbursement account; account.** "Drycleaner environmental response and reimbursement account" or "account" means the drycleaner environmental response and reimbursement account established in section 115B.49.

Subd. 3. **Drycleaning facility.** "Drycleaning facility" means a facility located in this state that is or has been used for a drycleaning operation, other than:

- (1) a coin-operated drycleaning operation;
- (2) a facility located on a United States military base;
- (3) a uniform service or linen supply facility;
- (4) a prison or other penal institution;
- (5) a facility on the national priorities list established under the Federal Superfund Act;

or

(6) a facility at which a response action has been taken or started under section 115B.17 before July 1, 1995.

Subd. 4. **Drycleaning operation.** "Drycleaning operation" means commercial cleaning of apparel and household fabrics for the general public, using one or more drycleaning solvents.

Subd. 5. **Drycleaning solvent.** "Drycleaning solvent" means a chlorine- or hydrocarbon-based formulation or product that is used as a primary cleaning agent in drycleaning operations.

Subd. 6. **Environmental response costs.** "Environmental response costs" means those costs described in section 115B.17, subdivision 6.

History: 1995 c 252 s 2

115B.49 DRYCLEANER ENVIRONMENTAL RESPONSE AND REIMBURSEMENT ACCOUNT.

Subdivision 1. **Establishment.** The drycleaner environmental response and reimbursement account is established as an account in the state treasury.

Subd. 2. **Revenue sources.** Revenue from the following sources must be deposited in the state treasury and credited to the account:

- (1) the proceeds of the fees imposed by subdivision 4;
- (2) interest attributable to investment of money in the account;
- (3) penalties collected under subdivision 4, paragraphs (e) and (f); and
- (4) money received by the commissioner for deposit in the account in the form of gifts, grants, and appropriations.

Subd. 3. **Expenditures.** (a) Money in the account may only be used:

- (1) for environmental response costs incurred by the commissioner under section 115B.50, subdivision 1;
- (2) for reimbursement of amounts spent by the commissioner from the environmental response, compensation, and compliance account for expenses described in clause (1);
- (3) for reimbursements under section 115B.50, subdivision 2; and
- (4) for administrative costs of the commissioner of revenue.

(b) Money in the account is appropriated to the commissioner for the purposes of this subdivision. The commissioner shall transfer funds to the commissioner of revenue sufficient to cover administrative costs pursuant to paragraph (a), clause (4).

Subd. 4. **Registration; fees.** (a) The owner or operator of a drycleaning facility shall register on or before July 1 of each year with the commissioner of revenue in a manner prescribed by the commissioner of revenue and pay a registration fee for the facility. The amount of the fee is:

- (1) \$500, for facilities with up to four full-time equivalent employees;
- (2) \$1,000, for facilities with five to ten full-time equivalent employees; and
- (3) \$1,500, for facilities with more than ten full-time equivalent employees.

(b) A person who sells drycleaning solvents for use by drycleaning facilities in the state shall collect and remit to the commissioner of revenue in a manner prescribed by the commis-

sioner of revenue, on or before the 20th day of the month following the month in which the sales of drycleaning solvents are made, a fee of:

(1) \$3.50 for each gallon of perchloroethylene sold for use by drycleaning facilities in the state; and

(2) 70 cents for each gallon of hydrocarbon-based drycleaning solvent sold for use by drycleaning facilities in the state.

(c) The commissioner of revenue shall provide each person who pays a registration fee under paragraph (a) with a receipt. The receipt or a copy of the receipt must be produced for inspection at the request of any authorized representative of the commissioner of revenue.

(d) The commissioner shall, after a public hearing but notwithstanding section 16A.1285, subdivision 4, annually adjust the fees in this subdivision as necessary to maintain an unencumbered balance in the account of at least \$1,000,000. Any adjustment under this paragraph must be prorated among all the fees in this subdivision. Fees adjusted under this paragraph may not exceed 200 percent of the fees in this subdivision. The commissioner shall notify the commissioner of revenue of an adjustment under this paragraph no later than March 1 of the year in which the adjustment is to become effective. The adjustment is effective for sales of drycleaning solvents made, and annual registration fees due, beginning on July 1 of the same year.

(e) An owner of a drycleaning facility who fails to pay a fee under paragraph (a) when due is subject to a penalty of \$50 per facility for each day the fee is not paid.

(f) To enforce this subdivision, the commissioner of revenue may examine documents, assess and collect fees, impose sales and use tax penalties on the monthly fee under paragraph (b), and administer appeals, in the manner provided in chapters 270 and 289A. Disclosure of data collected by the commissioner under this subdivision is governed by chapter 270B.

History: 1995 c 252 s 3

NOTE: Subdivision 4, paragraph (d), as added by Laws 1995, chapter 252, section 3, is effective for annual fees due by July 1, 1997, and for monthly fees due by July 20, 1997. See Laws 1995, chapter 252, section 7.

115B.50 RESPONSE ACTIONS.

Subdivision 1. Response actions by the commissioner. (a) In accordance with the priority list established under section 115B.17, subdivision 13, the commissioner shall take all response actions at or related to a drycleaning facility that the commissioner determines are reasonable and necessary to protect the public health or welfare or the environment under the standards required in sections 115B.01 to 115B.24. The commissioner shall review and approve any investigation and response action plan submitted by an owner or operator of a drycleaning facility who is taking response actions under subdivision 2 and shall oversee the implementation of the approved plans. In carrying out the duties under this subdivision, the commissioner may take emergency removal actions as provided in section 115B.17, subdivision 1, paragraph (b), and may exercise the authority provided in section 115B.17, subdivisions 2 to 5, 15, and 16.

(b) The commissioner may not seek recovery against a current or former owner or operator of a drycleaning facility of any environmental response costs in excess of \$10,000 incurred by the commissioner at the facility, except:

(1) to the extent of insurance coverage, in excess of \$10,000, held by the owner or operator; or

(2) as provided in section 115B.51.

If the commissioner seeks recovery of environmental response costs against an owner or operator pursuant to this paragraph, the owner or operator shall act as directed by the commissioner to assert any rights of the owner or operator to any insurance coverage applicable to those costs and, if coverage is denied, to assign those rights to the commissioner.

(c) Before taking a response action under this subdivision, the commissioner shall notify the owner or operator of the facility. Except for emergency removal actions under section 115B.17, subdivision 1, paragraph (b), the commissioner shall not take response actions under this subdivision at a drycleaning facility where an owner or operator of the facility is taking response actions under subdivision 2 in accordance with an investigation or response action plan approved by the commissioner.

Subd. 2. **Response actions by owners or operators; reimbursement.** (a) At the request of the owner or operator of a drycleaning facility who takes response actions at the facility in accordance with a response action plan approved by the commissioner, the commissioner shall reimburse the owner or operator for all but \$10,000 of the environmental response costs incurred by the owner or operator if the commissioner determines that the costs are reasonable and were actually incurred. If a request for reimbursement is denied, the owner or operator may appeal the decision as a contested case under chapter 14.

(b) If the commissioner reimburses an owner or operator for environmental response costs under this subdivision for which the owner or operator has insurance coverage, the commissioner is subrogated to the rights of the owner or operator with respect to that insurance coverage to the extent of the reimbursement. Acceptance of reimbursement under this subdivision constitutes an assignment by the owner or operator with respect to any insurance coverage applicable to the costs that are reimbursed.

Subd. 3. **Limitation on amount that may be spent.** The commissioner may not, in a single fiscal year, make expenditures from the account related to a single drycleaning facility that exceed 20 percent of the balance in the account at the beginning of the fiscal year.

History: 1995 c 252 s 4

115B.51 ILLEGAL ACTIONS.

The commissioner may recover under section 115B.17, subdivision 6, that portion of the environmental response costs at a drycleaning facility that is attributable to a person who otherwise would be responsible for the release or threatened release under section 115B.03, and whose actions related to the release or threatened release were in violation of federal or state hazardous waste management laws in effect at the time of those actions.

History: 1995 c 252 s 5