

## CHAPTER 115B

## ENVIRONMENTAL RESPONSE AND LIABILITY

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**115B.02 DEFINITIONS.**

*[For text of subs 1 to 9, see M.S.1996]*

**Subd. 9a. Institutional controls.** "Institutional controls" means legally enforceable restrictions, conditions, or controls on the use of real property, groundwater, or surface water located at or adjacent to a facility where response actions are taken that are reasonably required to assure that the response actions are protective of public health or welfare or the environment. Institutional controls include restrictions, conditions, or controls enforceable by contract, easement, restrictive covenant, statute, ordinance, or rule, including official controls such as zoning, building codes, and official maps. An affidavit required under section 115B.16, subdivision 2, or similar notice of a release recorded with real property records is also an institutional control.

*[For text of subs 10 to 15, see M.S.1996]*

**Subd. 16. Remedy or remedial action.** "Remedy" or "remedial action" means those actions consistent with permanent remedy taken instead of or in addition to removal actions in the event of a release or threatened release of a hazardous substance, or a pollutant or contaminant, into the environment, to prevent, minimize or eliminate the release in order to protect the public health or welfare or the environment.

Remedy or remedial action includes, but is not limited to:

(a) Actions at the location of the release such as storage, confinement, perimeter protection using dikes, trenches, or ditches, clay cover, neutralization, cleanup of released hazardous substances, pollutants or contaminants, or contaminated materials, recycling or reuse, diversion, destruction, segregation of reactive wastes, dredging or excavations, repair or replacement of leaking containers, collection of leachate and runoff, on-site treatment or incineration, provision of alternative water supplies, any monitoring and maintenance, and institutional controls reasonably required to assure that these actions protect the public health and welfare and the environment; and

(b) The costs of permanent relocation of residents and businesses and community facilities when the agency determines that, alone or in combination with other measures, relocation is more cost-effective than and environmentally preferable to the transportation, storage, treatment, destruction, or secure disposition off-site of hazardous substances, or pollutants or contaminants, or may otherwise be necessary to protect the public health or welfare.

Remedy or remedial action does not include offsite transport of hazardous substances, pollutants or contaminants, or contaminated materials or their storage, treatment, destruction, or secure disposition offsite unless the agency determines that these actions:

- (1) Are more cost-effective than other remedial actions;
- (2) Will create new capacity to manage hazardous substances in addition to those located at the affected facility, in compliance with section 116.07 and subtitle C of the Solid Waste Disposal Act, United States Code, title 42, section 6921 et seq.; or
- (3) Are necessary to protect the public health or welfare or the environment from a present or potential risk which may be created by further exposure to the continued presence of the hazardous substances, pollutants or contaminants, or contaminated materials.

*[For text of subs 17 to 19, see M.S.1996]*

**History:** 1997 c 216 s 99,100

### 115B.03 RESPONSIBLE PERSON.

*[For text of subs 1 to 4, see M.S.1996]*

**Subd. 5. Eminent domain.** (a) The state, an agency of the state, or a political subdivision is not a responsible person under this section solely as a result of the acquisition of property, or as a result of providing funds for the acquisition of such property either through loan or grant, if the property was acquired by the state, an agency of the state, or a political subdivision (1) through exercise of the power of eminent domain, (2) through negotiated purchase in lieu of, or after filing a petition for the taking of the property through eminent domain, (3) after adopting a redevelopment or development plan under sections 469.001 to 469.134 describing the property and stating its intended use and the necessity of its taking, (4) after adopting a layout plan for highway development under sections 161.15 to 161.241 describing the property and stating its intended use and the necessity of its taking, or (5) through the use of a loan to purchase right-of-way in the seven-county metropolitan area under section 473.167.

(b) A person who acquires property from the state, an agency of the state, or a political subdivision, is not a responsible person under this section solely as a result of the acquisition of property if the property was acquired by the state, agency, or political subdivision through exercise of the power of eminent domain or by negotiated purchase after filing a petition for the taking of the property through eminent domain, after adopting a redevelopment or development plan under sections 469.001 to 469.134 describing the property and stating its intended use and the necessity of its taking, or after adopting a layout plan for highway development under sections 161.15 to 161.241 describing the property and stating its intended use and the necessity of its taking.

*[For text of subs 6 to 9, see M.S.1996]*

**History:** 1997 c 200 art 2 s 1

### 115B.17 STATE RESPONSE TO RELEASES.

*[For text of subs 1 to 13, see M.S.1996]*

**Subd. 14. Requests for review, investigation, and oversight.** (a) The commissioner may, upon request, assist a person in determining whether real property has been the site of a release or threatened release of a hazardous substance, pollutant, or contaminant. The commissioner may also assist in, or supervise, the development and implementation of reasonable and necessary response actions. Assistance may include review of agency records and files, and review and approval of a requester's investigation plans and reports and response action plans and implementation.

(b) Except as otherwise provided in this paragraph, the person requesting assistance under this subdivision shall pay the agency for the agency's cost, as determined by the commissioner, of providing assistance. A state agency, political subdivision, or other public entity is not required to pay for the agency's cost to review agency records and files. Money received by the agency for assistance under this section must be deposited in the environmental response, compensation, and compliance fund.

(c) When a person investigates a release or threatened release in accordance with an investigation plan approved by the commissioner under this subdivision, the investigation does not associate that person with the release or threatened release for the purpose of section 115B.03, subdivision 3, paragraph (d).

**Subd. 15. Acquisition of property.** The agency may acquire, by purchase or donation, an interest in real property, including easements, restrictive covenants, and leases, that the agency determines is necessary for response action. The validity and duration of a restrictive

covenant or nonpossessory easement acquired under this subdivision shall be determined in the same manner as the validity and duration of a conservation easement under chapter 84C, unless the duration is otherwise provided in the agreement. The agency may acquire an easement by condemnation only if the agency is unable, after reasonable efforts, to acquire an interest in real property by purchase or donation. The provisions of chapter 117 govern condemnation proceedings by the agency under this subdivision. A donation of an interest in real property to the agency is not effective until the agency executes a certificate of acceptance. The state is not liable under this chapter solely as a result of acquiring an interest in real property under this subdivision.

*[For text of subd 16, see M.S.1996]*

**Subd. 17. Settlements; general authority.** In addition to the general authority vested in the agency to settle any claims under sections 115B.01 to 115B.18, the agency may exercise the settlement authorities provided in subdivisions 17 to 20. If the agency does not obtain complete relief for all of its claims under sections 115B.01 to 115B.18, pursuant to a settlement, the agency may bring claims under those sections against any person who is not a party to the settlement, but the settlement shall reduce the liability of any person who is not a party to the settlement by the amount of the settlement.

**Subd. 18. Contribution protection for settlors.** Notwithstanding anything to the contrary in section 115B.08 or any other law, a person who resolves its liability to the agency under sections 115B.01 to 115B.18 in a settlement shall not be liable for any claim for contribution regarding matters addressed in the settlement. Except as otherwise provided in the settlement, a party to a settlement retains any right under section 115B.08 or any other law to bring a claim for contribution against any person who is not a party to the settlement. Any claim for contribution against a person who is not a party to the settlement shall be subordinate to any claim asserted against such person by the agency.

**Subd. 19. Reimbursement under certain settlements.** (a) When the agency determines that some but not all persons responsible for a release are willing to implement response actions, the agency may agree, pursuant to a settlement of its claims under sections 115B.01 to 115B.18, to reimburse the settling parties for response costs incurred to take the actions. The agency may agree to reimburse any amount which does not exceed the amount that the agency estimates may be attributable to the liability of responsible persons who are not parties to the settlement. Reimbursement may be provided only for the cost of conducting remedial design and constructing remedial action pursuant to the terms of the settlement. Reimbursement under this subdivision shall be paid only upon the agency's determination that the remedial action approved by the agency has been completed in accordance with the terms of the settlement. The agency may use money appropriated to it for actions authorized under section 115B.20, subdivision 2, clause (2), to pay reimbursement under this subdivision.

(b) The agency may agree to provide reimbursement under a settlement only when all of the following requirements have been met:

(1) the agency has made the determination under paragraph (c) regarding persons who are not participating in the settlement, and has provided written notice to persons identified under paragraph (c), clauses (1) and (2), of their opportunity to participate in the settlement or in a separate settlement under subdivision 20;

(2) the release addressed in the settlement has been assigned a priority pursuant to agency rules adopted under subdivision 13, and the priority is at least as high as a release for which the agency would be allowed to allocate funds for remedial action under the rules;

(3) an investigation of the release addressed in the settlement has been completed in accordance with a plan approved by the agency; and

(4) the agency has approved the remedial action to be implemented under the settlement.

(c) Before entering into a settlement providing for reimbursement under this subdivision, the agency shall determine that there are one or more persons who meet any of the following criteria who are not participating in the settlement:

(1) persons identified by the agency as responsible for the release addressed in the settlement but who are likely to have only minimal involvement in actions leading to the re-

lease, or are insolvent or financially unable to pay any significant share of response action costs;

(2) persons identified by the agency as responsible for the release other than persons described in clause (1) and who are unwilling to participate in the settlement or to take response actions with respect to the release;

(3) persons whom the agency has reason to believe are responsible for the release addressed in the settlement but whom the agency has been unable to identify; or

(4) persons identified to the agency by a party to the proposed settlement as persons who are potentially responsible for the release but for whom the agency has insufficient information to determine responsibility.

(d) Except as otherwise provided in this subdivision, a decision of the agency under this subdivision to offer or agree to provide reimbursement in any settlement, or to determine the amount of reimbursement it will provide under a settlement, is a matter of agency discretion in the exercise of its enforcement authority. In exercising discretion in this matter, the agency may consider, among other factors, the degree of cooperation with the agency that has been shown prior to the settlement by the parties seeking reimbursement.

(e) The agency may require as a term of settlement under this subdivision that the parties receiving reimbursement from the agency waive any rights they may have to bring a claim for contribution against persons who are not parties to the settlement.

**Subd. 20. Settlements with de minimis parties and parties with limited financial resources.** (a) The agency may agree to separately settle its claims under sections 115B.01 to 115B.18 with any persons:

(1) whose liability for response costs or response actions, in the determination of the agency, is minimal in comparison with the liability of other persons responsible for the release; or

(2) who are responsible for a release but, in the determination of the agency, are insolvent or financially unable to pay any significant share of their liability for the response costs.

(b) A settlement under this subdivision may require the parties to pay a fixed amount in money or in kind toward the implementation of response actions, and may include a premium for the risk of additional future response costs or response action requirements. The agency may require as a term of a settlement under this subdivision that the settling responsible persons waive any rights they may have to bring a claim for contribution against persons who are not parties to the settlement.

(c) All amounts paid to the agency under a settlement entered into pursuant to this subdivision shall be deposited in the account and are appropriated to the agency to pay for response actions and associated administrative and legal costs related to the release addressed in the settlement, including reimbursement for response costs under subdivision 19.

**History:** 1997 c 216 s 101-106

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

*[For text of subd 1, see M.S.1996]*

**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 reasonable and necessary activities at the property including placement of borings, wells, equipment, and structures on the property, provided that the activities do not unreasonably interfere with the proposed reuse or redevelopment; 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.

*[For text of subds 3 to 6, see M.S.1996]*

**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.

(d) When the commissioner issues a certificate of completion for response actions completed by a responsible person, the commissioner and the responsible person may enter into an agreement that resolves the person's future liability to the agency under sections 115B.01 to 115B.18 for the release or threatened release addressed by the response actions.

*[For text of subds 7 and 8, see M.S.1996]*

**History:** 1997 c 216 s 107,108

## **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 (10) to (12). 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 (10) to (12).

(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) 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;

(6) 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;

(7) 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;

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

(9) 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;

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

(11) 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

(12) 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.1996]*

**History:** 1997 c 7 art 1 s 31,32

**115B.223** [Repealed, 1997 c 216 s 160]

**115B.224** [Repealed, 1997 c 216 s 160]

### **115B.39 LANDFILL CLEANUP PROGRAM; ESTABLISHMENT.**

*[For text of subd 1, see M.S.1996]*

**Subd. 2. Definitions.** (a) In addition to the definitions in this subdivision, the definitions in sections 115A.03 and 115B.02 apply to sections 115B.39 to 115B.445, except as specifically modified in this subdivision.

(b) "Cleanup order" means a consent order between responsible persons and the agency or an order issued by the United States Environmental Protection Agency under section 106 of the federal Superfund Act.

(c) "Closure" means actions to prevent or minimize the threat to public health and the environment posed by a mixed municipal solid waste disposal facility that has stopped accepting waste by controlling the sources of releases or threatened releases at the facility. "Closure" includes removing contaminated equipment and liners; applying final cover; grading and seeding final cover; installing wells, borings, and other monitoring devices; constructing groundwater and surface water diversion structures; and installing gas control systems and site security systems, as necessary. The commissioner may authorize use of final cover that includes processed materials that meet the requirements in Code of Federal Regulations, title 40, section 503.32, paragraph (a).

(d) "Contingency action" means organized, planned, or coordinated courses of action to be followed in case of fire, explosion, or release of solid waste, waste by-products, or leachate that could threaten human health or the environment.

(e) "Corrective action" means steps taken to repair facility structures including liners, monitoring wells, separation equipment, covers, and aeration devices and to bring the facility into compliance with design, construction, groundwater, surface water, and air emission standards.

(f) "Decomposition gases" means gases produced by chemical or microbial activity during the decomposition of solid waste.

(g) "Environmental response action" means response action at a qualified facility, including corrective action, closure, postclosure care; contingency action; environmental studies, including remedial investigations and feasibility studies; engineering, including remedial design; removal; remedial action; site construction; and other similar cleanup-related activities.

(h) "Environmental response costs" means:

(1) costs of environmental response action, not including legal or administrative expenses; and

(2) costs required to be paid to the federal government under section 107(a) of the federal Superfund Act, as amended.

(i) "Postclosure" or "postclosure care" means actions taken for the care, maintenance, and monitoring of closure actions at a mixed municipal solid waste disposal facility.

(j) "Qualified facility" means a mixed municipal solid waste disposal facility, including adjacent property used for solid waste disposal, that:

(1) is or was permitted by the agency;

(2) stopped accepting solid waste, except demolition debris, for disposal by April 9, 1994; and

(3) stopped accepting demolition debris for disposal by June 1, 1994, except that demolition debris may be accepted until May 1, 1995, at a permitted area where disposal of demolition debris is allowed, if the area where the demolition debris is deposited is at least 50 feet from the fill boundary of the area where mixed municipal solid waste was deposited.

**History:** 1997 c 7 art 1 s 33

### 115B.412 PROGRAM OPERATION.

*[For text of subs 1 to 4, see M.S.1996]*

**Subd. 5. Environmental lien.** An environmental lien for environmental response costs incurred, including reimbursements made under section 115B.43, by the commissioner under sections 115B.39 to 115B.445 attaches in the same manner as a lien under sections 514.671 to 514.676 to all the real property described in the original and any revised permits for a qualified facility and any adjacent property owned by the facility owner or operator from the date the first assessment, closure, postclosure care, or response activities related to the facility are undertaken by the commissioner. For the purposes of filing an environmental lien under this subdivision, the term "cleanup action" as used in sections 514.671 to 514.676 includes all of the costs incurred by the commissioner to assess, close, maintain, monitor, and respond to releases at qualified facilities under sections 115B.39 to 115B.445. Notwithstanding section 514.672, subdivision 4, a lien under this paragraph takes precedence over all other liens on the property regardless of when the other liens were or are perfected. For the purpose of this subdivision, "owner or operator" has the meaning given it in section 115B.41, subdivision 4.

*[For text of subs 6 to 9, see M.S.1996]*

**Subd. 10. Report.** By December 1 of each year, the commissioner shall report to the environment and natural resources committees and to the appropriate finance committees of the senate and the house of representatives on the commissioner's activities under sections 115B.39 to 115B.43 and the commissioner's anticipated activities during future fiscal years.

*[For text of subd 11, see M.S.1996]*

**History:** 1997 c 7 art 1 s 34; 1997 c 216 s 109

### 115B.42 SOLID WASTE FUND.

*[For text of subd 1, see M.S.1996]*

**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 section 115B.39;
- (5) administer, including providing staff and administrative support for, sections 115B.39 to 115B.445;
- (6) enforce sections 115B.39 to 115B.445;
- (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:** 1997 c 7 art 1 s 35

### 115B.48 DEFINITIONS.

*[For text of subs 1 and 2, see M.S.1996]*

**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, except as authorized in a settlement agreement approved by the commissioner by July 1, 1997.

*[For text of subs 4 to 7, see M.S.1996]*

**Subd. 8. Full-time equivalence.** "Full-time equivalence" means 2,000 hours worked by employees, owners, and others in a drycleaning facility during a 12-month period beginning July 1 of the preceding year and running through June 30 of the year in which the annual registration fee is due. For those drycleaning facilities that were in business less than the 12-month period, full-time equivalence means the total of all of the hours worked in the drycleaning facility, divided by 2,000 and multiplied by a fraction, the numerator of which is 50 and the denominator of which is the number of weeks in business during the reporting period.

**History:** 1997 c 216 s 110,111

### 115B.49 DRYCLEANER ENVIRONMENTAL RESPONSE AND REIMBURSEMENT ACCOUNT.

*[For text of subs 1 to 3, see M.S.1996]*

**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 a full-time equivalence of fewer than five;
- (2) \$1,000, for facilities with a full-time equivalence of five to ten; and
- (3) \$1,500, for facilities with a full-time equivalence of more than ten.

(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 shall, after a public hearing but notwithstanding section 16A.1285, subdivision 4, annually adjust the fees in this subdivision as necessary to maintain annual income of at least:

(1) \$600,000 beginning July 1, 1997;

(2) \$700,000 beginning July 1, 1998; and

(3) \$800,000 beginning July 1, 1999.

Any adjustment under this paragraph must be prorated among all the fees in this subdivision. After adjustment under this paragraph, the fees in this subdivision must not be greater than two times their original amount. 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.

(d) To enforce this subdivision, the commissioner of revenue may examine documents, assess and collect fees, conduct investigations, issue subpoenas, grant extensions to file returns and pay fees, impose penalties and interest on the annual registration fee under paragraph (a) and the monthly fee under paragraph (b), abate penalties and interest, and administer appeals, in the manner provided in chapters 270 and 289A. The penalties and interest imposed on taxes under chapter 297A apply to the fees imposed under this subdivision. Disclosure of data collected by the commissioner of revenue under this subdivision is governed by chapter 270B.

**History:** 1997 c 216 s 112