

115C.08 PETROLEUM TANK FUND.

Subdivision 1. **Revenue sources.** Revenue from the following sources must be deposited in the state treasury and credited to a petroleum tank fund:

- (1) the proceeds of the fee imposed by subdivision 3;
- (2) money recovered by the state under sections 115C.04, 115C.05, and 116.491, including administrative expenses, civil penalties, and money paid under an agreement, stipulation, or settlement;
- (3) interest attributable to investment of money in the fund;
- (4) money received by the board and agency in the form of gifts, grants other than federal grants, reimbursements, or appropriations from any source intended to be used for the purposes of the fund;
- (5) fees charged for the operation of the tank installer certification program established under section 116.491;
- (6) money obtained from the return of reimbursements, civil penalties, or other board action under this chapter; and
- (7) the proceeds from the sales of all properties acquired by the agency under subdivision 4.

Subd. 2. **Imposing fee.** The board shall notify the commissioner of revenue if the unencumbered balance of the fund falls below \$4,000,000, and within 60 days after receiving notice from the board, the commissioner of revenue shall impose the fee established in subdivision 3 on the use of a tank for four calendar months, with payment to be submitted with each monthly distributor tax return.

Subd. 3. **Petroleum tank release cleanup fee.** A petroleum tank release cleanup fee is imposed on the use of tanks that contain petroleum products defined in section 296A.01. On products other than gasoline, the fee must be paid in the manner provided in section 296A.15 by the first licensed distributor receiving the product in Minnesota, as defined in section 296A.01. When the product is gasoline, the distributor responsible for payment of the gasoline tax is also responsible for payment of the petroleum tank cleanup fee. The fee must be imposed as required under subdivision 2, at a rate of \$20 per 1,000 gallons of petroleum products, rounded to the nearest 1,000 gallons. A distributor who fails to pay the fee imposed under this section is subject to the penalties provided in section 296A.22.

Subd. 4. **Expenditures.** (a) Money in the fund may only be spent:

- (1) to administer the petroleum tank release cleanup program established in this chapter;
- (2) for agency administrative costs under sections 116.46 to 116.50, sections 115C.03 to 115C.06, and costs of corrective action taken by the agency under section 115C.03, including investigations;
- (3) for costs of recovering expenses of corrective actions under section 115C.04;
- (4) for training, certification, and rulemaking under sections 116.46 to 116.50;
- (5) for agency administrative costs of enforcing rules governing the construction, installation, operation, and closure of aboveground and underground petroleum storage tanks;
- (6) for reimbursement of the environmental response, compensation, and compliance account under subdivision 5 and section 115B.26, subdivision 4;

(7) for administrative and staff costs as set by the board to administer the petroleum tank release program established in this chapter;

(8) for corrective action performance audits under section 115C.093;

(9) for contamination cleanup grants, as provided in paragraph (c);

(10) to assess and remove abandoned underground storage tanks under section 115C.094 and, if a release is discovered, to pay for the specific consultant and contractor services costs necessary to complete the tank removal project, including, but not limited to, excavation soil sampling, groundwater sampling, soil disposal, and completion of an excavation report; and

(11) to acquire interests in real or personal property, including easements, environmental covenants under chapter 114E, and leases, that the agency determines are necessary for corrective actions or to ensure the protectiveness of corrective actions. 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 clause. Agency approval of an environmental covenant under chapter 114E is sufficient evidence of acceptance of an interest in real property when the agency is expressly identified as a holder in the covenant. Acquisition of real property under this clause, except environmental covenants under chapter 114E, is subject to approval by the board.

(b) Except as provided in paragraph (c), money in the fund is appropriated to the board to make reimbursements or payments under this section.

(c) In fiscal years 2010 and 2011, \$3,700,000 is annually appropriated from the fund to the commissioner of employment and economic development for contamination cleanup grants under section 116J.554. Beginning in fiscal year 2012 and each year thereafter, \$6,200,000 is annually appropriated from the fund to the commissioner of employment and economic development for contamination cleanup grants under section 116J.554. Of this amount, the commissioner may spend up to \$225,000 annually for administration of the contamination cleanup grant program. The appropriation does not cancel and is available until expended. The appropriation shall not be withdrawn from the fund nor the fund balance reduced until the funds are requested by the commissioner of employment and economic development. The commissioner shall schedule requests for withdrawals from the fund to minimize the necessity to impose the fee authorized by subdivision 2. Unless otherwise provided, the appropriation in this paragraph may be used for:

(1) project costs at a qualifying site if a portion of the cleanup costs are attributable to petroleum contamination or new and used tar and tar-like substances, including but not limited to bitumen and asphalt, but excluding bituminous or asphalt pavement, that consist primarily of hydrocarbons and are found in natural deposits in the earth or are distillates, fractions, or residues from the processing of petroleum crude or petroleum products as defined in section 296A.01; and

(2) the costs of performing contamination investigation if there is a reasonable basis to suspect the contamination is attributable to petroleum or new and used tar and tar-like substances, including but not limited to bitumen and asphalt, but excluding bituminous or asphalt pavement, that consist primarily of hydrocarbons and are found in natural deposits in the earth or are distillates, fractions, or residues from the processing of petroleum crude or petroleum products as defined in section 296A.01.

Subd. 5. Account transfer. The board shall authorize the commissioner of management and budget to transfer to the environmental response, compensation, and compliance account the amount requested by the Pollution Control Agency under section 115B.26, subdivision 4. Transfer of the amount must be made at the earliest practical date after authorization by the board. If the unencumbered balance in the account is

less than \$2,000,000, the transfer must be made at the earliest practical date after the unencumbered balance in the account exceeds that amount.

Subd. 6. Disposition of property acquired for corrective action. (a) If the commissioner determines that real or personal property acquired by the agency for a corrective action is no longer needed for corrective action purposes, the commissioner may:

(1) request the commissioner of administration to dispose of the property according to sections 16B.281 to 16B.287, subject to conditions the commissioner of the Pollution Control Agency determines necessary to protect the public health and welfare and the environment or to comply with federal law;

(2) transfer the property to another state agency, a political subdivision, or a special purpose district as provided in paragraph (b); or

(3) if required by federal law, take actions and dispose of the property according to federal law.

(b) If the commissioner determines that real or personal property acquired by the agency for a corrective action must be operated, maintained, or monitored after completion of other phases of the corrective action, the commissioner may transfer ownership of the property to another state agency, a political subdivision, or a special purpose district that agrees to accept the property. A state agency, political subdivision, or special purpose district may accept and implement terms and conditions of a transfer under this paragraph. The commissioner may set terms and conditions for the transfer that the commissioner considers reasonable and necessary to ensure proper operation, maintenance, and monitoring of corrective actions; protect the public health and welfare and the environment; and comply with applicable federal and state laws and regulations. The state agency, political subdivision, or special purpose district to which the property is transferred is not liable under this chapter solely as a result of acquiring the property or acting in accordance with the terms and conditions of transfer.

(c) The commissioner of administration may charge the agency for actual staff and other costs related to disposal of the property under paragraph (a), clause (1). The net proceeds of a sale or other transfer of property under this subdivision by the commissioner or by the commissioner of administration shall be deposited in the petroleum tank fund or other appropriate fund. Any share of the proceeds that the agency is required by federal law or regulation to reimburse to the federal government is appropriated from the fund to the agency for the purpose. Section 16B.287, subdivision 1, does not apply to real property that is sold by the commissioner of administration and that was acquired under subdivision 4, paragraph (a), clause (11).

History: 1987 c 389 s 8; 1989 c 209 art 1 s 10; 1989 c 226 s 2; 1989 c 325 s 46,47; 1989 c 335 art 4 s 45,106; 1990 c 501 s 3,4; 1991 c 199 art 1 s 28; 1992 c 597 s 2; 1993 c 341 art 1 s 7-10; 1995 c 186 s 119; 1995 c 220 s 130; 1995 c 254 art 1 s 68-70; 1996 c 397 s 1; 1997 c 200 art 2 s 4; 1998 c 299 s 30; 1998 c 408 s 1; 1999 c 203 s 1; 2002 c 379 art 2 s 21,22; 2003 c 128 art 1 s 131; art 13 s 4; 1Sp2003 c 4 s 1; 2009 c 78 art 6 s 7; 2009 c 101 art 2 s 109; 2010 c 215 art 8 s 1; 2010 c 347 art 6 s 25,26; 2013 c 114 art 4 s 84,85