

CHAPTER 2890
DEPARTMENT OF COMMERCE
PETROLEUM TANK RELEASE COMPENSATION BOARD

2890 0010 DEFINITIONS
 2890 0060 REIMBURSEMENT OF COSTS

2890 0070 ELIGIBLE COSTS
 2890 0090 APPLICATION PROCESS

2890.0010 DEFINITIONS.

[For text of subs 1 to 6, see M.R.]

Subp. 7. Volunteer. "Volunteer" means a person who:

A. is not a responsible person under Minnesota Statutes, section 115C.02;

B. holds legal or equitable title to the property where a release occurred;
 and

C. incurs reimbursable costs on or after May 22, 1989.

Statutory Authority: *MS s 46.023; 115C.07*

History: *14 SR 1928*

2890.0060 REIMBURSEMENT OF COSTS.

Subpart 1. Generally. Each responsible person who has incurred reimbursable costs after June 4, 1987, in response to a release, and each volunteer who has incurred reimbursable costs on or after May 22, 1989, in response to a release, may apply to the board for partial reimbursement of eligible costs.

Subp. 2. Conditions for reimbursement. A reimbursement may not be made unless the board determines that the commissioner has determined that the corrective action has, or when completed will have, adequately addressed the release in terms of public health, welfare, and the environment.

Subp. 2a. Amount of reimbursement. The board shall reimburse a responsible person or volunteer who is eligible for 90 percent of the portion of the total reimbursable costs less than \$250,000.

Subp. 2b. Reduced reimbursement. The board shall reduce the amount of reimbursement to be made under this part if it finds that the responsible person or volunteer has not complied with one or more of the following requirements:

A. at the time of the release the tank was in substantial compliance with state and federal rules and regulations applicable to the tank, including rules or regulations relating to financial responsibility;

B. the agency was given notice of the release as required by Minnesota Statutes, section 115.061;

C. the responsible person or volunteer, to the extent possible, fully cooperated with the agency in responding to the release;

D. if the responsible person is an operator, the person exercised due care with regard to operation of the tank, including maintaining inventory control procedures; and

E. the reimbursement shall be reduced as much as 100 percent for failure by the responsible person or volunteer to comply with items A to D. In determining the amount of the reimbursement reduction, the board shall consider:

(1) the likely environmental impact of the noncompliance;

(2) whether the noncompliance was negligent, knowing, or willful;

(3) the deterrent effect of the award reduction on other tank owners and operators; and

(4) the amount of reimbursement reduction recommended by the commissioner.

Subp. 3. Multiple responsible persons. If there is more than one responsible person or volunteer who incurs reimbursable costs for a single release or at a single corrective action site, each responsible person or volunteer must apply separately for reimbursement. Not more than \$250,000 may be reimbursed for cost associated with a single release, regardless of the number of persons eligible for reimbursement.

Subp. 4. Eligibility of other persons. Notwithstanding Minnesota Statutes, section 115.09, subdivisions 1 to 3, the board shall provide full reimbursement to a person who has taken corrective action if the board determines that:

[For text of item A, see M.R.]

B. the commissioner has determined that the person was not a responsible person or volunteer under Minnesota Statutes, section 115C.02; and

[For text of item C, see M.R.]

Statutory Authority: *MS s 46.023; 115C.07*

History: *14 SR 1928*

2890.0070 ELIGIBLE COSTS.

Subpart 1. Reimbursable corrective actions. Costs associated with the following corrective actions may be eligible for reimbursement from the fund:

[For text of items A to F, see M.R.]

Subp. 2. Documentation of reasonableness. It is the responsibility of the applicant to prove the reasonableness of all incurred eligible costs. Upon request of the board or the board's staff, the applicant shall document the reasonableness of any costs included on the reimbursement application by providing one or more of the following:

A. evidence that the work was performed by a person or persons whose services were solicited through a competitive bidding procedure;

B. evidence that the cost is substantially equivalent to that charged by comparable person or persons in the same geographical area;

C. evidence that there was only one party reasonably available to perform the necessary work; or

D. evidence that there was only one party reasonably qualified to perform the necessary work.

The board shall reimburse only those costs which it determines to be reasonable.

Statutory Authority: *MS s 46.023; 115C.07*

History: *14 SR 1928*

2890.0090 APPLICATION PROCESS:

Subpart 1. Applications. A person who requests compensation from the fund shall complete, sign, and submit to the board a written application. The application shall be made on a form prescribed by the board and shall contain at least the following:

A. the name of the person making the application;

[For text of items B to D, see M.R.]

[For text of subp 2, see M.R.]

Subp. 3. Subsequent applications. An eligible responsible person or volunteer who has already obtained partial reimbursement from the board and who has incurred additional or continuing eligible costs due to the same release may reapply if:

A. the amount of the person's original reimbursement was less than 90 percent of the eligible costs up to \$250,000.

B. the eligible costs submitted on a subsequent application are not related to any new releases at the site.

The total reimbursement to a responsible person or volunteer for a release shall not exceed 90 percent of the total eligible costs up to \$250,000 regardless of the number of applications for reimbursement submitted by the responsible person or volunteer.

[For text of subps 4 to 6, see M.R.]

Statutory Authority: *MS s 46.023; 115C.07*

History: *14 SR 1928*