

**CHAPTER 2890**  
**DEPARTMENT OF COMMERCE**  
**PETROLEUM TANK RELEASES**

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**2890.0010 DEFINITIONS.**

*[For text of subps 1 and 2, see M R.]*

Subp. 2a. **Applicant.** "Applicant" means a person seeking reimbursement of costs from the Minnesota petroleum tank release compensation fund.

Subp. 2b. **Board.** "Board" means the petroleum tank release compensation board

*[For text of subp 3, see M R.]*

Subp 3a. **Consultant services.** "Consultant services" means the rendering of professional opinion, advice, or analysis regarding a release.

*[For text of subps 3b and 4, see M.R.]*

Subp 4a **Limited use applicant.** "Limited use applicant" means an applicant who

A. has not regularly sold petroleum to others,

B. seeks reimbursement for costs incurred in response to a release from a tank containing no more than 10,000 gallons of petroleum, and

C. is unlikely to have known of federal and state regulations applicable to the tank because of the nature of the applicant's business or use of the tank

*[For text of subps 5 to 7, see M.R.]*

**Statutory Authority:** *MS s 115C 07*

**History:** *18 SR 1471*

**2890.0030 VICE-CHAIR.**

A vice-chair shall be elected by the board at the first regular board meeting of each calendar year. The vice-chair shall preside at regular and special meetings in the absence of the chair and perform other duties assigned by the board. If the vice-chair position becomes vacant, a vice-chair shall be elected at the next regularly scheduled board meeting.

**Statutory Authority:** *MS s 115C 07*

**History:** *18 SR 1471*

**2890.0060 REIMBURSEMENT OF COSTS.**

Subpart 1 **Generally.** Each applicant eligible for reimbursement may apply to the board for reimbursement of eligible costs.

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

Subp. 2a [Repealed, 18 SR 1471]

Subp 2b [Repealed, 18 SR 1471]

Subp. 3. **Multiple applicants.** If there is more than one applicant who incurs reimbursable costs for a single release or at a single corrective action site, each applicant must apply separately for reimbursement. Not more than \$1,000,000 may be reimbursed for costs associated with a single release, regardless of the number of persons eligible for reimbursement.

Subp 4 [Repealed, 18 SR 1471]

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

**History:** *18 SR 1471*

**2890.0065 REDUCTION OF REIMBURSEMENT AMOUNT.**

Subpart 1 **Amount of reduction.** Pursuant to Minnesota Statutes, section 115C.09, subdivision 3, paragraph (f), the board shall reduce the amount of reimbursement to be made to an applicant as follows:

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A. The board shall reduce the amount of reimbursement for failure to comply with state and federal rules and regulations applicable to the tank as follows

(1) by 15 percent for failure to provide adequate corrosion protection,

(2) by 15 percent for failure to provide release detection,

(3) by 15 percent for failure to provide spill or overfill control,

(4) by ten percent for failure to use a certified contractor,

(5) by ten percent for failure to provide prior notice of tank removal,

(6) by \$1,000 for failure to register an aboveground or underground tank. The amount of the reduction shall be \$200, rather than \$1,000, for a limited use applicant unaware of the registration requirement; and

(7) by up to 50 percent for failure to comply with any state or federal rules or regulations applicable to the tank not specifically cited in this subpart

B. For failure to report a release as required by Minnesota Statutes, section 115.061, the board shall consider the timeliness of the release reporting in determining the amount of the reduction. The board shall reduce the amount of reimbursement by a minimum of \$1,000. The minimum amount of the reduction shall be \$200, rather than \$1,000, for a limited use applicant unaware of the reporting requirement

C. For failure to cooperate with the agency in responding to the release, the board shall reduce the amount of reimbursement by up to 50 percent

D. For failure to exercise due care with regard to operation of the tank, the board shall reduce the amount of reimbursement by up to 50 percent.

Subp 2 [Repealed, 18 SR 1471]

Subp 2a. **Calculations of reductions.** Percentage or dollar reductions shall be applied as specified in this subpart. If the board imposes more than one dollar reduction on an application, the dollar amounts shall be added together and the total dollar amount of reduction shall be applied to the application. If the board imposes more than one percentage reduction on an application, the percentage amounts shall be added together and then applied to the reimbursement request to determine a dollar amount of the reduction. If the board imposes both percentage and dollar amount reductions on an application, the dollar amount reductions shall be applied after the percentage reductions

Subp 3 **Deviations.** The board may increase or decrease the amount of reduction by up to 50 percent of the original amount of reimbursement, or use either dollar amounts or percentages for any reduction, based on the following factors

A. the likely environmental impact of the noncompliance,

[For text of items B and C, see MR.]

D. whether the noncompliance was negligent, knowing, or willful

Subp 4 **Multiple applications.**

A. When the board imposes a reduction in the form of a percentage, the percentage for that reduction shall continue to be imposed on all subsequent applications for the same release.

B. When the board imposes a reduction in the form of a dollar amount, the amount of the reduction shall be a one-time penalty. That dollar amount reduction shall not continue to be imposed on subsequent applications unless necessary to fully impose the reduction

**Statutory Authority:** *MS s 115C 07*

**History:** *18 SR 1471*

## 2890.0080 INELIGIBLE COSTS.

All costs associated with actions that do not minimize, eliminate, or clean up a release to protect the public health and welfare or the environment are ineligible costs. Ineligible costs include, but are not limited to, any costs related to the permanent repair or replacement of a tank, upgrading tanks, removal of tanks, loss of income, attorney's fees, permanent relocation of residents, decreased property values, reimbursement for the applicant's own time spent in planning and administering a corrective action plan, aesthetic improvements, or any work performed that is not in compliance with safety codes including but not limited to Oc-

cupational Safety and Health Administration requirements, well codes, and fire codes Other ineligible costs include corrective action costs which are covered under an insurance or other contract for initial and supplemental applications received by the board after October 21, 1991

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

**History:** *18 SR 1471*

#### **2890.0090 APPLICATION PROCESS.**

Subpart 1 **Applications.** An applicant 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

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

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

Subp 3 **Subsequent applications.** An applicant who has already submitted to the board an application for reimbursement and who has incurred additional or continuing eligible costs may apply for reimbursement of those costs by filing a subsequent application. An applicant may file a subsequent application only if the applicant has not submitted the costs on a previous application and the costs are not related to any new releases at the site

*[For text of subp 4, see M R]*

Subp. 5 **Certification.** A person who signs an application for reimbursement shall make the following certification. "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete

I certify that if I have submitted invoices for costs that I have incurred but that remain unpaid, I will pay those invoices within 30 days of receipt of reimbursement from the board I understand that if I fail to do so, the board may demand return of all or any portion of reimbursement paid to me and that if I fail to comply with the board's demand, that the board may recover the reimbursement, plus administrative and legal expenses in a civil action in district court. I understand that I may also be subject to a civil penalty "

Additionally, if the applicant is not an individual, the person authorized under subpart 4 shall make the following certification "I further certify that I am authorized to sign and submit this application on behalf of (entity) "

*[For text of subp 6, see M R.]*

**Statutory Authority:** *MS s 115C 07*

**History:** *18 SR 1471*

#### **2890.0100 REVIEW AND DETERMINATION.**

*[For text of subps 1 and 2, see M R]*

Subp 3 **Board determination.** The board shall determine the amount of the reimbursement based on those costs it finds are eligible, actually incurred, and reasonable The determination shall be made on the basis of the written record The board may also allow supplemental information explaining the application to be presented orally The board may establish a fair and reasonable limit on time allowed for oral presentation

The applicant shall be notified in writing within ten business days of the board's decision If the board rejects any portion of the request for reimbursement, a statement of the reasons for rejection shall be included with the notification

**Statutory Authority:** *MS s 115C 07*

**History:** *18 SR 1471*

#### **2890.0110 RIGHT TO APPEAL.**

A person may appeal within 30 days a determination by the board as a contested case hearing under Minnesota Statutes, chapter 14

**Statutory Authority:** *MS s 115C 07*

**History:** *18 SR 1471*