

## CHAPTER 115E

### OIL AND HAZARDOUS SUBSTANCE DISCHARGE PREPAREDNESS

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#### 115E.01 DEFINITIONS.

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

Subd. 3a. **Damages.** "Damages" means damages of any kind for which liability may exist under the laws of this state resulting from, arising out of, or related to the discharge or threatened discharge of hazardous substances or oil.

*[For text of subs 4 to 11, see M.S.1994]*

Subd. 11a. **Response area.** "Response area" means the area designated by the federal on-scene coordinator, the commissioner of the pollution control agency, or the commissioner of agriculture in which response to a discharge is occurring.

Subd. 11b. **Response costs.** "Response costs" means the costs of response that are incurred after a discharge of oil or hazardous substances has occurred, or, where there is a substantial threat of discharge of oil or hazardous substances, the costs to prevent, minimize, or mitigate a discharge.

Subd. 11c. **Responsible party.** "Responsible party" means a responsible party as defined in section 1001 of the Oil Pollution Act of 1990.

*[For text of subs 12 and 13, see M.S.1994]*

**History:** 1995 c 240 art 2 s 2-5

#### 115E.04 PREVENTION AND RESPONSE PLANS.

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

Subd. 2. **Timing.** (a) A person required to be prepared under section 115E.03, other than a person who owns or operates a motor vehicle, rolling stock, or a facility that stores less than 250,000 gallons of oil or a hazardous substance, shall complete the response plan required by this section by March 1, 1993, unless one of the commissioners orders the person to demonstrate preparedness at an earlier date under section 115E.05.

(b) A person who owns or operates a motor vehicle, rolling stock, or a facility that stores less than 250,000 gallons of oil or a hazardous substance shall complete the response plan required by this section by January 1, 1994.

(c) Plans required under section 115E.04 or 115E.045 must be updated every three years. Plans must be updated before three years following a significant discharge, upon significant change in vessel or facility operation or ownership, upon significant change in the national or area contingency plans under the Oil Pollution Act of 1990, or upon change in the capabilities or role of a person named in a plan who has an important response role.

*[For text of subs 3 to 5, see M.S.1994]*

**History:** 1995 c 240 art 2 s 6

#### 115E.06 GOOD SAMARITAN.

(a) A person listed in this paragraph who is rendering assistance in response to a discharge of a hazardous substance is not liable for response costs that result from actions taken or failed to be taken in the course of the assistance unless the person is grossly negligent or engages in willful misconduct:

(1) a member of a cooperative or community awareness and emergency response group in compliance with standards in rules adopted by the pollution control agency;

(2) an employee or official of the political subdivision where the response takes place, or a political subdivision that has a mutual aid agreement with that subdivision;

(3) a member or political subdivision sponsor of a hazardous materials incident response team or special chemical assessment team designated by the commissioner of the department of public safety;

(4) a person carrying out the directions of: (i) the commissioner of the pollution control agency, the commissioner of agriculture, the commissioner of natural resources, or the commissioner of public safety; or (ii) the United States Coast Guard or Environmental Protection Agency on-scene coordinator consistent with a national contingency plan under the Oil Pollution Act of 1990; and

(5) a for-hire response contractor.

(b) This section does not exempt from liability responsible persons with respect to the discharge under chapter 115B or 115C or responsible parties with respect to the discharge under chapter 18B or 18D.

**History:** 1995 c 240 art 2 s 7

### 115E.061 RESPONDER IMMUNITY; OIL DISCHARGES.

(a) Notwithstanding any other law, a person who is rendering care, assistance, or advice in response to a discharge or threat of discharge of oil is not liable for response costs or damages that result from actions taken or failed to be taken in the course of rendering the care, assistance, or advice consistent with the national contingency plan under the Oil Pollution Act of 1990, or as otherwise directed by the federal on-scene coordinator, the commissioner of the pollution control agency, the commissioner of agriculture, the commissioner of natural resources, or the commissioner of public safety.

(b) Paragraph (a) does not apply:

(1) to a responsible party;

(2) with respect to personal injury or wrongful death;

(3) if the person rendering assistance is grossly negligent or engages in willful misconduct; or

(4) to a discharge that occurs outside the response area or after the response.

(c) Nothing in this section relieves a responsible party from liability the responsible party otherwise has for the initial discharge or threat of discharge that necessitated the response.

(d) Nothing in this section relieves a responsible party from the following duties:

(1) to take steps to prevent discharges under section 115E.02;

(2) to be prepared for discharges under section 115E.03, subdivision 1; or

(3) duties under section 115.061.

(e) A responsible party is liable for any response costs and damages that another person is relieved of under paragraph (a).

**History:** 1995 c 240 art 2 s 8

### 115E.11 DISPOSITION OF PENALTIES.

Penalties collected for violations of this chapter or section 115.061 that are related to discharges or threatened discharges of petroleum must be deposited in the state treasury and credited to the petroleum tank release cleanup fund.

**History:** 1995 c 220 s 130