

CHAPTER 215
UNDERGROUND STORAGE TANKS
H.F. 508

AN ACT relating to underground storage tanks by increasing the environmental protection charge, providing for the use of risk-based corrective action standards, expanding property transfer insurance and loan guarantees, extending the compliance date for upgrade requirements, relating to cost recovery, creating marketability and innocent landowner funds and providing benefits, requiring certification of groundwater professionals and creating a penalty, requiring a study, and providing for repeals, and implementation, effective date, and retroactive applicability provisions.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 423.24, subsection 1, paragraph a, Code 1995, is amended to read as follows:

a. (1) ~~Twenty-five percent of all such revenue, up to a maximum of three four million eight two hundred twenty-five fifty thousand dollars per quarter, shall be deposited into and credited to the Iowa comprehensive petroleum underground storage tank fund created in section 455G.3, and the moneys so deposited are a continuing appropriation for expenditure under chapter 455G, and moneys so appropriated shall not be used for other purposes.~~

(2) Beginning January 1, 1996, through December 31, 1997, two million five hundred thousand dollars per quarter, shall be deposited into and credited to the Iowa comprehensive petroleum underground storage tank marketability fund created in section 455G.21. Beginning January 1, 1998, through December 31, 2002, four million two hundred fifty thousand dollars per quarter, shall be deposited into and credited to the Iowa comprehensive petroleum underground storage tank marketability fund created in section 455G.21. The moneys so deposited are a continuing appropriation to be expended in accordance with section 455G.21, and the moneys shall not be used for other purposes.

Sec. 2. Section 424.3, subsection 5, Code 1995, is amended to read as follows:

5. The cost factor is an amount per gallon of diminution determined by the board pursuant to this subsection. The board, after public hearing, shall determine, or shall adjust, the cost factor to the greater of either an amount reasonably calculated to generate an annual average revenue, year to year, of ~~fifteen seventeen~~ million ~~three hundred thousand~~ dollars from the charge, excluding penalties and interest, or ten dollars. The board may determine or adjust the cost factor at any time but shall at minimum determine the cost factor at least once each fiscal year.

Sec. 3. Section 455B.304, subsection 15, Code 1995, is amended by striking the subsection.

Sec. 4. Section 455B.471, subsection 2, Code 1995, is amended by striking the subsection and inserting in lieu thereof the following:

2. "Corrective action" means an action taken to reduce, minimize, eliminate, clean up, control, or monitor a release to protect the public health and safety or the environment. Corrective action includes, but is not limited to, excavation of an underground storage tank for purposes of repairing a leak or removal of a tank, removal of contaminated soil, disposal or processing of contaminated soil, cleansing of groundwaters or surface waters, natural biodegradation, institutional controls, and site management practices. Corrective action does not include replacement of an underground storage tank. Corrective action specifically excludes third-party liability.

Sec. 5. Section 455B.474, subsection 1, paragraph d, subparagraph (2), subparagraph subdivision (a), unnumbered paragraph 1, Code 1995, is amended by striking the unnumbered paragraph and inserting in lieu thereof the following:

A site shall be considered high risk when it is determined that contamination from the site presents an unreasonable risk to public health and safety or the environment under any of the following conditions:

Sec. 6. Section 455B.474, subsection 1, paragraph d, subparagraph (2), subparagraph subdivision (d), Code 1995, is amended by striking the subparagraph subdivision and inserting in lieu thereof the following:

(d) For purposes of classifying a site as either low risk or no action required, the department shall rely upon the example tier one risk-based screening level look-up table of the American society for testing of materials' emergency standard, ES38-94, or other look-up table as determined by the department by rule.

Sec. 7. Section 455B.474, subsection 1, paragraph d, subparagraph (2), Code 1995, is amended by adding the following new subparagraph subdivision:

NEW SUBPARAGRAPH SUBDIVISION. (e) A site cleanup report which classifies a site as either high risk, low risk, or no action required shall be submitted by a groundwater professional to the department with a certification that the report complies with the provisions of this chapter and rules adopted by the department. The report shall be determinative of the appropriate classification of the site. However, if the report is found to be inaccurate or incomplete, and if based upon information in the report the risk classification of the site cannot be reasonably determined by the department based upon industry standards, the department shall work with the groundwater professional to obtain the additional information necessary to appropriately classify the site. A groundwater professional who knowingly or intentionally makes a false statement or misrepresentation which results in a mistaken classification of a site shall be guilty of a serious misdemeanor and shall have the groundwater professional's certification revoked under section 455G.18.

Sec. 8. Section 455B.474, subsection 1, paragraph f, subparagraphs (4), (5), and (6), Code 1995, are amended by striking the subparagraphs and inserting in lieu thereof the following:

(4) High risk sites shall be addressed pursuant to a corrective action design report, as submitted by a groundwater professional and as accepted by the department. The corrective action design report shall determine the most appropriate response to the high risk conditions presented. The appropriate corrective action response shall be based upon industry standards and shall take into account the following:

(a) The extent of remediation required to reclassify the site as a low risk site.

(b) The most appropriate exposure scenarios based upon residential, commercial, or industrial use or other predefined industry accepted scenarios.

(c) Exposure pathway characterizations including contaminant sources, transport mechanisms, and exposure pathways.

(d) Affected human or environmental receptors and exposure scenarios based on current and projected use scenarios.

(e) Risk-based corrective action assessment principles which identify the risks presented to the public health and safety or the environment by each release in a manner that will protect the public health and safety or the environment using a tiered procedure consistent with the American society for testing of materials' emergency standard, ES38-94.

(f) Other relevant site specific factors such as the feasibility of available technologies, existing background contaminant levels, current and planned future uses, ecological, aesthetic, and other relevant criteria, and the applicability and availability of engineering and institutional controls.

(g) Remediation shall not be required on a site that does not present an increased cancer risk at the point of exposure of one in one million for residential areas or one in ten thousand for nonresidential areas.

(5) A corrective action design report, submitted by a groundwater professional shall be accepted by the department and shall be primarily relied upon by the department to

determine the corrective action response requirements of the site. However, if the corrective action design report is found to be inaccurate or incomplete, and if based upon information in the report the appropriate corrective action response cannot be reasonably determined by the department based upon industry standards, the department shall work with the groundwater professional to obtain the additional information necessary to appropriately determine the corrective action response requirements. A groundwater professional who knowingly or intentionally makes a false statement or misrepresentation which results in an improper or incorrect corrective action response shall be guilty of a serious misdemeanor and shall have the groundwater professional's certification revoked under section 455G.18.

(6) Low risk sites shall be monitored as deemed necessary by the department consistent with industry standards. Monitoring shall not be required on a site which has received a no further action certificate.

Sec. 9. Section 455B.474, subsection 1, paragraph f, Code 1995, is amended by adding the following new subparagraphs:

***NEW SUBPARAGRAPH.** (6A) *Corrective action, for the release of a regulated substance from an underground storage tank required to maintain financial responsibility under chapter 455G, which occurs on or after January 1, 1996, shall be in accordance with corrective action rules of the department existing on January 1, 1995, rather than pursuant to this paragraph "f".**

NEW SUBPARAGRAPH. (6B) An owner or operator may elect to proceed with additional corrective action on the site. However, any action taken in addition to that required pursuant to this paragraph "f" shall be solely at the expense of the owner or operator and shall not be considered corrective action for purposes of section 455G.9.

Sec. 10. Section 455B.474, subsection 1, paragraph h, Code 1995, is amended by striking the paragraph and inserting in lieu thereof the following:

h. Issuing a no further action certificate or a monitoring certificate to the owner or operator of an underground storage tank site.

(1) A no further action certificate shall be issued by the department for a site which has been classified as a no further action site or which has been reclassified pursuant to completion of a corrective action plan or monitoring plan to be a no further action site.

(2) A monitoring certificate shall be issued by the department for a site which does not require remediation, but does require monitoring of the site.

(3) A certificate may be recorded with the county recorder. The owner or operator of a site who has been issued a certificate under this paragraph "h" or a subsequent purchaser of the site shall not be required to perform further corrective action solely because action standards are changed at a later date. A certificate shall not prevent the department from ordering corrective action of a new release.

Sec. 11. Section 455G.3, subsection 1, Code 1995, is amended to read as follows:

1. The Iowa comprehensive petroleum underground storage tank fund is created as a separate fund in the state treasury, and any funds remaining in the fund at the end of each fiscal year shall not revert to the general fund but shall remain in the Iowa comprehensive petroleum underground storage tank fund. Interest or other income earned by the fund shall be deposited in the fund. The fund shall include moneys credited to the fund under this section and sections 423.24, subsection 1, paragraph "a", subparagraph (1), 455G.8, 455G.9, 455G.10, and 455G.11, and ~~455G.13,~~ and other funds which by law may be credited to the fund. The moneys in the fund are appropriated to and for the purposes of the board as provided in this chapter. Amounts in the fund shall not be subject to appropriation for any other purpose by the general assembly, but shall be used only for the purposes set forth in this chapter. The treasurer of state shall act as custodian of the fund and disburse amounts contained in it as directed by the board including automatic disbursements

of funds as received pursuant to the terms of bond indentures and documents and security provisions to trustees and custodians. The treasurer of state is authorized to invest the funds deposited in the fund at the direction of the board and subject to any limitations contained in any applicable bond proceedings. The income from such investment shall be credited to and deposited in the fund. The fund shall be administered by the board which shall make expenditures from the fund consistent with the purposes of the programs set out in this chapter without further appropriation. The fund may be divided into different accounts with different depositories as determined by the board and to fulfill the purposes of this chapter.

Sec. 12. Section 455G.3, subsection 3, Code 1995, is amended by adding the following new paragraph:

NEW PARAGRAPH. d. To establish a marketability fund for the purposes as stated in section 455G.21.

Sec. 13. Section 455G.6, subsection 4, Code 1995, is amended to read as follows:

4. Grant a mortgage, lien, pledge, assignment, or other encumbrance on one or more improvements, revenues, asset of right, accounts, or funds established or received in connection with the fund, including revenues derived from the use tax imposed under ~~chapter 423~~ section 423.24, subsection 1, paragraph "a", subparagraph (1), and deposited in the fund or an account of the fund.

Sec. 14. Section 455G.8, subsection 2, Code 1995, is amended to read as follows:

2. USE TAX. The revenues derived from the use tax imposed under chapter 423. The proceeds of the use tax under section 423.24, subsection 1, paragraph "a", subparagraph (1), shall be allocated, consistent with this chapter, among the fund's accounts, for debt service and other fund expenses, according to the fund budget, resolution, trust agreement, or other instrument prepared or entered into by the board or authority under direction of the board. The proceeds of the use tax under section 423.24, subsection 1, paragraph "a", subparagraph (2), shall be allocated in accordance with section 455G.21.

Sec. 15. Section 455G.8, subsection 5, Code 1995, is amended to read as follows:

5. COST RECOVERY ENFORCEMENT. Cost recovery enforcement net proceeds as provided by section 455G.13 shall be allocated ~~among the fund's accounts as directed by the board~~ to the innocent landowners fund created under section 455G.21, subsection 2, paragraph "a". When federal cleanup funds are recovered, the funds are to be deposited to the remedial account of the fund and used solely for the purpose of future cleanup activities.

Sec. 16. Section 455G.9, subsection 4, paragraph a, Code 1995, is amended to read as follows:

a. An owner or operator who reports a release to the department of natural resources after May 5, 1989, and on or before October 26, 1990, shall be required to pay the following copayment amounts:

(1) If the owner or operator has a net worth of one hundred thousand dollars or less and owns no more than one site, the owner or operator shall pay no more than eighteen percent of the total costs of corrective action for that release. For purposes of this subparagraph, "net worth" means the fair market value of the site, which shall include an adjustment for anticipated benefits under this section.

~~(1)~~ (2) If a site's total anticipated expenses are not reserved for more than, or actual expenses do not exceed, eighty thousand dollars, the owner or operator shall pay the greater of five thousand dollars or eighteen percent of the total costs of corrective action for that release.

~~(2)~~ (3) If a site's total anticipated expenses are reserved for more than, or actual expenses exceed, eighty thousand dollars, the owner or operator shall pay the amount as

designated in subparagraph ~~(1)~~ (2) plus thirty-five percent of the total costs of the corrective action for that release which exceed eighty thousand dollars.

Sec. 17. Section 455G.9, subsection 5, Code 1995, is amended by striking the subsection.

Sec. 18. Section 455G.10, subsections 1, 3, 5, and 6, Code 1995, are amended to read as follows:

1. The board may create a loan guarantee account to offer loan guarantees to ~~small businesses~~ for the following purposes:

a. All or a portion of the expenses incurred by the applicant ~~small business~~ for its share of corrective action.

b. Tank and monitoring equipment improvements necessary to satisfy federal technical standards to become insurable.

c. Capital improvements made on a tank site.

d. Purchase of a leaking underground storage tank site.

Moneys from the revenues derived from the use tax imposed under ~~chapter 423 section 423.24, subsection 1, paragraph "a", subparagraph (1)~~, may be used to fund the loan guarantee account according to the fund budget as approved by the board. Loan guarantees shall be made on terms and conditions determined by the board to be reasonable, except that in no case may a loan guarantee satisfy more than ninety percent of the outstanding balance of a loan.

3. The board shall administer the loan guarantee account. The board may delegate administration of the account, provided that the administrator is subject to the board's direct supervision and direction. The board shall adopt rules regarding the provision of loan guarantees to ~~financially qualified small businesses for the purposes permitted by subsection 1~~. The board may impose such terms and conditions as it deems reasonable and necessary or appropriate. The board shall take appropriate steps to publicize the existence of the loan account.

~~The benefits under this section shall be available to small businesses entering into the petroleum business.~~

5. As a condition of eligibility for financial assistance from the loan guarantee account, ~~a small business~~ an applicant shall demonstrate satisfactory attempts to obtain financing from private lending sources. When applying for loan guarantee account assistance, the ~~small business applicant~~ applicant shall demonstrate good faith attempts to obtain financing from at least two financial institutions. The board may first refer a tank owner or operator to a financial institution eligible to participate in the fund under section 455G.16; however, if no such financial institution is currently willing or able to make the required loan, the ~~small business applicant~~ applicant shall determine if any of the previously contacted financial institutions would make the loan in participation with the loan guarantee account. The loan guarantee account may offer to guarantee a loan, or provide other forms of financial assistance to facilitate a private loan.

6. The maturity for each financial assistance package made by the board pursuant to this chapter shall be the shortest feasible term commensurate with the repayment ability of the ~~small business~~ borrower. However, the maturity date of a loan shall not exceed twenty years and the guarantee is ineffective beyond the agreed term of the guarantee or twenty years from initiation of the guarantee, whichever term is shorter.

Sec. 19. Section 455G.11, subsection 3, paragraph c, Code 1995, is amended to read as follows:

c. The applicant certifies in writing to the board that the tank to be insured will be brought into compliance with either paragraph "a" or "b", on or before ~~January 1, 1995~~ December 22, 1998, provided that prior to the provision of insurance account coverage, the tank site tests release free. An owner or operator who fails to comply as certified to the board on or before ~~January 1, 1995~~ December 22, 1998, shall not insure that tank through

the insurance account unless and until the tank satisfies the requirements of paragraph "a" or "b". An owner or operator who fails to comply with either paragraph "a" or "b" by October 26, 1993, or who fails to enter into a contract on or before October 26, 1993, which, upon completion, will bring the owner or operator into compliance with either paragraph "a" or "b" by ~~January 1, 1995, shall pay~~ December 22, 1998, may be eligible for financial assurance under this section but shall be subject to an additional surcharge of ~~four~~ eight hundred dollars per tank in addition to payment of a premium that is equal to two times the cost of the premium required under subsection 4, paragraph "g", per insured time period.

Sec. 20. Section 455G.11, subsection 4, paragraph g, Code 1995, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Tanks receiving financial assurance pursuant to subsection 3, paragraph "c", shall not be included in the general tank population for purposes of determining actuarially sound premiums under this paragraph.

Sec. 21. Section 455G.11, subsection 5, paragraph a, Code 1995, is amended by striking the paragraph and inserting in lieu thereof the following:

a. The payment of claims filed prior to the effective date of any future repeal, against the insurance account until moneys in the account are exhausted. Upon exhaustion of the moneys in the account, any remaining claims shall be invalid.

Sec. 22. Section 455G.11, subsection 10, paragraph a, Code 1995, is amended to read as follows:

a. **ADDITIONAL CLEANUP REQUIREMENTS.** An owner, operator, landowner, or financial institution may purchase insurance coverage under the insurance account to cover environmental damage caused by a tank in the event that governmental action requires additional cleanup beyond ~~action-level standards in effect that which was required at the time a certificate of clean was issued under section 455B.304, subsection 15, no further action certificate~~ or a monitoring certificate was issued under section 455B.474, subsection 1, paragraph "h".

Sec. 23. Section 455G.11, subsection 10, paragraph b, subparagraphs (1) and (4), Code 1995, are amended to read as follows:

(1) ~~A certificate of clean has been issued for the site under section 455B.304, subsection 15, no further action certificate~~ or a monitoring certificate has been issued for the site under section 455B.474, subsection 1, paragraph "h". Property transfer coverage shall be effective on a monitored site only for the time period for which monitoring is allowed as specified in the monitoring certificate. A site which has not been issued a no further action certificate of clear* or a monitoring certificate shall not be eligible for property transfer coverage.

(4) ~~The additional cleanup is required to meet new corrective action-level standards mandated by governmental action requiring cleanup beyond that which was required at the time a no further action certificate or a monitoring certificate under section 455B.474, subsection 1, paragraph "h", was issued for a site.~~

Sec. 24. Section 455G.11, subsection 10, paragraph d, subparagraph (5), Code 1995, is amended by striking the subparagraph.

Sec. 25. Section 455G.11, subsection 10, paragraph h, Code 1995, is amended by striking the paragraph.

****Sec. 26.** Section 455G.13, subsection 1, Code 1995, is amended to read as follows:

1. **FULL RECOVERY SOUGHT FROM OWNER.** The board ~~shall~~ may seek full recovery from the owner, operator, or other potentially responsible party liable for the released petroleum which is the subject of a corrective action, for which the fund expends moneys from

*The word "clean" appears in 1995 Code

**Item veto; see message at end of the Act

*the remedial account for corrective action or third-party liability, and for all other costs, including reasonable and necessary attorney fees and costs of litigation for which moneys are expended by the fund in connection with the release. The liability of the owner, operator or other potentially responsible party is limited to that percentage of the released petroleum which was the subject of the corrective action and which the board by a preponderance of the evidence, demonstrates was released by the owner, operator, or other potentially responsible party. When federal cleanup funds are recovered, the funds are to be deposited to the remedial account of the fund and used solely for the purpose of future cleanup activities.**

Sec. 27. Section 455G.18, Code 1995, is amended to read as follows:

455G.18 GROUNDWATER PROFESSIONALS - REGISTRATION CERTIFICATION.

1. The department of natural resources shall adopt rules pursuant to chapter 17A requiring ~~that the certification of groundwater professionals register with the department of natural resources.~~ The rules shall include provisions for suspension or revocation of ~~registration certification~~ for good cause. **The administrator of the fund shall administer the certification program.**

2. A groundwater professional is a person who provides subsurface soil contamination and groundwater consulting services or who contracts to perform remediation or corrective action services and is one or more of the following:

a. A person certified by the American institute of hydrology, the national water well association, the American board of industrial hygiene, or the association of groundwater scientists and engineers.

b. A professional engineer registered in Iowa.

c. A professional geologist certified by a national organization.

d. Any person who has five years of direct and related experience and training as a groundwater professional or in the field of earth sciences as of June 10, 1991.

e. Any other person with a license, certification, or registration to practice hydrogeology or groundwater hydrology issued by any state in the United States or by any national organization, provided that the license, certification, or registration process requires, at a minimum, all of the following:

(1) Possession of a bachelor's degree from an accredited college.

(2) Five years of related professional experience.

3. The department of natural resources may provide for a civil penalty of no more than fifty dollars for ~~the failure to register obtain certification.~~ An interested person may obtain a list of ~~registrants~~ certified groundwater professionals from the department of natural resources. The department of natural resources may impose a fee for the ~~registration certification~~ of persons under this section.

4. The ~~registration certification~~ of groundwater professionals shall not impose liability on the board, the department, or the fund for any claim or cause of action of any nature, based on the action or inaction of groundwater professionals ~~registered certified~~ pursuant to this section.

5. Any person who was not previously registered as a groundwater professional who requests certification under this section, after January 1, 1996, shall be required to attend a course of instruction and pass a certification examination. The administrator of the fund shall hold certification courses and offer examinations. An applicant who successfully passes the examination shall be certified as a groundwater professional.

6. A groundwater professional who was registered prior to January 1, 1996, shall not be required to attend the course of instruction but shall be required to pass the certification examination by January 1, 1997.

7. All groundwater professionals shall be required to complete continuing education requirements as adopted by rule by the department.

8. The board may provide for exemption from the certification requirements of this section for a professional engineer registered pursuant to chapter 542B, if the person is

*Item veto; see message at end of the Act

qualified in the field of geotechnical, hydrological, environmental groundwater, or hydrogeological engineering.

9. Notwithstanding the certification requirements of this section, a site cleanup report or corrective action design report submitted by a registered groundwater professional shall be accepted by the department in accordance with sections 455B.474, subsection 1, paragraph "d", subparagraph (2), subparagraph subdivision (e), and paragraph "f", subparagraph (5).

Sec. 28. NEW SECTION. 455G.21 MARKETABILITY FUND.

1. A marketability fund is created as a separate fund in the state treasury under the control of the board. The board shall administer the marketability fund. Notwithstanding section 8.33, moneys remaining in the marketability fund at the end of each fiscal year shall not revert to the general fund but shall remain in the marketability fund. The marketability fund shall include the following:

a. Moneys allocated to the fund pursuant to section 423.24, subsection 1, paragraph "a", subparagraph (2).

b. Notwithstanding section 12C.7, interest earned by the marketability fund or other income specifically allocated to the marketability fund.

2. The marketability fund shall be used for the following purposes:

a. Five million dollars per year shall be allocated to the innocent landowners fund which shall be established as a separate fund in the state treasury under the control of the board. The innocent landowners fund shall also include any moneys recovered pursuant to cost recovery enforcement under section 455G.13. Notwithstanding section 455G.1, subsection 2, benefits for the costs of corrective action shall be provided to the owner of a petroleum contaminated property, who is not otherwise eligible to receive benefits under section 455G.9. An owner of a petroleum contaminated property shall be eligible for payment of total corrective action costs subject to copayment requirements under section 455G.9, subsection 4, paragraph "a", subparagraphs (1) and (2). The board may adopt rules conditioning receipt of benefits under this paragraph to those petroleum contaminated properties which present a higher degree of risk to the public health and safety or the environment and may adopt rules providing for denial of benefits under this paragraph to a person who did not make a good faith attempt to comply with the provisions of this chapter. This paragraph does not confer a legal right to an owner of petroleum contaminated property for receipt of benefits under this paragraph.

b. The remainder of the moneys shall be used for payment of remedial benefits as provided in section 455G.9.

3. Moneys in the fund shall not be used for purposes of bonding or providing security for bonding under chapter 455G.

Sec. 29. REPEAL.

1. Section 423.24, subsection 1, paragraph "a", subparagraph (2) is repealed on January 1, 2003.

2. Section 455G.19, Code 1995, is repealed.

Sec. 30. DEPARTMENTAL RULES.

1. In adopting the rules to implement the amendments to section 455B.474, contained in this Act, the environmental protection commission shall:

a. Direct the department to work jointly with a technical advisory committee to prepare a draft of these rules and standards for the commission's consideration.

(1) The technical advisory committee members shall consist of the following:

(a) The chairperson of the Iowa environmental council or the chairperson's designee.

(b) The managing director of the petroleum marketers of Iowa or the managing director's designee.

(c) The executive director of the Iowa league of cities or the executive director's designee.

(d) The president of the Iowa groundwater association or the president's designee who is a groundwater professional pursuant to section 455G.18.

(e) The executive director of the Iowa petroleum council or the executive director's designee.

(f) The executive director of the consulting engineers of Iowa or the executive director's designee who is a registered engineer.

(g) The executive director of the Iowa association of business and industry or the executive director's designee.

(h) The administrator of the Iowa comprehensive petroleum underground storage tank fund board.

(2) The technical advisory committee shall:

(a) Draw upon the technical expertise of its members' constituent organizations.

(b) Submit a written report jointly with the department of natural resources to the environmental protection commission concerning rules and standards to implement section 455B.474, as amended by this Act, by October 15, 1995.

(3) The technical advisory committee shall cease to exist when final rules referred to in subparagraph (2) are adopted by the environmental protection commission.

b. File a notice of intended action with the administrative rules review committee by November 15, 1995.

2. In implementing the amendments to section 455B.474 contained in this Act, the department:

a. May allow but shall not require revision, modification, or replacement of any site cleanup report, site assessment, or remedial investigation previously accepted by the department.

b. Shall collect information from historical records, visual inspections, and minimal site assessment data in order to determine whether the release is appropriate for regulatory concern and whether a site cleanup report is required.

c. Shall take steps to assure that department staff is adequately trained to implement and utilize the standards being enacted pursuant to this section by January 1, 1996. In preparing its staff, the department shall utilize, to the fullest extent possible, training and funding programs offered by the United States environmental protection agency, the American society for testing and materials (ASTM), or other appropriate entities.

3. During the period of time from the enactment of this Act until such time as the rules implementing the amendments to section 455B.474, contained in this Act, become effective, the department of natural resources may require an owner or operator to proceed with corrective action only if the action is necessary to protect public health and safety or the environment. An owner or operator may elect to proceed with corrective action pursuant to rules of the department existing on January 1, 1995, until such time as the rules implementing the amendments to section 455B.474, contained in this Act, become effective. However, the board may refuse to pay corrective action costs on a site during the interim period if it is likely that the site would be reclassified as a lower risk site when the rules implementing risk-based corrective action standards become effective.

Sec. 31. STUDY.

1. The Iowa comprehensive petroleum underground storage tank fund board shall study the following issues:

a. Privatization of all or a portion of the insurance program under section 455G.11.

b. Expansion of innocent landowner benefits under section 455G.21.

2. The board shall provide the general assembly with the study's report and recommendations by January 1, 1996.

Sec. 32. APPLICABILITY. The section of this Act that amends section 455G.13, subsection 1, applies to all cases that are tried on or after the effective date of this Act.

Sec. 33. RETROACTIVE APPLICABILITY. Sections 19 and 20 of this Act, which amend section 455G.11, subsections 3 and 4, apply retroactively to January 1, 1995.

Sec. 34. EFFECTIVE DATE. Sections 3 through 10, sections 17 through 25, sections 27, and 28,* section 29, subsection 2, and sections 30, 31, and 33, being deemed of immediate importance, take effect upon enactment. Sections 1 and 2, sections 11 through 14, and section 29, subsection 1, are effective July 1, 1995. Section 28* is effective January 1, 1996. Sections 15 and 26 of this Act, being deemed of immediate importance, take effect upon enactment.

Approved May 24, 1995, except the items which I hereby disapprove and which are designated as that portion of Section 9 which is herein bracketed in ink and initialed by me; Section 26 in its entirety; and that portion of Section 27 which is herein bracketed in ink and initialed by me. My reasons for vetoing these items are delineated in the item veto message pertaining to this Act to the Secretary of State this same date, a copy of which is attached hereto.

TERRY E. BRANSTAD, Governor

Dear Mr. Secretary:

I hereby transmit House File 508, an Act relating to underground storage tanks by increasing the environmental protection charge, providing for the use of risk-based corrective action standards, expanding property transfer insurance and loan guarantees, extending the compliance date for upgrade requirements, relating to cost recovery, creating marketability and innocent landowner funds and providing benefits, requiring certification of groundwater professionals and creating a penalty, requiring a study, and providing for repeals, and implementation, effective date, and retroactive applicability provisions.

House File 508 is, therefore, approved on this date with the following exceptions which I hereby disapprove.

I am unable to approve the designated portion of Section 9, identified as section 455B.474, subsection 1, paragraph f, new subparagraph (6A). This item would require the Department of Natural Resources to use two different sets of rules to determine the corrective action needed to respond to releases at underground storage tank sites. As proposed in the bill, the rules applied at a particular site would depend on the date a release occurred. The corrective action required to clean up a site should be based on the harm caused by the contamination at the site, not by an arbitrary date. Use of the new risk-based corrective action (RBCA) standards will provide a more cost-effective, common sense approach in dealing with contaminated sites and for that reason should be applied to all sites regardless of when they became contaminated.

I am unable to approve the item designated as Section 26, in its entirety. This item would shift the burden of proof in the state's efforts to recover the costs of cleanup from the parties responsible for the contamination caused by leaking underground tanks. The Attorney General who represents the state in such cases advises that a shift in the burden will increase the costs of litigation, reduce the state's ability to recover costs, and allow some responsible parties to avoid liability because of the difficulty involved in proving the percentage of contamination caused by them. Additionally, it is estimated that this change would reduce the amount of funds going to the underground storage tank fund by up to \$20 million, all of which would be available to assist innocent landowners.

*The January 1, 1996, effective date probably intended for section 28

I am unable to approve the designated portion of Section 27, identified as the third sentence of section 455G.18, subsection 1. This item would direct the administrator of the Underground Storage Tank Fund Board to administer the groundwater professional certification program. The Department of Natural Resources has the regulatory authority over the program and should be given the administrative responsibilities as well.

For the above reasons, I hereby respectfully disapprove these items in accordance with Amendment IV of the Amendments of 1968 to the Constitution of the State of Iowa. All other items in House File 508 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, Governor

CHAPTER 216

APPROPRIATIONS – AGRICULTURE AND NATURAL RESOURCES

H.F. 553

AN ACT relating to agriculture and natural resources, by providing for appropriations and revenue, providing related statutory changes, and providing effective dates.

Be It Enacted by the General Assembly of the State of Iowa:

DEPARTMENT OF AGRICULTURE AND LAND STEWARDSHIP

Section 1. GENERAL APPROPRIATION. There is appropriated from the general fund of the state to the department of agriculture and land stewardship for the fiscal year beginning July 1, 1995, and ending June 30, 1996, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. ADMINISTRATIVE DIVISION

a. For salaries, support, maintenance, the support of the state 4-H foundation, support of the statistics bureau, and miscellaneous purposes, and for the salaries and support of not more than the following full-time equivalent positions:

.....	\$	1,815,743
.....	FTEs	46.45

(1) Of the funds appropriated in this paragraph "a", \$319,550 and 7.00 FTEs shall be used to support horticulture.

(2) Of the amount appropriated in this paragraph "a", \$50,000 shall be allocated to the state 4-H foundation to foster the development of Iowa's youth and to encourage them to study the subject of agriculture.

(3) Of the amount appropriated in this paragraph "a", \$130,100 and 4.00 FTEs shall be allocated to the statistics bureau to provide county-by-county information on land in farms, production by crop, acres by crop, and county prices by crop. This information shall be made available to the department of revenue and finance for use in the productivity formula for valuing and equalizing the values of agricultural land.

(4) Of the amount appropriated in this paragraph "a", not more than \$5,000 shall be allocated to the Iowa polled hereford junior association in connection with the 1995 national junior hereford show.