

CHAPTER 14
ABOVEGROUND PETROLEUM STORAGE TANK FUND

591—14.1(455G) Eligible claims. All claims eligible for benefits under 2004 Iowa Acts, House File 2401, section 4, will be subject to available funding. In order to be eligible for reimbursement, the claimant must prove the aboveground petroleum storage tank site for which benefits are sought was registered with the state fire marshal pursuant to Iowa Code section 101.22 on or before January 1, 2004. Failure to prove that registration occurred on or before January 1, 2004, to the satisfaction of the board, will render that site ineligible for benefits. These provisions do not confer a right upon any party.

591—14.2(455G) Eligible claimants. Only the owner of the aboveground petroleum storage tank site is eligible to receive benefits. The owner is the legal title holder to the real property upon which the aboveground petroleum storage tank is located or to the tank site as defined in Iowa Code section 101.21.

591—14.3(455G) Eligible tanks. Eligible tanks are aboveground petroleum storage tanks containing petroleum as defined in Iowa Code section 455B.471. If the aboveground petroleum storage tank is empty, the last-known substance it contained must meet the definition of petroleum in Iowa Code section 455B.471.

591—14.4(455G) Claim submission deadline. Only owners that submit an application for reimbursement to the board on or before February 18, 2005, are eligible for benefits.

591—14.5(455G) Form of claim. The application for reimbursement must be in writing and made on a form provided by the board. Claims made orally, by telephone, or on a form other than that deemed acceptable by the board will be ineligible for benefits.

591—14.6(455G) Eligible costs. Only costs approved by the board or its designee will be eligible for reimbursement. No costs shall be reimbursed unless deemed by the board to be reasonable and necessary for the upgrade or permanent closure of an aboveground petroleum storage tank site.

591—14.7(455G) Reimbursement limits. Upon receiving appropriate documentation of eligible costs, and after board approval of the costs incurred, the board may reimburse the owner of the aboveground petroleum storage tank site up to \$25,000 per site. In no event, however, shall an owner be eligible for more than \$100,000 total for all aboveground petroleum storage tank sites eligible for benefits.

591—14.8(455G) Upgrade expenses. Only upgrade expenses incurred after January 1, 2004, and not later than December 31, 2005, are eligible for reimbursement. Only expenses reasonable and necessary to the installation or improvement of aboveground petroleum storage tank equipment or systems required to comply with 40 CFR Section 112 are eligible for reimbursement. Reasonable and necessary expenses include, but are not limited to, installation or upgrade of the following:

1. Secondary containment.
2. Corrosion protection.
3. Loss prevention.
4. Security.
5. Drainage.
6. Removal of noncompliant tanks.

591—14.9(455G) Permanent closure expenses. Only expenses incurred for permanent closure activities occurring after January 1, 2004, and not later than December 31, 2005, are eligible for reimbursement. Only expenses for activities reasonable and necessary to permanently close the aboveground petroleum storage tank site are eligible for reimbursement. Postclosure costs associated with activities to improve the aboveground petroleum storage tank site are not eligible for

reimbursement. Reasonable and necessary activities eligible for reimbursement include, but are not limited to, the following:

1. Removal of the tank and tank piping system.
2. Removal of tank support and confinement systems.
3. Removal of security systems.
4. Disposal of waste petroleum and other waste material, including concrete.

591—14.10(455G) Board approval of costs. All expenses submitted to the board for reimbursement are subject to approval by the board prior to reimbursement. The board may deny reimbursement for any reason deemed by the board to be inconsistent with these rules.

591—14.11(455G) Activities performed by the owner. If an owner seeks reimbursement for expenses associated with activities performed by the owner, the owner's employer, an employee of the owner, or a relative of the owner, the owner is required to obtain prior approval from the board of the activities to be performed and the expenses to be incurred. Expenses for activities performed without prior approval by the board may be denied in their entirety at the sole discretion of the board.

591—14.12(455G) Activities performed under contract. If the owner of an aboveground petroleum storage tank site contracts with another individual or business entity to perform the upgrade or permanent closure activities, the expenses may be submitted to the board for approval upon completion of the work and payment to the contracting party. The board may deny any reimbursement request that does not have accompanying proof of payment in full to the contracting party. If an owner desires approval of costs from the board prior to incurring expenses, the owner may seek and obtain prior approval from the board of the activities to be performed and the expenses to be incurred.

591—14.13(455G) Board contracts for permanent closure of sites. The board may enter into contracts with qualified businesses to perform permanent closure activities for eligible claims. The board may limit reimbursement to only those activities approved under the terms of the contracts, and reimbursement will be no more than \$25,000 per site and not more than \$100,000 per owner. The permanent closure activities under contract may occur and be reimbursed after February 18, 2005, provided the owner (1) timely applied for reimbursement, (2) emptied all tanks prior to February 18, 2005, or had all tanks in compliance with 40 CFR Section 112 by that date, (3) agreed in writing to allow the board to contract to complete the permanent closure at a time determined to be convenient to the board and (4) provides sufficient evidence, which may at a minimum consist of declinations from a contractor, that the activities were pursued by the owner during the eligible reimbursement period. Expenses for any activities completed after December 31, 2006, however, will not be eligible for reimbursement.

These rules are intended to implement 2004 Iowa Acts, House File 2401, section 4.

[Filed emergency 4/23/04—published 5/12/04, effective 4/23/04]

[Filed 10/5/04, Notice 5/12/04—published 10/27/04, effective 12/1/04]

[Filed 7/22/05, Notice 5/25/05—published 8/17/05, effective 9/21/05]

[Filed 11/2/07, Notice 8/15/07—published 11/21/07, effective 12/26/07]