

591—13.2(455G) General requirements.

13.2(1) Qualification for remedial account benefits related to a community remediation project is subject to board approval based on the recommendations made to the board by interested parties.

13.2(2) A community remediation project must include at least two sites that have qualified for remedial account benefits under Iowa Code section 455G.9. The community, the DNR or the board may request that a community be considered for a community remediation or packaged community remediation project. More than one community remediation project may be included in a request for proposal if, in the opinion of the administrator, such inclusion will allow for a better response to environmental or public health concerns at a lower cost. Individual owners shall also have the right to request inclusion in the community remediation or packaged community remediation project or to develop, through a common consultant, a budget covering a release impacting only their site or impacting their site and other sites if all are in agreement on the consultant to use.

13.2(3) Sites within a community remediation or packaged community remediation project which have not qualified for account benefits under Iowa Code section 455G.9 may be included in the project by the board. The board may approve the payment of all or part of the expenses of such sites in community remediation or packaged community remediation projects based on the impact that the specific site, that otherwise had not qualified, has on the expense and success of the project as a whole. The DNR may participate in a project as Federal Trust Fund rules allow. Nothing herein shall be deemed to limit the ability to receive additional federal financial assistance for UST releases.

a. Sites eligible for site cleanup report funding within the community remediation or packaged community remediation project are those sites:

- (1) Eligible for benefits under Iowa Code section 455G.9.
- (2) Underwritten which are required to have a site check performed.
- (3) Not eligible for benefits under Iowa Code chapter 455G when requested by the DNR and approved by the board.

(4) Where prior budget approval was received or where a site cleanup report was submitted by another consultant but rejected by the DNR. Such sites shall be reviewed by the administrator on a case-by-case basis for inclusion in the overall community remediation or packaged community remediation project.

(5) Owners or operators who have not qualified for benefits under Iowa Code section 455G.9 may participate in the community remediation or packaged community remediation project at their own expense.

(6) Owners or operators who are voluntarily participating in the community remediation or packaged community remediation project but have not qualified for benefits under Iowa Code section 455G.9 shall pay the average cost of completion in the project for the site cleanup report prior to work at their site being initiated. The average cost shall be determined by dividing the total amount bid on the community remediation or packaged community remediation project by the number of sites included. The final costs to participating owners/operators shall be their share of the total costs including the initial amount contracted for plus any change orders approved by the board or its designee in addition to any specific work for the owners/operators on their site, such as soil over excavation or tank removal which is unique to that site.

b. Owners or operators of sites which may opt out of the site cleanup report portion of the community remediation or packaged community remediation project are those:

(1) Sites where a verified real estate transaction is in process and time is of the essence. For the purpose of this rule, a verified real estate transaction is one in which an offer to purchase in writing has been made and reviewed by the board.

(2) On a case-by-case basis, the administrator determines that an owner may use its own consultant, with remedial benefits limited to the average per site cost of the community remediation or packaged community remediation project.

(3) Where, upon request, the DNR determines a delay would result in significant environmental damage or an administrative order requiring action has been issued by the DNR.

13.2(4) Except as specified in these rules, all program requirements apply to sites in community remediation projects, including, but not limited to, those requirements related to cost control.

13.2(5) Corrective action costs incurred prior to a community remediation project contract being awarded are subject to requirements under Iowa Code chapter 455G. The board will pay 100 percent of the cost of the site cleanup report only after the project has been approved. Expenses incurred on sites by owner/operators prior to approval of community remediation projects will not be included in the community remediation reimbursement, but will count toward overall copayment requirements on an individual claim. If the work occurred prior to the community remediation and is payable at 100 percent as part of the site cleanup report, the board may pay 100 percent of the cost incurred above the \$20,000 SCR limit for the cost of the SCR at a site included in the project. The payments above \$20,000 for SCR costs will reduce the next level of remediation expense paid by the amount of the payment in excess of \$20,000.

a. Corrective action costs include the cost of work incurred during an off-site investigation to complete the site cleanup report, monitoring and remediation of the site, if necessary. Off-site work done as a part of the SCR will be paid for as outlined above.

b. Off-site costs which are specifically included are those costs related to off-site drilling and testing associated with the assessment of the extent of contamination as required by the DNR.

c. Costs associated with off-site activity will not qualify for remedial benefits if a site is otherwise ineligible.

13.2(6) All reports and correspondence covering any assessment activity, testing, monitoring, cleanup, remediation or other work completed on the site and submitted to the DNR shall be sent to the selected contractor or consultant for a community remediation or packaged community remediation project by each owner or the consultant completing the prior work on the eligible site and participating in the community remediation or packaged community remediation project. Failure to supply or disclose such information and materials may be cause for the denial of remedial account benefits and other program benefits for the individual site involved.

13.2(7) Any site receiving program benefits within a community remediation project area shall participate in the project if it is determined by the program administrator that the participation is necessary for the successful completion of the community remediation project. An owner or operator or the representative of the owner or operator failing to respond to the administrator's requests may be denied remedial account and other program benefits for that failure to participate. A determination by the administrator that an owner failed to cooperate may be appealed.