

2890.0200 INELIGIBLE COSTS.

Subpart 1. **Generally.** Costs are not eligible for reimbursement when they are:

- A. associated with actions that do not minimize, eliminate, or clean up a release to protect the public health and welfare or the environment;
- B. not incurred by the applicant; or
- C. not reasonable.

Subp. 2. **Specific items.** Among ineligible costs are:

- A. costs related to the repair or replacement of tanks, upgrading tanks, removal of tanks, or abandonment of tanks in place;
- B. loss of income, including the applicant's purported loss of income from land used for the treatment or disposal of contaminated soil generated from the applicant's leak site;
- C. attorney fees or other fees charged by an attorney or by another person for providing legal or quasi-legal advice, filing appeals, or providing legal testimony;
- D. costs for permanent relocation of residents;
- E. decreased property values for the applicant's property;
- F. costs for the applicant's own time spent in planning, performing, or administering a corrective action, when the applicant is an individual;
- G. costs for aesthetic or site improvements;
- H. costs for work performed that is not in compliance with safety codes including, but not limited to, Occupational Safety and Health Administration requirements, well codes, and fire codes;
- I. per diem charges for sites less than 60 miles from an office of the person providing consultant services or contractor services;
- J. costs for repair or restoration of structures, surfaces, or land damaged by equipment used in the corrective action, unless the damage was unavoidable to implement corrective action;
- K. costs for the demolition, disposal, removal, repair, or replacement of the following items, when the demolition, disposal, removal, repair, or replacement is necessary to remove, repair, upgrade, or replace a tank:
 - (1) clean overburden;
 - (2) concrete, asphalt, or other manmade surfacing;
 - (3) pump islands, canopies, lights, or other aboveground structures; or

(4) sewer lines, water lines, electrical lines, phone lines, fiber optic lines, or other utilities;

L. costs for the removal of water from an excavation basin, unless required by the agency as part of a corrective action;

M. site restoration costs for clean fill in excess of the agency-approved amount of petroleum-contaminated soil removed for disposal;

N. administrative costs incurred in obtaining reimbursement from the board, including, but not limited to, compiling materials for and preparing applications to the board for reimbursement, responding to inquiries from the board or its staff, or appearing before the board;

O. costs for correspondence that result from avoidable noncompliance with agency deadlines;

P. costs for priority turnaround of laboratory analysis, unless requested by the agency;

Q. late payment fees;

R. fees charged by property owners for access to their property, unless charged to preserve public safety;

S. interest costs other than those eligible for reimbursement under Minnesota Statutes, chapter 115C;

T. costs for a phase I or II environmental site assessment;

U. costs for work done solely to facilitate a property transfer;

V. costs for property acquisition;

W. administrative costs associated with acquiring business, preparing or responding to a request for proposal, or preparing invoices for services provided or performed;

X. costs for reports not submitted to the agency or not required by the agency;

Y. costs for work that the agency has determined was incompetently performed;

Z. consultant markup charges; or

AA. costs for work performed after the agency has granted full site closure, excluding:

(1) costs for well sealing; and

(2) costs for tasks or items required by the agency to dismantle an approved corrective action system after its operation is no longer necessary and to remove the dismantled system from the site.

Statutory Authority: *MS s 115C.07*

History: *20 SR 227; 28 SR 383*

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