

455H.103 Definitions.

As used in this chapter, unless the context requires otherwise:

1. *"Affected area"* means any real property affected, suspected of being affected, or modeled to be likely affected by a release occurring at an enrolled site.
2. *"Affiliate"* means a corporate parent, subsidiary, or predecessor of a participant, a co-owner or cooperator of a participant, a spouse, parent, or child of a participant, an affiliated corporation or enterprise of a participant, or any other person substantially involved in the legal affairs or management of a participant, as defined by the department.
3. *"Background levels"* means concentrations of hazardous substances naturally occurring and generally present in the environment in the vicinity of an enrolled site or an affected area and not the result of releases.
4. *"Commission"* means the environmental protection commission created under section 455A.6.
5. *"Department"* means the department of natural resources created under section 455A.2.
6. *"Director"* means the director of the department of natural resources appointed under section 455A.3.
7. *"Enrolled site"* means any property which has been or is suspected to be the site of or affected by a release and which has been enrolled pursuant to this chapter by a participant.
8. *"Environmental covenant"* means a servitude arising under an environmental response project that imposes activity and use limitations as defined in section 455I.2.
9. *"Hazardous substance"* has the same meaning as defined in section 455B.381.
10. *"Noncancer health risk"* means the potential for adverse systemic or toxic effects caused by exposure to noncarcinogenic hazardous substances expressed as the hazard quotient for a hazardous substance. A hazard quotient is the ratio of the level of exposure of a hazardous substance over a specified time period to a reference dose for a similar exposure period.
11. *"Participant"* means any person who enrolls property pursuant to this chapter. A participant is a participant only to the extent the participant complies with the requirements of this chapter.
12. *"Protected groundwater source"* means a saturated bed, formation, or group of formations which has a hydraulic conductivity of at least forty-four-hundredths meters per day and a total dissolved solids concentration of less than two thousand five hundred milligrams per liter.
13. *"Protected party"* means any of the following:
 - a. A participant, including, but not limited to, a development authority or fiduciary.
 - b. A person who develops or otherwise occupies an enrolled site after the issuance of a no further action letter.
 - c. A successor or assignee of a protected party, as to an enrolled site of a protected party.
 - d. A lender which practices commercial lending including, but not limited to, providing financial services, holding of security interests, workout practices, and foreclosure or the recovery of funds from the sale of an enrolled site.

e. A parent corporation or subsidiary of a participant.

f. A co-owner or cooperator, either by joint tenancy or a tenancy in common, or any other party sharing a legal relationship with the participant.

g. A holder of a beneficial interest of a land trust or inter vivos trust, whether revocable or irrevocable, as to any interests in an enrolled site.

h. A mortgagee or trustee of a deed of trust existing as to an enrolled site as of the date of issuance of a no further action letter.

i. A transferee of the participant whether the transfer is by purchase, eminent domain, assignment, bankruptcy proceeding, partition, dissolution of marriage, settlement or adjudication of any civil action, charitable gift, or bequest, in conjunction with the acquisition of title to the enrolled site.

j. An heir or devisee of a participant.

k. A government agency or political subdivision which acquires an enrolled site through voluntary or involuntary means, including, but not limited to, abandonment, tax foreclosure, eminent domain, or escheat.

14. *"Release"* means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment of a hazardous substance, including the abandonment or discarding of barrels, containers, and other closed receptacles containing any hazardous substance, but excludes all of the following:

a. Any release which results in exposure to persons solely within a workplace, with respect to a claim which such persons may assert against the employer of such persons.

b. Emissions from the engine exhaust of a motor vehicle, rolling stock, aircraft, vessel, or pipeline pumping station engine.

c. The release of source, by-product, or special nuclear material from a nuclear incident, as those terms are defined in the federal Atomic Energy Act of 1954, if such release is subject to requirements with respect to financial protection established by the nuclear regulatory commission under 42 U.S.C. § 2210 or, for the purposes of 42 U.S.C. § 9604 or any other response action, any release of source, by-product, or special nuclear material from any processing site designated under 42 U.S.C. § 7912(a)(1) or 7942(a).

d. The use of pesticides in accordance with the product label.

15. *"Response action"* means an action taken to reduce, minimize, eliminate, clean up, control, assess, or monitor a release to protect the public health and safety or the environment. *"Response action"* includes, but is not limited to, investigation, excavation, removal, disposal, cleansing of groundwaters or surface waters, natural biodegradation, institutional controls, technological controls, or site management practices.

97 Acts, ch 127, §3; 99 Acts, ch 114, §39; 2005 Acts, ch 102, §3