

455H.107 Land recycling program.

1. A person may enroll property in the land recycling program pursuant to this chapter to carry out a response action in accordance with rules adopted by the commission which outline the eligibility for enrollment. The eligibility rules shall reasonably encourage the enrollment of all sites potentially eligible to participate under this chapter and shall not take into account any amounts the department may be reimbursed under this chapter.

2. All participants shall enter into an agreement with the department to reimburse the department for actual costs incurred by the department in reviewing documents submitted as a part of the enrollment of the site. This fee shall not exceed seven thousand five hundred dollars per enrolled site. An agreement entered into under this subsection must allow the department access to the enrolled site and must require a demonstration of the participant's ability to carry out a response action reasonably associated with the enrolled site.

3. All of the following shall not be enrolled in the land recycling program:

a. Property for which corrective action is needed or has been taken for petroleum underground storage tanks under chapter 455B, division IV, part 8. However, such property may be enrolled to address hazardous substances other than petroleum from underground storage tanks.

b. Property which has been placed or is proposed to be included on the national priorities list established pursuant to the federal Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. § 9601 et seq.

c. An animal feeding operation structure as defined in section 459.102.

4. If the site cleanup assessment demonstrates that the release on the enrolled site has affected additional property, all property which is shown to be affected by the release on the enrolled site shall be enrolled in addition to the enrolled site.

5. Following enrollment of the property in the land recycling program, the participant shall proceed on a timely basis to carry out response actions in accordance with the rules implementing this chapter.

6. Once the participant has demonstrated the affected area is in compliance with the standards described in subchapter 2, the department shall proceed on a timely basis and issue a no further action letter pursuant to section 455H.301.

7. The participant may withdraw the enrolled site from further participation in the land recycling program at any time upon written notice to the department. Any participant who withdraws an enrolled site from further participation in the program shall not be entitled to any refund or credit for the enrollment fee paid pursuant to this section and shall, subject to the limitation on fees in subsection 2, be liable for any costs actually incurred by the department. The department or court may determine that a participant who withdraws prior to completion of all response actions identified for the enrolled site forfeits all benefits and immunities provided by this chapter as to the enrolled site. If it is deemed necessary and appropriate by the department, a participant who withdraws shall stabilize the enrolled site in accordance with a plan approved by the department.

97 Acts, ch 127, §7