

567—137.1(455H) Authority, purpose and applicability.

137.1(1) Authority. This chapter is adopted under the authority of Iowa Code Supplement chapter 455H. These rules establish the policy and procedures for the voluntary enrollment of contaminated property in the “land recycling program” established under chapter 455H. These rules also establish the response action standards which participants must meet in order to qualify for a no further action certificate and the statutory protections and immunities which follow from it.

137.1(2) Purpose. Consistent with the declaration of policy stated in Iowa Code Supplement section 455H.104, these rules are intended to achieve the dual objective of addressing the current and future risks associated with contaminated property and thereby enhancing the market conditions which can lead to development of these properties into their highest productive use. These objectives can in part be met through a program which encourages voluntary participation by persons who may have a legal duty to address, in whole or in part, the contamination within an affected area as well as persons who might not have a legal obligation but who have an interest in development of enrolled sites. These rules attempt to provide a degree of certainty in the response action process as an incentive to participants and as a means of assisting participants in quantifying their financial investment. The following statement of principles is intended as a guide both in the interpretation of these rules and as a statement of the department’s regulatory philosophy.

a. It is the objective of the department and these rules to establish a collaborative process between the participant(s) and department staff as the most effective means of achieving consensus and resolving disputes on issues which are not or cannot be fully defined and anticipated by rule.

b. Although participation in this program is voluntary, these rules establish basic standards which must be met in order to obtain regulatory closure from the department through issuance of a no further action certificate.

c. Although the scope of the response actions addressed under these rules may not in every case address all known or unknown releases within an affected area, it should be the objective of both the department and the participants to work together and to use all resources available to address all known releases within an affected area in the interest of protecting public health, safety and the environment as well as achieving regulatory finality.

137.1(3) Applicability. These rules shall apply only to releases of contaminants which are being addressed at enrolled sites. The department may in its discretion apply the response action rules in 137.4(455H) through 137.10(455H) to releases of contaminants at sites which are not enrolled. These rules do not in any way limit the statutory liabilities of participants or nonparticipants except as expressly provided within the context of enrollment and Iowa Code Supplement chapter 455H. Consistent with Iowa Code Supplement section 455H.505, these rules do not limit the authority of the department or the responsibility of statutorily responsible persons to provide notice of hazardous conditions under 567—Chapter 131 or to respond to new releases and undertake emergency response actions under 567—Chapter 133. For sites which are not enrolled, 567—Chapter 133 rules will remain in effect and for enrolled sites 567—Chapter 133 shall apply to the extent it is not inconsistent with this chapter.