

19-6-325 Voluntary agreements -- Parties -- Funds -- Enforcement.

- (1)
 - (a) Under this part, and subject to Subsection (1)(b), the executive director may enter into a voluntary agreement with a responsible party providing for the responsible party to conduct an investigation or a cleanup action on sites that contain hazardous materials.
 - (b) The executive director and a responsible party may not enter into a voluntary agreement under this part unless all known potentially responsible parties:
 - (i) have been notified by either the executive director or the responsible party of the proposed agreement; and
 - (ii) have been given an opportunity to comment on the proposed agreement prior to the parties' entering into the agreement.
- (2)
 - (a) The executive director may receive funds from any responsible party that signs a voluntary agreement allowing the executive director to:
 - (i) review any proposals outlining how the investigation or cleanup action is to be performed; and
 - (ii) oversee the investigation or cleanup action.
 - (b) Funds received by the executive director under this section shall be deposited in the fund and used by the executive director as provided in the voluntary agreement.
- (3) If a responsible party fails to perform as required under a voluntary agreement entered into under this part, the executive director may take action and seek penalties to enforce the agreement as provided in the agreement.
- (4) The executive director may not use the provisions of Section 19-6-310, 19-6-316, or 19-6-318 to recover costs received or expended pursuant to a voluntary agreement from any person not a party to that agreement.
- (5)
 - (a) Any party who incurs costs under a voluntary agreement in excess of his liability may seek contribution from any other party who is or may be liable under this part for the excess costs in district court.
 - (b) In resolving claims made under Subsection (5)(a), the court shall allocate costs using the standards in Subsection 19-6-310(2).
- (6) This section takes precedence over conflicting provisions in this chapter regarding agreements with responsible parties to conduct an investigation or cleanup action.

Amended by Chapter 324, 2010 General Session