

Effective 5/9/2017

**Part 6
Environmental Mitigation and Response Act**

19-1-601 Title.

This part is known as the "Environmental Mitigation and Response Act."

Amended by Chapter 281, 2018 General Session

19-1-602 Definitions.

As used in this part:

- (1) "Environmental mitigation" means an action or activity intended to remedy, reduce, or offset known negative impacts to the environment.
- (2) "Environmental response action" means action taken to prevent, eliminate, minimize, investigate, monitor, clean up, or remove contaminants in the environment.
- (3) "Financial assurance" means a mechanism or instrument intended to provide funds if necessary to the department to conduct closure, monitoring, or cleanup of a specific facility or site in accordance with the applicable environmental requirements provided in this title.
- (4) "Funding source" means an individual or entity that provides a monetary contribution to the Environmental Mitigation and Response Fund.
- (5) "Natural resource damage" means damages to land, fish, wildlife, biota, air, water, ground water, drinking water supplies, and other resources that are held in trust for the public or otherwise controlled by the United States, the state, or local government.
- (6) "Unused funds" means the remaining funds from a specific funding source following the complete implementation of the environmental mitigation or response actions pursuant to the terms and conditions of the contribution.

Amended by Chapter 281, 2018 General Session

19-1-603 Environmental Mitigation and Response Fund.

- (1) There is created an expendable special revenue fund known as the Environmental Mitigation and Response Fund.
- (2) The fund consists of:
 - (a) public and private funding sources made under Subsections (3) and (4);
 - (b) legally binding bankruptcy, financial assurance, or natural resource damage claim settlements; and
 - (c) interest earnings on cash balances.
- (3) The department may accept contributions for deposit into the fund from public and private sources, including from a source as a condition of a consent decree, settlement agreement, stipulated agreement, or court order.
- (4) If funds are deposited as part of a consent decree, settlement agreement, stipulated agreement, or court order, the source of the funding may specify terms and conditions in which the funds may be used, in accordance with the consent decree, settlement agreement, stipulated agreement, or court order.
- (5) Unless mandated by court order, the department may refuse funds if the department determines it is incapable of meeting the terms and conditions of the agreement to obtain the

funds, including covering the costs to administer the fund and oversee the implementation of the specific mitigation or response action.

- (6) The fund may account for assets held by the state for:
- (a) an individual;
 - (b) a private or public entity;
 - (c) another governmental unit, including a local or federal agency;
 - (d) a state agency; or
 - (e) a Native American tribe.

Enacted by Chapter 246, 2017 General Session

19-1-604 Environmental mitigation.

- (1) The director shall administer the fund created in Section 19-1-603.
- (2) The director may:
- (a) disburse funds to an authorized individual or public, private, or governmental entity, or Native American tribe to implement a specified environmental mitigation action in accordance with any terms and conditions associated with the funding source, as provided in Subsection 19-1-603(4);
 - (b) expend funds to implement certain environmental mitigation actions in accordance with any terms and conditions associated with the funding source, as provided in Subsection 19-1-603(4);
 - (c) expend funds to implement an environmental response action or site closure, in accordance with any terms and conditions associated with the funding source, as provided in Subsection 19-1-603(4);
 - (d) expend funds to cover actual administrative expenditures in accordance with any terms and conditions associated with the funds as provided in Subsection 19-1-603(4); and
 - (e) return unused funds to the funding source, if required under the terms and conditions as provided in Subsection 19-1-603(4).
- (3) For an environmental response action conducted pursuant to Subsection 19-1-604(2)(c), the director shall comply with applicable environmental cleanup standards described in this title.
- (4) If the director disburses funds to another state agency in accordance with Subsection (2)(a), that agency may expend the funds in accordance with any terms and conditions associated with the fund contributions as provided in Subsection 19-1-603(4), including returning any unused funds to the department.
- (5) Following the completion of an environmental mitigation and response action, any excess funds not returned to the funding source as provided in Subsection 19-1-603(4) shall be transferred to the Hazardous Substances Mitigation Fund, in accordance with Section 19-6-307.

Enacted by Chapter 246, 2017 General Session