

§ 130A-310.37. Construction of Part.

(a) This Part is not intended and shall not be construed to:

- (1) Affect the ability of local governments to regulate land use under Chapter 160D of the General Statutes. The use of the identified brownfields property and any land-use restrictions in the brownfields agreement shall be consistent with local land-use controls adopted under those statutes.
- (2) Amend, modify, repeal, or otherwise alter any provision of any remedial program or other provision of this Chapter, Chapter 143 of the General Statutes, or any other provision of law relating to civil and criminal penalties or enforcement actions and remedies available to the Department, except as may be provided in a brownfields agreement.
- (3) Prevent or impede the immediate response of the Department or responsible party to an emergency that involves an imminent or actual release of a regulated substance that threatens public health or the environment.
- (4) Relieve a person receiving liability protection under this Part from any liability for contamination later caused by that person on a brownfields property.
- (5) Affect the right of any person to seek any relief available against any party to the brownfields agreement who may have liability with respect to the brownfields property, except that this Part does limit the relief available against any party to a brownfields agreement with respect to remediation of the brownfields property to the remediation required under the brownfields agreement.
- (6) Affect the right of any person who may have liability with respect to the brownfields property to seek contribution from any other person who may have liability with respect to the brownfields property and who neither received nor has liability protection under this Part.
- (7) Prevent the State from enforcing specific numerical remediation standards, monitoring, or compliance requirements specifically required to be enforced by the federal government as a condition to receive program authorization, delegation, primacy, or federal funds.
- (8) Create a defense against the imposition of criminal and civil fines or penalties or administrative penalties otherwise authorized by law and imposed as the result of the illegal disposal of waste or for the pollution of the land, air, or waters of this State on a brownfields property.
- (9) Relieve a person of any liability for failure to exercise due diligence and reasonable care in performing an environmental assessment or transaction screen.
- (10) Limit or preclude a prospective developer from performing an investigation of a brownfields property without prior approval from the Department.

(b) Notwithstanding the provisions of the Tort Claims Act, G.S. 143-291 through G.S. 143-300.1 or any other provision of law waiving the sovereign immunity of the State of North Carolina, the State, its agencies, officers, employees, and agents shall be absolutely immune from any liability in any proceeding for any injury or claim arising from negotiating, entering, monitoring, or enforcing a brownfields agreement or a Notice of Brownfields Property under this Part or any other action implementing this Part.

(c) The Department shall not enter into a brownfields agreement for a site listed on the National Priorities List pursuant to 42 U.S.C. § 9605. (1997-357, s. 2; 1997-392, s. 4.5; 2006-71, s. 6; 2022-62, s. 22; 2023-137, s. 20.)