

1 ENGROSSED SENATE
2 BILL NO. 349

By: Myers of the Senate

3 and

4 Richardson of the House

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7 An Act relating to environment and natural resources;
8 amending 27A O.S. 2001, Section 2-7-123, as last
9 amended by Section 25, Chapter 1, O.S.L. 2005 (27A
10 O.S. Supp. 2008, Section 2-7-123), which relates to
11 environmental remediation; stating liability for
12 certain actions; authorizing the Department of
13 Environmental Quality to recover certain
14 administrative penalties; providing for remediation
15 notices to be recorded and run with the land;
16 providing an effective date; and declaring an
17 emergency.

18 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

19 SECTION 1. AMENDATORY 27A O.S. 2001, Section 2-7-123, as
20 last amended by Section 25, Chapter 1, O.S.L. 2005 (27A O.S. Supp.
21 2008, Section 2-7-123), is amended to read as follows:

22 Section 2-7-123. A. Upon issuance of any permit issued
23 pursuant to the requirements of the Oklahoma Hazardous Waste
24 Management Act, the Department of Environmental Quality shall file
25 or cause to be filed a recordable notice of the permit in the land
26 records of the county in which the site is located. The notice
27 shall contain the legal description of the site as well as the terms
28 under which the permit was issued.

1 B. The Department shall file or cause to be filed a recordable
2 notice of remediation or related action taken pursuant to the
3 federal Comprehensive Environmental Response, Compensation and
4 Liability Act in the land records of the county in which the site is
5 located. The notice shall contain a legal description of the
6 affected property and shall identify all engineering controls used
7 to ensure the effectiveness of the remediation.

8 C. When remediation of contaminated property to risk-based
9 standards is performed under an order of or a remediation plan
10 approved by the Department, the Department shall file or cause to be
11 filed a recordable notice of remediation taken in the land records
12 of the county in which the property is located. The notice shall
13 contain a legal description of the affected property and shall
14 identify all engineering controls used to ensure the effectiveness
15 of the remediation.

16 D. The notices required in subsections B and C of this section
17 shall also contain a prohibition against engaging in any activities
18 that cause or could cause damage to the remediation or the
19 engineering controls, or recontamination of the soil or groundwater.
20 The notices shall also contain any appropriate restrictions on land
21 use or other activities that are incompatible with the cleanup
22 level, including, but not limited to, restrictions against
23 increasing the amount or extent of contamination or using
24 groundwater for drinking or irrigation purposes or redeveloping the

1 land for residential use. Any person who damages or interferes with
2 the remediation, the engineering controls, or continuing operation,
3 maintenance or monitoring of the site or who increases the amount or
4 extent of contamination is liable to repair the damage ~~or~~, remedy
5 the interference, or remediate the contamination, or for costs
6 incurred by the Department in doing so. The Department may take
7 administrative or civil action to recover costs or to compel
8 compliance with this subsection, including but not limited to
9 administrative penalties pursuant to the Oklahoma Hazardous Waste
10 Management Act.

11 E. Any notice filed pursuant to this section shall run with the
12 land. It may not be extinguished, limited, or impaired by
13 application of the provisions of Section 71 through 85 of Title 16
14 of the Oklahoma Statutes or the Uniform Unclaimed Property Act.

15 SECTION 2. This act shall become effective July 1, 2009.

16 SECTION 3. It being immediately necessary for the preservation
17 of the public peace, health and safety, an emergency is hereby
18 declared to exist, by reason whereof this act shall take effect and
19 be in full force from and after its passage and approval.

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1 Passed the Senate the 26th day of February, 2009.

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4 Presiding Officer of the Senate

5 Passed the House of Representatives the ____ day of _____,
6 2009.

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9 Presiding Officer of the House
10 of Representatives