

1 ENGROSSED SENATE
2 BILL NO. 446

By: Bingman of the Senate

and

Richardson of the House

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5
6 An Act relating to the Oklahoma Brownfields Voluntary
7 Redevelopment Act; amending 27A O.S. 2001, Section 2-
8 15-101, which relates to title of act; updating
9 statutory references; amending 27A O.S. 2001, Section
10 2-15-102, as amended by Section 3, Chapter 141,
11 O.S.L. 2004 (27A O.S. Supp. 2008, Section 2-15-102),
12 which relates to purpose of act; modifying reference
13 to certain entity; amending 27A O.S. 2001, Section 2-
14 15-103, as amended by Section 4, Chapter 141, O.S.L.
15 2004 (27A O.S. Supp. 2008, Section 2-15-103), which
16 relates to definitions; modifying terms; defining
17 term; amending 27A O.S. 2001, Section 2-15-104, which
18 relates to administration of the brownfields program;
19 stating requirements for the Department of
20 Environmental Quality; amending 27A O.S. 2001,
21 Section 2-15-105, as amended by Section 5, Chapter
22 141, O.S.L. 2004 (27A O.S. Supp. 2008, Section 2-15-
23 105), which relates to certain proposals; modifying
24 requirements to be included in proposals; amending
27A O.S. 2001, Section 2-15-106, as amended by
Section 6, Chapter 141, O.S.L. 2004 (27A O.S. Supp.
2008, Section 2-15-106), which relates to brownfields
proposals; modifying certain terms; amending 27A O.S.
2001, Section 2-15-107, which relates to land use
disclosures; modifying certain terms; amending 27A
O.S. 2001, Section 2-15-108, as last amended by
Section 5, Chapter 381, O.S.L. 2004 (27A O.S. Supp.
2008, Section 2-15-108), which relates to
administrative penalties; modifying certain terms;
amending 27A O.S. 2001, Section 2-15-109, which
relates to agency costs; authorizing the Department
to require participants to reimburse agency for
certain costs; amending 27A O.S. 2001, Section 2-15-
110, which relates to removing obsolete language;
modifying terms; providing an effective date; and
declaring an emergency.

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

2 SECTION 1. AMENDATORY 27A O.S. 2001, Section 2-15-101,
3 is amended to read as follows:

4 Section 2-15-101. Sections ~~±~~ 2-15-101 through ~~±~~ 2-15-110 of
5 this ~~act~~ title shall be known and may be cited as the "Oklahoma
6 Brownfields Voluntary Redevelopment Act".

7 SECTION 2. AMENDATORY 27A O.S. 2001, Section 2-15-102,
8 as amended by Section 3, Chapter 141, O.S.L. 2004 (27A O.S. Supp.
9 2008, Section 2-15-102), is amended to read as follows:

10 Section 2-15-102. A. The Oklahoma Legislature hereby declares
11 that the purpose of the Oklahoma Brownfields Voluntary Redevelopment
12 Act is to:

13 1. Provide for the establishment of a voluntary program by the
14 Department of Environmental Quality;

15 2. Foster the voluntary redevelopment and reuse of brownfields
16 by limiting the liability of property owners, lenders, lessees, and
17 successors and assigns from administrative penalties assessed by the
18 Department and civil liability with regard to the remedial actions
19 taken by the ~~applicant~~ participant for environmental contamination
20 caused by pollution, as required by a consent order, if the remedial
21 action is not performed in a reckless or negligent manner; and

22 3. Provide for a risk-based system for all applicable sites
23 based on the proposed use of the site.

24

1 B. The Oklahoma Brownfields Voluntary Redevelopment Act shall
2 not be construed to authorize or encourage any person or other legal
3 entity to cause or increase pollution, to avoid compliance with
4 state and federal laws and regulations concerning pollution or to in
5 any manner escape responsibility for maintaining environmentally
6 sound operations.

7 SECTION 3. AMENDATORY 27A O.S. 2001, Section 2-15-103,
8 as amended by Section 4, Chapter 141, O.S.L. 2004 (27A O.S. Supp.
9 2008, Section 2-15-103), is amended to read as follows:

10 Section 2-15-103. For purposes of the Oklahoma Brownfields
11 Voluntary Redevelopment Act:

12 1. ~~"Applicant"~~ "Participant" means any person who or entity
13 which:

14 a. has acquired the ownership, operation, management, or
15 control of a site through foreclosure or under the
16 terms of a bona fide security interest in a mortgage
17 or lien on, or an extension of credit for, a
18 brownfields site and which forecloses on or receives
19 an assignment or deed in lieu of foreclosure or other
20 indicia of ownership and thereby becomes the owner of
21 a brownfield,

22 b. possesses a written expression of an interest to
23 purchase a brownfield and the ability to implement a
24 brownfield redevelopment proposal,

- 1 c. is the legal owner in fee simple of a brownfield,
2 d. is a tenant on or lessee of the brownfield site, or
3 e. is undertaking the remediation of a brownfield site;

4 2. "Brownfield" means an abandoned, idled or underused
5 industrial or commercial facility or other real property at which
6 expansion or redevelopment of the real property is complicated by
7 pollution;

8 3. "Certificate of Completion" means a document issued by the
9 Department of Environmental Quality pursuant to Section 2-15-106 of
10 this title upon a determination that ~~an applicant~~ a participant has
11 successfully completed agency-approved risk-based remediation. A
12 Certificate of Completion is not a permit as defined in Section 2-
13 14-103 of this title;

14 4. "Certificate of No Action Necessary" means a document issued
15 by the Department of Environmental Quality pursuant to Section 2-15-
16 106 of this title upon a determination that no remediation is deemed
17 necessary for the expansion or redevelopment of the property for a
18 planned use. A Certificate of No Action Necessary is not a permit
19 as defined in Section 2-14-103 of this title;

20 5. "Consent order" means an order entered into by the
21 Department of Environmental Quality and ~~an applicant~~ one or more
22 participants, binding ~~an applicant and the Department~~ the parties to
23 specified authorizations, activities, duties, obligations,
24 responsibilities and other requirements;

1 6. "Demonstrated pattern of uncorrected noncompliance" means a
2 history of noncompliance by the ~~applicant~~ participant with state or
3 federal environmental laws or rules or regulations promulgated
4 thereto, as evidenced by past operations clearly indicating a
5 reckless disregard for the protection of human health and safety, or
6 the environment;

7 7. "Land use disclosure" means the Certificate of Completion or
8 the Certificate of No Action Necessary, issued by the Department of
9 Environmental Quality, which is required to be filed in the office
10 of the county clerk of the county wherein the site is situated
11 pursuant to Section 2-15-107 of this title. The land use disclosure
12 shall include those items required in Section 2-7-123 of this title;

13 8. "Pollution" means the same as the term is defined in Section
14 2-1-102 of this title;

15 9. "Remediation" means activities necessary to clean up,
16 mitigate, correct, abate, minimize, eliminate, control and contain
17 pollution in compliance with a consent order from the Department of
18 Environmental Quality; ~~and~~

19 10. "Risk-based remediation" means site assessment or site
20 remediation, the timing, type, and degree of which are determined
21 according to case-by-case consideration of actual or potential risk
22 to human health and safety, or the environment from pollution of a
23 brownfield site; and

24

1 11. "Site characterization" means the collection of sampling
2 and non-sampling data to adequately delineate environmental
3 contamination on property and support the risk evaluation and
4 decision-making by the Department of Environmental Quality.

5 SECTION 4. AMENDATORY 27A O.S. 2001, Section 2-15-104,
6 is amended to read as follows:

7 Section 2-15-104. A. The Department of Environmental Quality
8 may establish and implement a voluntary redevelopment program for
9 brownfields. In administering the Oklahoma Brownfields Voluntary
10 Redevelopment Act, the Department shall:

11 a. ~~approve~~

12 1. Approve site-specific work plans for site characterization;

13 2. Approve site-specific remediation plans for each site as
14 necessary, using a risk-based system~~;~~;

15 b. ~~review~~

16 3. Review and inspect site ~~assessment~~ characterization and
17 remediation activities and reports~~;~~;

18 c. ~~use~~

19 4. Use risk-based remediation procedures as determined by the
20 agency to establish cleanup levels~~;~~;

21 d. ~~develop~~

22 5. Evaluate engineering and institutional controls for function
23 and performance;

1 6. Develop and implement rules and procedures for the review
2 and processing of Brownfields Voluntary Redevelopment project
3 applications for obtaining funds allocated to the state from the
4 Federal Clean Water Act and other state and federal funds available
5 for Brownfields Voluntary Redevelopment projects; and

6 7. Audit completed projects to ensure compliance with use
7 restrictions.

8 B. Any brownfields program established pursuant to the Oklahoma
9 Brownfields Voluntary Redevelopment Act shall be a voluntary
10 program.

11 C. No state governmental entity regulating any person or
12 institution shall require evidence of participation in the Oklahoma
13 Brownfields Voluntary Redevelopment Act.

14 D. The provisions of the Oklahoma Brownfields Voluntary
15 Redevelopment Act shall not apply to any person who is:

16 1. Responsible for taking corrective action on the real
17 property pursuant to orders or agreements issued by the federal
18 Environmental Protection Agency;

19 2. Not in substantial compliance with a final agency order or
20 any final order or judgment of a court of record secured by any
21 state or federal agency relating to the generation, storage,
22 transportation, treatment, recycling or disposal of regulated
23 substances; or

24 3. Has a demonstrated pattern of uncorrected noncompliance.

1 E. 1. The ~~Board of~~ Environmental Quality Board shall
2 promulgate rules necessary to implement the Oklahoma Brownfields
3 Voluntary Redevelopment Act.

4 2. The Department is specifically authorized to promulgate
5 emergency rules necessary pursuant to the Administrative Procedures
6 Act to implement the provisions of the Oklahoma Brownfields
7 Voluntary Redevelopment Act.

8 3. Such rules shall include but not be limited to provision for
9 ~~applications~~ work plans, consent orders, notice and public
10 participation opportunities, brownfield remediation plans and no
11 action necessary determinations issued by the Department.

12 SECTION 5. AMENDATORY 27A O.S. 2001, Section 2-15-105,
13 as amended by Section 5, Chapter 141, O.S.L. 2004 (27A O.S. Supp.
14 2008, Section 2-15-105), is amended to read as follows:

15 Section 2-15-105. A. ~~An applicant may apply~~ One or more
16 participants may submit a proposal to the Department of
17 Environmental Quality for ~~a consent order for~~ risk-based remediation
18 of a brownfield site or for a no action necessary determination.

19 B. The ~~application~~ proposal shall, as a minimum, include:

20 1. ~~A description of:~~

21 a. ~~the brownfield which is the subject of the application~~
22 ~~pursuant to the Oklahoma Brownfields Voluntary~~
23 ~~Redevelopment Act,~~

1 ~~b. the concentrations of contaminants in the soils,~~
2 ~~surface water, or groundwater at the site,~~

3 ~~c. the air releases which may occur during remediation of~~
4 ~~the site, and~~

5 ~~d. any monitoring of the brownfield which is to occur~~
6 ~~after issuance of the Certificate of Completion or~~
7 ~~Certificate of No Action Necessary;~~

8 ~~2. A remediation plan for remediating any pollution on the~~
9 ~~brownfield or a proposal that no action is necessary to remediate~~
10 ~~the brownfield considering the present levels of pollution at the~~
11 ~~site and the proposed future use of the property;~~

12 ~~3. The current and proposed use of groundwater on and near the~~
13 ~~site;~~

14 ~~4. The operational history of the site and the current use of~~
15 ~~areas contiguous to the site;~~

16 ~~5. The present and proposed uses of the site;~~

17 ~~6. Information concerning the nature and extent of any~~
18 ~~contamination caused by pollution at the site and any possible~~
19 ~~impacts on areas contiguous to the site;~~

20 ~~7. Any analytical results from a laboratory certified by the~~
21 ~~Department of Environmental Quality or other data which~~
22 ~~characterizes the soil, groundwater or surface water on the site,~~
23 ~~and~~

1 ~~8. An analysis of the human and environmental pathways to~~
2 ~~exposure from pollution at the site based upon the property's future~~
3 ~~use as proposed by the applicant~~ A site characterization, including:

- 4 a. site description and historical information about the
5 former uses of the property, including any past
6 environmental permits issued for the site,
- 7 b. analytical results from a laboratory certified by the
8 Department or other data which characterize the soil,
9 groundwater or surface water at the site,
- 10 c. information concerning the nature and extent of any
11 contamination caused by pollution at the site and any
12 possible impacts on areas contiguous to the site,
- 13 d. delineation of contaminants on the property and their
14 concentrations and depths,
- 15 e. delineation of potential off-site migration of
16 contaminants,
- 17 f. identification of pertinent environmental conditions
18 on the site and in the region,
- 19 g. identification of groundwater, surface water, and
20 other environmental resources and uses in the area,
- 21 h. identification of potential exposure pathways and
22 potential receptors,
- 23 i. identification of adjacent property uses,

1 j. an accurate metes and bounds legal description of the
2 property,

3 k. latitude and longitude of the main entrance,

4 l. statistically relevant background environmental media
5 samples or peer-reviewed published background data,
6 and

7 m. any data the Department believes is relevant to the
8 reuse of the property;

9 2. The current and proposed uses of the property;

10 3. An analysis of the human and environmental pathways to
11 exposure from pollution at the site based on the future use of the
12 property as proposed by the participant;

13 4. Alternatives for cleanup, if remediation is planned;

14 5. Potential for redevelopment to impact the remedy;

15 6. A plan for any after-action monitoring or maintenance of the
16 brownfield which is to occur after issuance of the Certificate of
17 Completion or Certificate of No Action Necessary;

18 7. Any engineering or institutional controls necessary to
19 protect the remedy over time and plans for financial assurance for
20 the controls to remain in effect;

21 8. A plan for remediating any pollution on the brownfield or a
22 proposal that no remedial action is necessary considering the
23 present level of contamination and the proposed future use of the
24 property;

1 9. A long-term management plan for any on-site disposal
2 facilities; and

3 10. The current and proposed use of groundwater on and near the
4 site.

5 C. Remediation or proposal for a no action necessary
6 determination shall be based on the potential risk to human health
7 and safety and to the environment posed by the pollution at the
8 site, considering the following factors:

9 1. The proposed use of the brownfield;

10 2. The possibility of movement of the pollution in a form and
11 manner which would result in exposure to humans and to the
12 surrounding environment at levels which exceed ~~applicable standards~~
13 calculated site-specific cleanup levels or, if off-site, applicable
14 standards, or which represent an unreasonable risk to human health
15 and safety, or the environment as determined by the Department; and

16 3. The potential risks associated with the remediation proposal
17 or no action necessary determination and the economic and technical
18 feasibility and reliability of such proposal or determination.

19 SECTION 6. AMENDATORY 27A O.S. 2001, Section 2-15-106,
20 as amended by Section 6, Chapter 141, O.S.L. 2004 (27A O.S. Supp.
21 2008, Section 2-15-106), is amended to read as follows:

22 Section 2-15-106. A. The Department of Environmental Quality
23 is not authorized to hold any public meeting or hearing to require
24 information, make any determination, or in any manner consider the

1 zoning or rezoning for any proposed redevelopment of a site. The
2 Department shall assume that any proposed redevelopment of the site
3 meets or will meet any zoning requirements.

4 B. The Department may reject or return ~~an application~~ a
5 proposal if:

- 6 1. A federal requirement precludes the eligibility of the site;
- 7 2. The ~~application~~ proposal is not complete and accurate; or
- 8 3. The ~~applicant~~ participant is ineligible under the provisions
9 of the Oklahoma Brownfields Voluntary Redevelopment Act or any rules
10 promulgated pursuant thereto.

11 C. The Department may enter into a consent order with the
12 ~~applicant~~ participant for characterization and remediation of a site
13 if the Department concludes that the remediation will:

- 14 1. Attain a degree of control of pollution pursuant to the
15 Oklahoma Brownfields Voluntary Redevelopment Act, other applicable
16 Department rules and standards, and all applicable state and federal
17 laws as determined by the Department; and
- 18 2. For constituents not governed by paragraph 1 of this
19 subsection, reduce concentrations such that the property does not
20 present an unreasonable risk, as determined by the Department, to
21 human health and safety or to the environment based upon the
22 property's proposed use.

23 D. The Department may make a no action necessary determination
24 if the ~~application~~ proposal as required by the Oklahoma Brownfields

1 Voluntary Redevelopment Act indicates the existence of pollution
2 which, given the proposed use of the property, does not pose an
3 unreasonable risk to human health and safety or to the environment
4 as determined by the Department.

5 E. The consent order and the no action determination apply only
6 to conditions caused by pollution on the property, to applicable
7 state or federal laws and to applicable rules and standards
8 promulgated by the ~~Board of~~ Environmental Quality Board that existed
9 at the time of submission of the ~~application~~ proposal.

10 F. If ~~an application~~ a proposal is disapproved by the
11 Department, the Department shall promptly provide the ~~applicant~~
12 participant with a formal written statement of the reasons for such
13 denial.

14 G. 1. If the Department determines that the ~~applicant~~
15 participant has successfully completed the requirements specified by
16 the consent order, the Department shall certify the completion by
17 issuing to the ~~applicant~~ participant a Certificate of Completion.
18 The certificate shall list the use specified in the consent order
19 for the site and shall comply with Section 2-7-123 of this title.

20 The certificate shall also include provisions stating that:

21 a. the Department shall not pursue administrative
22 penalties and civil actions against the ~~applicant~~
23 participant, lenders, lessees, and successors and
24

- 1 assigns associated with actions taken to remediate
2 pollution which is the subject of the consent order,
- 3 b. the ~~applicant~~ participant and all lenders, lessees,
4 and successors and assigns shall not be subject to
5 civil liability with regard to the remedial actions
6 taken by the ~~applicant~~ participant for pollution, as
7 required by the consent order if the remedial action
8 is not performed in a reckless or negligent manner,
- 9 c. no person responsible for pollution who has not
10 participated in the voluntary remediation process
11 shall be released from any liability, and
- 12 d. the Certificate of Completion shall remain effective
13 as long as the property is in substantial compliance
14 with the consent order, Certificate of Completion and
15 any institutional controls placed on the property.

16 2. If the Department determines that no remediation action is
17 deemed necessary for the site, the Department shall issue the
18 ~~applicant~~ participant a Certificate of No Action Necessary. The
19 certificate shall list the use specified in the ~~application~~ proposal
20 for the site. The certificate shall also include provisions stating
21 that:

- 22 a. the Department shall not pursue any administrative
23 penalties or civil actions against the ~~applicant~~
24 participant, lenders, lessees, and successors and

1 assigns associated with the determination that no
2 action is necessary to remediate the pollution which
3 is the subject of the certificate,

4 b. the ~~applicant~~ participant and all lenders, lessees,
5 and successors and assigns shall not be subject to
6 civil liability with regard to the determination that
7 no action is necessary to remediate the site,

8 c. no person responsible for pollution who has not
9 participated in the ~~application~~ proposal process for a
10 no action necessary determination shall be released
11 from any liability,

12 d. the Certificate of No Action Necessary shall remain
13 effective as long as the site is in substantial
14 compliance with the certificate and any institutional
15 controls placed on the property as determined by the
16 Department, and

17 e. the issuance of the Certificate of No Action Necessary
18 shall not be construed or relied upon in any manner as
19 a determination by the Department that the brownfield
20 has not been or is not environmentally polluted.

21 H. The Department shall keep and maintain a copy of the
22 ~~application~~ proposal, work plan, consent order, any other
23 correspondence, record, authorization, and report received by the
24 Department, and an official copy of the Certificate of Completion or

1 the Certificate of No Action Necessary pursuant to the provisions of
2 the Oklahoma Brownfields Voluntary Redevelopment Act relating to the
3 site in an accessible location.

4 I. Chapter 10A of Title 67 of the Oklahoma Statutes shall not
5 apply to any records or copies required to be kept and maintained
6 pursuant to this section.

7 SECTION 7. AMENDATORY 27A O.S. 2001, Section 2-15-107,
8 is amended to read as follows:

9 Section 2-15-107. A. 1. All land use disclosures shall be
10 filed in the land records by the ~~applicant~~ participant in the office
11 of the county clerk where the site is located.

12 2. Within thirty (30) days of receipt of the Certificate of
13 Completion or the Certificate of No Action Necessary, the ~~applicant~~
14 participant shall submit to the Department of Environmental Quality
15 an official copy of the land use disclosure filed with the county
16 clerk in the county in which the site is located.

17 3. Failure to record the land use disclosure with the county
18 clerk and submit the official copy to the Department as required by
19 this section shall render the Certificate of Completion or
20 Certificate of No Action Necessary voidable.

21 B. Whoever knowingly converts, develops or uses a brownfield
22 site in violation of an authorized use as specified in the land use
23 disclosure shall be deemed guilty of a misdemeanor and, upon
24 conviction thereof, shall be punishable by a fine of not more than

1 One Thousand Dollars (\$1,000.00), imprisonment in the county jail
2 for not more than one (1) year, or both such fine and imprisonment.
3 Each day such violation continues shall be considered a separate
4 offense.

5 SECTION 8. AMENDATORY 27A O.S. 2001, Section 2-15-108,
6 as last amended by Section 5, Chapter 381, O.S.L. 2004 (27A O.S.
7 Supp. 2008, Section 2-15-108), is amended to read as follows:

8 Section 2-15-108. A. 1. The Department of Environmental
9 Quality shall not assess against ~~an applicant~~ a participant
10 administrative penalties or pursue civil actions associated with the
11 pollution which is the subject of the consent order or no action
12 necessary determination if:

- 13 a. the ~~applicant~~ participant is in compliance with the
14 consent order during remediation or with the
15 Certificate of No Action Necessary, and
- 16 b. the ~~applicant~~ participant is in compliance with any
17 post-certification conditions or requirements
18 specified in the consent order.

19 2. After issuance of the Certificate of Completion or
20 Certificate of No Action Necessary, the Department shall not assess
21 administrative penalties or pursue civil actions regarding the
22 pollution which is the subject of the consent order or no action
23 necessary determination against any lender, lessee, or successor or
24 assign if the lender, lessee, or successor or assign is in

1 compliance with any post-certification conditions or requirements as
2 specified in the consent order or Certificate of No Action
3 Necessary.

4 B. 1. Failure of the ~~applicant~~ participant and any lenders,
5 lessees, or successors or assigns to materially comply with the
6 consent order entered into pursuant to the Oklahoma Brownfields
7 Voluntary Redevelopment Act shall render the consent order or the
8 Certificate of Completion or the Certificate of No Action Necessary
9 voidable.

10 2. Submission of any false or materially misleading information
11 by the ~~applicant~~ participant knowing such information to be false or
12 misleading shall render the consent order, Certificate of
13 Completion, or Certificate of No Action Necessary voidable.

14 C. 1. An ~~applicant~~ participant to whom a Certificate of
15 Completion or a Certificate of No Action Necessary has been issued
16 pursuant to the Oklahoma Brownfields Voluntary Redevelopment Act and
17 such ~~applicant's~~ participant's lenders, lessees, or successors or
18 assigns or any other person, this state or a local political
19 subdivision thereof or any other legal entity ~~purchasing~~ acquiring,
20 in good faith, the property which was subject to the Oklahoma
21 Brownfields Voluntary Redevelopment Act shall not be subject to
22 civil liability regarding the pollution which was the subject of the
23 consent order or certificate if the ~~applicant~~ participant is in
24

1 compliance with any post-certification conditions or requirements
2 specified in the consent order or certificate.

3 2. Except as otherwise provided in this subsection, nothing in
4 the Oklahoma Brownfields Voluntary Redevelopment Act shall be
5 construed to limit or negate any other rights of any person from
6 pursuing or receiving legal or equitable relief from the ~~applicant~~
7 participant or any other person or legal entity causing or
8 contributing to the pollution.

9 3. In those cases where ~~an applicant~~ a participant conducts a
10 voluntary remediation in conjunction with a party responsible for
11 the pollution, the responsible party shall also be released from
12 liability to the same extent as the ~~applicant~~ participant.

13 D. The release of liability from administrative penalties and
14 any civil actions authorized by the Oklahoma Brownfields Voluntary
15 Redevelopment Act shall not apply to:

16 1. Any pollution and consequences thereof that the ~~applicant~~
17 participant causes or has caused outside the scope of the consent
18 order or the certificate issued by the Department;

19 2. Any pollution caused or resulting from any subsequent
20 redevelopment of the property;

21 3. Existing pollution not addressed prior to issuance of the
22 Certificate of Completion or the Certificate of No Action Necessary;
23 or

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1 4. Any person responsible for pollution who has not
2 participated in the voluntary remediation.

3 SECTION 9. AMENDATORY 27A O.S. 2001, Section 2-15-109,
4 is amended to read as follows:

5 Section 2-15-109. A. The Department of Environmental Quality
6 may require the ~~applicant~~ participant to reimburse the Department
7 for reasonable costs ~~described in the consent order~~ for the review
8 and oversight of any remediation, reports, field activities or other
9 services or duties of the Department pursuant to the Oklahoma
10 Brownfields Voluntary Redevelopment Act which are performed by the
11 Department prior to the issuance of the Certificate of Completion or
12 the Certificate of No Action Necessary, ~~unless otherwise authorized~~
13 ~~by the consent order.~~

14 B. The Department may require the participant to reimburse the
15 Department for reasonable costs for expenses incurred in auditing
16 completed projects to ensure compliance with use restrictions in the
17 Certificate.

18 SECTION 10. AMENDATORY 27A O.S. 2001, Section 2-15-110,
19 is amended to read as follows:

20 Section 2-15-110. A. Except as otherwise specified by this
21 section, any ~~application for remediation of a site submitted to the~~
22 ~~Department of Environmental Quality prior to the effective date of~~
23 ~~this act which results in a consent order, and any consent order~~
24 issued by the Department of Environmental Quality prior to the

1 effective date of this act meeting the conditions and requirements
2 established by the Department or as otherwise determined by the
3 Department to be in compliance for such site is hereby ratified.

4 B. Any person who has entered into a consent order with the
5 Department pursuant to this section may continue to rely upon the
6 consent order if the person has accepted the conditions of and in
7 other respects complies with the requirements so established and
8 with the provisions of the consent order as determined by the
9 Department.

10 C. Any benefits and releases of liability from administrative
11 penalties and from civil action as provided by the Oklahoma
12 Brownfields Voluntary Redevelopment Act shall apply and be made part
13 of the ~~consent order~~ Certificate of Completion or Certificate of No
14 Action Necessary.

15 D. The provisions of this section shall apply only to
16 ~~applications made and/or~~ consent orders issued after January 1,
17 1988.

18 SECTION 11. This act shall become effective July 1, 2009.

19 SECTION 12. It being immediately necessary for the preservation
20 of the public peace, health and safety, an emergency is hereby
21 declared to exist, by reason whereof this act shall take effect and
22 be in full force from and after its passage and approval.

23

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

2
3 _____
4 Presiding Officer of the Senate

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

7
8 _____
9 Presiding Officer of the House
10 of Representatives