

ENROLLED SENATE
BILL NO. 349

By: Myers of the Senate

and

Richardson of the House

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

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

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

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

B. The Department shall file or cause to be filed a recordable notice of remediation or related action taken pursuant to the federal Comprehensive Environmental Response, Compensation and

Liability Act in the land records of the county in which the site is located. The notice shall contain a legal description of the affected property and shall identify all engineering controls used to ensure the effectiveness of the remediation.

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

D. The notices required in subsections B and C of this section shall also contain a prohibition against engaging in any activities that cause or could cause damage to the remediation or the engineering controls, or recontamination of the soil or groundwater. The notices shall also contain any appropriate restrictions on land use or other activities that are incompatible with the cleanup level, including, but not limited to, restrictions against increasing the amount or extent of contamination or using groundwater for drinking or irrigation purposes or redeveloping the land for residential use. Any person who damages or interferes with the remediation, the engineering controls, or continuing operation, maintenance or monitoring of the site or who increases the amount or extent of contamination is liable to repair the damage ~~or~~, remedy the interference, or remediate the contamination, or for costs incurred by the Department in doing so. The Department may take administrative or civil action to recover costs or to compel compliance with this subsection, including but not limited to administrative penalties pursuant to the Oklahoma Hazardous Waste Management Act.

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

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

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

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

Presiding Officer of the Senate

Passed the House of Representatives the 30th day of March, 2009.

Presiding Officer of the House
of Representatives