

THE HOUSE OF REPRESENTATIVES  
Thursday, March 19, 2009

ENGROSSED

Senate Bill No. 349

ENGROSSED 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:

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

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

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

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

12 D. The notices required in subsections B and C of this section shall also contain a  
13 prohibition against engaging in any activities that cause or could cause damage to the  
14 remediation or the engineering controls, or recontamination of the soil or groundwater.  
15 The notices shall also contain any appropriate restrictions on land use or other activities  
16 that are incompatible with the cleanup level, including, but not limited to, restrictions  
17 against increasing the amount or extent of contamination or using groundwater for  
18 drinking or irrigation purposes or redeveloping the land for residential use. Any person  
19 who damages or interferes with the remediation, the engineering controls, or continuing  
20 operation, maintenance or monitoring of the site or who increases the amount or extent  
21 of contamination is liable to repair the damage ~~or~~, remedy the interference, or remediate  
22 the contamination, or for costs incurred by the Department in doing so. The Department

1 may take administrative or civil action to recover costs or to compel compliance with this  
2 subsection, including but not limited to administrative penalties pursuant to the  
3 Oklahoma Hazardous Waste Management Act.

4 E. Any notice filed pursuant to this section shall run with the land. It may not be  
5 extinguished, limited, or impaired by application of the provisions of Section 71 through  
6 85 of Title 16 of the Oklahoma Statutes or the Uniform Unclaimed Property Act.

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

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

11 COMMITTEE REPORT BY: COMMITTEE ON AGRICULTURE AND RURAL  
12 DEVELOPMENT, dated 03-18-09 - DO PASS.