

3 Senate Bill No. 349

4 SENATE BILL NO. 349 - By: Myers of the Senate and Richardson of the  
5 House.

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

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

16 SECTION 1. AMENDATORY 27A O.S. 2001, Section 2-7-123, as  
17 last amended by Section 25, Chapter 1, O.S.L. 2005 (27A O.S. Supp.  
18 2008, Section 2-7-123), is amended to read as follows:

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

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

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

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

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

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

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

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

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

18 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 2-3-09 - DO PASS,  
19 As Coauthored.