

BILL ANALYSIS

S.B. 485
By: Armbrister
Environmental Regulation
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Under current law, remediation of a petroleum storage tank site is required to be completed by September 2005 to be eligible for reimbursement from the petroleum storage tank remediation account. However there are approximately 2,000 petroleum storage tank sites still being cleaned up today. The majority of these will not make the September 1, 2005 deadline because of circumstances outside the owner's control. For example, there are over 350 sites above the Ogallala aquifer in West Texas where corrective action activities have taken longer and are more expensive because of the depth to groundwater. In addition, one of the largest contractors who performs the remediations went bankrupt. This bill extends the program's deadline. The extension of the program will be funded from the existing fee currently paid by distributors of motor fuel when they remove motor fuel from a terminal.

Under current law transporters of motor fuel are held responsible for depositing motor fuel into underground storage tanks which do not have a valid TCEQ issued delivery certificate. Because deliveries often occur at night when most retail facilities are closed, carriers are often unable to verify these certificates each time they deliver motor fuel to a retail location. Senate Bill 485 provides clarification as to who is responsible for verifying certificates by specifying that the owner or operator commits an offense for not providing the certificate.

Additionally, the bill clarifies cleanup standards to provide that contamination found in the backfill material surrounding a storage tank that does not indicate a major contamination need not trigger a full-scale remediation of the site.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

Senate Bill 485 amends the Water Code to remove language that makes it an offense to physically deliver a regulated substance into an underground storage tank regulated under water quality control provisions of the Water Code. The bill provides that an owner or operator of an underground storage tank may comply with certification statutes by obtaining a current copy of the certificate from the Internet website of the Texas Commission on Environmental Quality (TCEQ). This bill clarifies that the owner or operator of an underground storage tank, rather than "a person", commits a violation under provisions relating to the duty to ensure certification of a tank before delivery of a regulated substance.

The bill amends the deadlines for performing corrective action in response to a release from an underground or aboveground storage tank. The bill provides that a site close request must be submitted by September 1, 2007 for a site that requires either a corrective action plan or groundwater monitoring that has met all other deadlines, that have submitted annual progress reports that demonstrate progress toward meeting closure requirements.

The bill provides that the owner or operator of an underground or aboveground storage tank from which a regulated substance is released is liable to the state unless the site at which the release occurred has been admitted into the petroleum storage tank state-lead program.

The bill removes language that set a schedule for the percentages of the money in the petroleum storage tank remediation account could be used for administration of the petroleum storage tank remediation account and the groundwater protection cleanup program. The bill sets forth provisions under which the Executive Director of the TCEQ is required to grant an extensions for corrective action reimbursement and requirements for the owner or operator to perform the corrective action. The bill extends from 2006 to 2008, the petroleum storage tank corrective action reimbursement program for those who are already participating in the program.

The bill provides that the definition of subsurface soil does not include backfill material unless free phase petroleum product is present in the backfill material.

EFFECTIVE DATE

September 1, 2005