

BILL ANALYSIS

C.S.H.B. 3554
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Environmental Regulation
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Under current law, remediation of a petroleum storage tank site is required to be completed by September 2007 to be eligible for reimbursement from the petroleum storage tank remediation account. However, there are approximately 1,500 petroleum storage tank sites still being cleaned up today. The majority of these will not make the September 1, 2007 deadline because of circumstances outside the owner's control. For example, there are still several 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 to September 2011.

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. In addition, CSHB 3554 will adjust the current fee that is in place.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Commission on Environmental Quality in SECTION 1 of this bill.

ANALYSIS

CSHB 3554 amends the Water Code to require the TCEQ to use risk-based corrective action, rather than adopting rules to establish requirements, for taking corrective action in response to a release from an underground or aboveground storage tank. The bill moves the deadline for submitting a request for site closure to the executive director of TCEQ from September 1, 2007 to September 1, 2011. The bill requires the TCEQ to adopt rules to define "risk-based corrective action".

The bill extends the deadline for corrective action to be eligible for petroleum storage tank remediation account reimbursement from August 31, 2007 to August 31, 2011 and extends the deadline for applying to have the site placed in the state-lead program from July 1, 2007 to July 1, 2011. This bill changes the deadline for submitting a reimbursement claim with the TCEQ from March 1, 2008 to March 1, 2012.

The bill adjusts the fee imposed on the withdrawal of a petroleum product from bulk storage. The fee will be charged per delivery according to the following schedule:

<i>Per delivery fee</i>	<i>Cargo storage tank capacity in gallons</i>
\$3.75	less than 2,500 gallons
\$7.50	2,500 - 5,000 gallons
\$11.75	5,000 - 8,000 gallons
\$7.50	for each increment of 5,000 gallons for a tank with greater than 10,000 gallon capacity

The fee will be charged for the state fiscal year beginning September 1, 2007 through the state fiscal year ending August 31, 2011.

CSHB 3554 authorizes, rather than requires, the TCEQ to impose an annual facility fee on a facility that operates a petroleum storage tank if fees in Section 26.3574, Water Code, are discontinued.

The bill changes the expiration date of the reimbursement program from September 1, 2008 to September 1, 2012.

EFFECTIVE DATE

Changes to section 26.3573(r-1), Water Code take effect upon passage, or, if the Act does not receive the necessary vote, these changes take effect August 27, 2007. Other portions of the Act take effect September 1, 2007.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The substitute requires the TCEQ to use risk-based corrective action for taking corrective action in response to a release from an underground or aboveground storage tank. The substitute requires the TCEQ to adopt rules to define "risk-based behavior".

The substitute amends the following dates:

- Deadline for submitting a request for site closure to the executive director of TCEQ;
- Deadline for corrective action to be eligible for petroleum storage tank remediation account reimbursement;
- Deadline for applying to have the site placed in the state-lead program;
- Deadline for submitting a reimbursement claim with the TCEQ;
- Expiration date of the reimbursement program.

The substitute adjusts the fees imposed on the person who orders the withdrawal of petroleum product from bulk. The substitute also removes the phrase "every fiscal year thereafter" and adds the end date of August 31, 2011. The substitute authorizes the TCEQ to impose an annual facility fee if the fees charged under Section 26.3574 is discontinued.

The substitute amends the effective date.