

AN ACT

relating to the program for the regulation and remediation of underground and aboveground storage tanks.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 26.351, Water Code, is amended by amending Subsections (a) and (f) and adding Subsection (i) to read as follows:

(a) The commission shall use risk-based corrective action ~~[adopt rules establishing the requirements]~~ for taking corrective action in response to a release from an underground or aboveground storage tank. Corrective action may include:

(1) site cleanup, including the removal, treatment, and disposal of surface and subsurface contamination;

(2) removal of underground or aboveground storage tanks;

(3) measures to halt a release in progress or to prevent future or threatened releases of regulated substances;

(4) well monitoring, taking of soil borings, and any other actions reasonably necessary to determine the extent of contamination caused by a release;

(5) providing alternate water supplies; and

(6) any other action reasonably necessary to protect the public health and safety or the environment from harm or threatened harm due to releases of regulated substances from

1 underground or aboveground storage tanks.

2 (f) The person performing corrective action under this  
3 section, if the release was reported to the commission on or before  
4 December 22, 1998, shall meet the following deadlines:

5 (1) a complete site assessment and risk assessment  
6 (including, but not limited to, risk-based criteria for  
7 establishing target concentrations), as determined by the  
8 executive director, must be received by the agency no later than  
9 September 1, 2002;

10 (2) a complete corrective action plan, as determined  
11 by the executive director and including, but not limited to,  
12 completion of pilot studies and recommendation of a cost-effective  
13 and technically appropriate remediation methodology, must be  
14 received by the agency no later than September 1, 2003. The person  
15 may, in lieu of this requirement, submit by this same deadline a  
16 demonstration that a corrective action plan is not required for the  
17 site in question under commission rules. Such demonstration must  
18 be to the executive director's satisfaction;

19 (3) for those sites found under Subdivision (2) to  
20 require a corrective action plan, that plan must be initiated and  
21 proceeding according to the requirements and deadlines in the  
22 approved plan no later than March 1, 2004;

23 (4) for sites which require either a corrective action  
24 plan or groundwater monitoring, a comprehensive and accurate annual  
25 status report concerning those activities must be submitted to the  
26 agency;

27 (5) for sites which require either a corrective action

1 plan or groundwater monitoring, all deadlines set by the executive  
2 director concerning the corrective action plan or approved  
3 groundwater monitoring plan shall be met; and

4 (6) for sites that require either a corrective action  
5 plan or groundwater monitoring, have met all other deadlines under  
6 this subsection, and have submitted annual progress reports that  
7 demonstrate progress toward meeting closure requirements, a site  
8 closure request must be submitted to the executive director no  
9 later than September 1, 2011 [~~2007~~]. The request must be complete,  
10 as judged by the executive director.

11 (i) The commission shall by rule define "risk-based  
12 corrective action" for purposes of this section.

13 SECTION 2. Sections 26.3573(d), (e), (r-1), and (s), Water  
14 Code, are amended to read as follows:

15 (d) The commission may use the money in the petroleum  
16 storage tank remediation account to pay:

17 (1) necessary expenses associated with the  
18 administration of the petroleum storage tank remediation account  
19 and the groundwater protection cleanup program;

20 (2) expenses associated with investigation, cleanup,  
21 or corrective action measures performed in response to a release or  
22 threatened release from a petroleum storage tank, whether those  
23 expenses are incurred by the commission or pursuant to a contract  
24 between a contractor and an eligible owner or operator as  
25 authorized by this subchapter; [~~and~~]

26 (3) subject to the conditions of Subsection (f) [~~(e)~~],  
27 expenses associated with investigation, cleanup, or corrective

1 action measures performed in response to a release or threatened  
2 release of hydraulic fluid or spent oil from hydraulic lift systems  
3 or tanks located at a vehicle service and fueling facility and used  
4 as part of the operations of that facility; and

5 (4) expenses associated with assuring compliance with  
6 the commission's applicable underground or aboveground storage  
7 tank administrative and technical requirements, including  
8 technical assistance and support, inspections, enforcement, and  
9 the provision of matching funds for grants.

10 (e) To consolidate appropriations, the commission may  
11 transfer from the petroleum storage tank remediation account to the  
12 waste management account an amount equal to the amounts authorized  
13 under Subsections [~~Subsection~~] (d)(1) and (4), subject to the  
14 requirements of those subsections [~~that subsection~~].

15 (r-1) In this subsection, "state-lead program" means the  
16 petroleum storage tank state-lead program administered by the  
17 commission. The executive director shall grant an extension for  
18 corrective action reimbursement to a person who is an eligible  
19 owner or operator under Section 26.3571. The petroleum storage  
20 tank remediation account may be used to reimburse an eligible owner  
21 or operator for corrective action performed under an extension  
22 before August 31, 2011 [~~2007~~]. Not later than July 1, 2011 [~~2007~~],  
23 an eligible owner or operator who is granted an extension under this  
24 subsection may apply to the commission in writing using a form  
25 provided by the commission to have the site subject to corrective  
26 action placed in the state-lead program. The eligible owner or  
27 operator must agree in the application to allow site access to state

1 personnel and state contractors as a condition of placement in the  
2 state-lead program under this subsection. On receiving the  
3 application for placement in the state-lead program under this  
4 subsection, the executive director by order shall place the site in  
5 the state-lead program until the corrective action is completed to  
6 the satisfaction of the commission. An eligible owner or operator  
7 of a site that is placed in the state-lead program under this  
8 subsection is not liable to the commission for any costs related to  
9 the corrective action.

10 (s) The petroleum storage tank remediation account may not  
11 be used to reimburse any person for corrective action contained in a  
12 reimbursement claim filed with the commission after March 1, 2012  
13 [~~2008~~].

14 SECTION 3. Section 26.3574(b), Water Code, is amended to  
15 read as follows:

16 (b) A fee is imposed on the delivery of a petroleum product  
17 on withdrawal from bulk of that product as provided by this  
18 subsection. Each operator of a bulk facility on withdrawal from  
19 bulk of a petroleum product shall collect from the person who orders  
20 the withdrawal a fee in an amount determined as follows:

21 (1) \$3.75 [~~\$12.50~~] for each delivery into a cargo tank  
22 having a capacity of less than 2,500 gallons for the state fiscal  
23 year beginning September 1, 2007 [~~2001, and the state fiscal year~~  
24 ~~beginning September 1, 2002, and \$10.00 for each delivery into a~~  
25 ~~cargo tank having a capacity of less than 2,500 gallons for the~~  
26 ~~state fiscal year beginning September 1, 2003~~], through the state  
27 fiscal year ending August 31, 2011 [~~2007~~];

1           (2) \$7.50 [~~\$25.00~~] for each delivery into a cargo tank  
2 having a capacity of 2,500 gallons or more but less than 5,000  
3 gallons for the state fiscal year beginning September 1, 2007  
4 [~~2001, and the state fiscal year beginning September 1, 2002, and~~  
5 ~~\$20.00 for each delivery into a cargo tank having a capacity of~~  
6 ~~2,500 gallons or more but less than 5,000 gallons for the state~~  
7 ~~fiscal year beginning September 1, 2003], through the state fiscal~~  
8 year ending August 31, 2011 [~~2007~~];

9           (3) \$11.75 [~~\$37.50~~] for each delivery into a cargo  
10 tank having a capacity of 5,000 gallons or more but less than 8,000  
11 gallons for the state fiscal year beginning September 1, 2007  
12 [~~2001, and the state fiscal year beginning September 1, 2002, and~~  
13 ~~\$30.00 for each delivery into a cargo tank having a capacity of~~  
14 ~~5,000 gallons or more but less than 8,000 gallons for the state~~  
15 ~~fiscal year beginning September 1, 2003], through the state fiscal~~  
16 year ending August 31, 2011 [~~2007~~];

17           (4) \$15.00 [~~\$50.00~~] for each delivery into a cargo  
18 tank having a capacity of 8,000 gallons or more but less than 10,000  
19 gallons for the state fiscal year beginning September 1, 2007  
20 [~~2001, and the state fiscal year beginning September 1, 2002, and~~  
21 ~~\$40.00 for each delivery into a cargo tank having a capacity of~~  
22 ~~8,000 gallons or more but less than 10,000 gallons for the state~~  
23 ~~fiscal year beginning September 1, 2003], through the state fiscal~~  
24 year ending August 31, 2011 [~~2007~~]; and

25           (5) \$7.50 [~~a \$25.00 fee~~] for each increment of 5,000  
26 gallons or any part thereof delivered into a cargo tank having a  
27 capacity of 10,000 gallons or more for the state fiscal year

1 beginning September 1, 2007 [~~2001, and the state fiscal year~~  
2 ~~beginning September 1, 2002; and \$20.00 for each increment of 5,000~~  
3 ~~gallons or any part thereof delivered into a cargo tank having a~~  
4 ~~capacity of 10,000 gallons or more for the state fiscal year~~  
5 ~~beginning September 1, 2003], through the state fiscal year ending  
6 August 31, 2011 [~~2007~~].~~

7 SECTION 4. Sections 26.358(d), (f), and (g), Water Code,  
8 are amended to read as follows:

9 (d) The commission shall impose an annual facility fee on a  
10 facility that operates one or more underground or aboveground  
11 storage tanks if the fee charged under Section 26.3574 is  
12 discontinued. The commission may also impose reasonable interest  
13 and penalties for late payment of the fee as provided by commission  
14 rule. The commission may establish a fee schedule that will  
15 generate an amount of money sufficient to fund the commission's  
16 budget for the regulatory program regarding underground and  
17 aboveground storage tanks authorized by this subchapter.

18 (f) The amount of an [~~maximum~~] annual fee that the  
19 commission may impose on a facility under Subsection (d) is equal to  
20 the amount set by the commission [~~is \$25~~] for each aboveground  
21 storage tank and [~~\$50~~] for each underground storage tank operated  
22 at the facility.

23 (g) The commission shall collect any [~~the~~] fees imposed  
24 under this section on dates set by commission rule. The period  
25 between collection dates may not exceed two years.

26 SECTION 5. Section 26.361, Water Code, is amended to read as  
27 follows:

1           Sec. 26.361. EXPIRATION       OF       REIMBURSEMENT       PROGRAM.  
2   Notwithstanding any other provision of this subchapter, the  
3   reimbursement program established under this subchapter expires  
4   September 1, 2012 [~~2008~~]. On or after September 1, 2012 [~~2008~~], the  
5   commission may not use money from the petroleum storage tank  
6   remediation account to reimburse an eligible owner or operator for  
7   any expenses of corrective action or to pay the claim of a person  
8   who has contracted with an eligible owner or operator to perform  
9   corrective action.

10           SECTION 6. Notwithstanding any other provision of this Act,  
11   Section 26.3573(r-1), Water Code, as amended by this Act, takes  
12   effect immediately if this Act receives a vote of two-thirds of all  
13   the members elected to each house, as provided by Section 39,  
14   Article III, Texas Constitution. If this Act does not receive the  
15   vote necessary for immediate effect, Section 26.3573(r-1), Water  
16   Code, as amended by this Act, takes effect August 27, 2007.



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President of the Senate

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Speaker of the House

I certify that H.B. No. 3554 was passed by the House on May 8, 2007, by the following vote: Yeas 146, Nays 0, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 3554 on May 25, 2007, by the following vote: Yeas 133, Nays 0, 2 present, not voting.

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Chief Clerk of the House

I certify that H.B. No. 3554 was passed by the Senate, with amendments, on May 23, 2007, by the following vote: Yeas 30, Nays 0.

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Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

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Governor