

House Bill 3554
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

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 underground or aboveground storage tanks.

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

- (1) a complete site assessment and risk assessment (including, but not limited to, risk-based criteria for establishing target concentrations), as determined by the executive director, must be received by the agency no

SENATE VERSION

Same as House version.

CONFERENCE

House Bill 3554
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION

CONFERENCE

later than September 1, 2002;

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

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

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

(5) for sites which require either a corrective action plan or groundwater monitoring, all deadlines set by the executive director concerning the corrective action plan or approved groundwater monitoring plan shall be met; and

(6) for sites that require either a corrective action plan or groundwater monitoring, have met all other deadlines under this subsection, and have submitted annual progress reports that demonstrate progress toward meeting closure requirements, a site closure request must

House Bill 3554
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

be submitted to the executive director no later than September 1, 2011 [~~2007~~]. The request must be complete, as judged by the executive director.

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

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

SENATE VERSION

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

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

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

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

(3) subject to the conditions of Subsection (f) [~~(e)~~], expenses associated with investigation, cleanup, or corrective action measures performed in response to a release or threatened release of hydraulic fluid or spent oil from hydraulic lift systems or tanks located at a vehicle service and fueling facility and used as part of the operations of that facility; and

(4) expenses associated with assuring compliance with

CONFERENCE

House Bill 3554
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION

CONFERENCE

(r-1) In this subsection, "state-lead program" means the petroleum storage tank state-lead program administered by the commission. The executive director shall grant an extension for corrective action reimbursement to a person who is an eligible owner or operator under Section 26.3571. The petroleum storage tank remediation account may be used to reimburse an eligible owner or operator for corrective action performed under an extension before August 31, 2011 [2007]. Not later than July 1, 2011 [2007], an eligible owner or operator who is granted an extension under this subsection may apply to the commission in writing using a form provided by the commission to have the site subject to corrective action placed in the state-lead program. The eligible owner or operator must agree in the application to allow site access to state personnel and state contractors as a condition of placement in the state-lead program under this subsection. On receiving the

the commission's applicable underground or aboveground storage tank administrative and technical requirements, including technical assistance and support, inspections, enforcement, and the provision of matching funds for grants.

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

(r-1) In this subsection, "state-lead program" means the petroleum storage tank state-lead program administered by the commission. The executive director shall grant an extension for corrective action reimbursement to a person who is an eligible owner or operator under Section 26.3571. The petroleum storage tank remediation account may be used to reimburse an eligible owner or operator for corrective action performed under an extension before August 31, 2011 [2007]. Not later than July 1, 2011 [2007], an eligible owner or operator who is granted an extension under this subsection may apply to the commission in writing using a form provided by the commission to have the site subject to corrective action placed in the state-lead program. The eligible owner or operator must agree in the application to allow site access to state personnel and state contractors as a condition of placement in the state-lead program under this subsection. On receiving the

House Bill 3554
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

application for placement in the state-lead program under this subsection, the executive director by order shall place the site in the state-lead program until the corrective action is completed to the satisfaction of the commission. An eligible owner or operator of a site that is placed in the state-lead program under this subsection is not liable to the commission for any costs related to the corrective action.

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

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

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

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

SENATE VERSION

application for placement in the state-lead program under this subsection, the executive director by order shall place the site in the state-lead program until the corrective action is completed to the satisfaction of the commission. An eligible owner or operator of a site that is placed in the state-lead program under this subsection is not liable to the commission for any costs related to the corrective action.

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

Same as House version.

CONFERENCE

House Bill 3554
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION

CONFERENCE

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

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

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

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

House Bill 3554
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

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

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

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

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

SENATE VERSION

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

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

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

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

CONFERENCE

House Bill 3554
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION

CONFERENCE

years.

years.

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

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

Same as House version.

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

(b) Except as provided by Subsection (a) of this section, this Act takes effect September 1, 2007.

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