

**SUBJECT:** Extending the petroleum storage tank remediation program.

**COMMITTEE:** Environmental Regulation — committee substitute recommended

**VOTE:** 7 ayes — Bonnen, Howard, Driver, Homer, Kuempel, T. King, W. Smith  
0 nays

**WITNESSES:** For — Chris Newton, Texas Petroleum Marketers and Convenience Store Association  
Against — None  
On — Jackie Hardee, Texas Commission on Environmental Quality

**BACKGROUND:** Water Code, ch. 26, subch. I governs the petroleum storage tank remediation program.

**DIGEST:** CSHB 1987 would extend the date on which no further reimbursements could be made from the petroleum storage tank remediation account from March 1, 2006 to March 1, 2008. The petroleum storage tank reimbursement program would be extended from September 1, 2006 to September 1, 2008.

The TCEQ executive director would grant an extension for corrective action reimbursement to an eligible owner or operator of a petroleum storage tank. The petroleum storage tank remediation account could be used to reimburse an eligible owner or operator for corrective action performed under an extension before August 31, 2007.

A person granted an extension could apply to TCEQ to have the site placed in the state-lead program before July 1, 2007. The eligible owner or operator would have to agree to allow site access to state personnel as a condition of being granted placement into the state-lead program. On receiving an application, the executive director would place the site in the state-lead program until corrective action had been completed to the commission's satisfaction. An eligible owner or operator would not be liable for any costs related to corrective action.

An owner or operator of an underground or above-ground storage tank from which a regulated substance was released would not be liable to the state if the site at which the release occurred had been admitted into the petroleum storage tank state-lead program under this bill.

The owner or operator of an underground storage tank could comply with requirements to provide a common carrier with a certificate of compliance upon delivery of a regulated substance by obtaining a current copy of the certificate from TCEQ's Web site. The bill would specify that an owner or operator of an underground storage tank, rather than a "person," would be committing an offense for failure to comply.

The bill would clarify that "subsurface soil" would not include backfill or native material placed immediately adjacent to or surrounding an underground storage tank system when the system was installed or when the system's components were replaced unless free phase petroleum product was present in the backfill or native material.

An offense would be governed by the bill only if it occurred on or after the bill's effective date. Otherwise it would be governed by law in effect when the offense was committed.

The bill would take effect September 1, 2005.

**SUPPORTERS  
SAY:**

CSHB 1987 would continue the petroleum storage tank remediation program for two more years, enabling projects currently under way to be completed. The extension granted in this bill would be paid for with existing fees from the distribution of motor fuel.

Petroleum storage tank cleanup has been remarkably successful to date, with close to 90 percent of the estimated 25,000 designated sites having been cleaned up. However, remediation has not been completed for some 2,800 sites. Due to factors such as geologic challenges, conflicts with landowners on adjacent lots, and the bankruptcy of a large remediation contractor, some of these sites have taken more time to clean up than was expected. Two more years would allow enough time for the remaining projects to be completed.

Owners of tanks that did not meet the extension would be placed into the state-administered clean-up program to ensure that these sites were fixed. Owners who were put into the program would have to give TCEQ full

access to their property in order to allow for timely remediation of the project.

OPPONENTS  
SAY:

No apparent opposition.

NOTES:

The committee substitute would allow an operator to present a compliance certificate obtained from the TCEQ Web site to a common carrier. The substitute also would allow an owner or operator to be admitted into the state-lead program, whereas under the version as filed, a site that had failed to complete corrective action would have been placed in the program by order of the TCEQ executive director.

A similar bill, SB 485 by Armbrister, passed the Senate on April 14 by voice vote.