

Texas Commission on Environmental Quality

INTEROFFICE MEMORANDUM

To: Commissioners **Date:** September 10, 2010

Thru: LaDonna Castañuela, Chief Clerk
Mark R. Vickery, P.G., Executive Director

From: John Sadlier, Deputy Director
Office of Compliance and Enforcement

Subject: Consideration of a Petition for Proposed Rulemaking

Docket No.: 2010-1274-RUL

Project No. 2010-051-PET-NR

Who Submitted the Petition:

On August 4, 2010, the Texas Commission on Environmental Quality received a petition for rulemaking from Grissom & Thompson L.L.P., representing Talon/LPE, Grimes & Associates, and Ranger Environmental Services, Inc. (the Petitioner).

What the Petitioner Requests:

The Petitioner requests an amendment to 30 TAC Chapter 334, Subchapter M, Reimbursable Cost Specifications for the Petroleum Storage Tank (PST) Reimbursement Program. The petitioner requests that certain reimbursable costs be increased: (1) offsite access fees charged by municipalities; (2) waste disposal costs; and (3) per diem costs.

Recommended Action and Justification:

The executive director recommends approval of this rulemaking petition for the reason that the executive director recognizes that meaningful stakeholder participation may be beneficial to assess current reimbursable amounts in light of market prices for remediation of Leaking Petroleum Storage Tank (LPST) sites.

Note, however, that the Reimbursement Program is statutorily scheduled to expire September 1, 2012, with the last day a person can perform reimbursable corrective action being August 30, 2011.

Applicable Law:

- Texas Government Code, §2001.021, which establishes the procedures by which an interested person may petition a state agency for the adoption of a rule
- 30 TAC §20.15, which provides such procedures specific to the commission
- Texas Water Code, §26.351, Corrective Action
- Texas Water Code, §26.3512, Owner or Operator Responsibility; Limitations on Account Payments for Corrective Action
- Texas Water Code, §26.3573, Petroleum Storage Tank Remediation Account

Re: Docket No. 2010-1241-RUL

Affected Public:

The persons affected by the Petitioner's proposed rule change would be tank owners and operators who have LPST sites which are eligible for reimbursement from the Petroleum Storage Tank Remediation account. In addition, the Petitioner's proposed rule change may affect environmental consultants or contractors who work for those tank owners or operators.

Affected Agency Programs:

The Remediation Division, PST Program, would be affected.

Agency Contacts:

Jonathan Walling, Rule Project Manager, 239-1898, Remediation Division
Cullen McMorrow, Staff Attorney, 239-0607
Charlotte Horn, Texas Register Coordinator, 239-0779

Attachment: Petition

cc: Two (2) copies to the Chief Clerk for distribution
Executive Director's Office
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