F I S C A L I M P A C T R E P O R T

SPONSOR Jennings **DATE TYPED** 3/3/05 **HB**

SHORT TITLE Regulation of Certain Petroleum Tanks **SB** 844

ANALYST Hadwiger

APPROPRIATION
(in $000s)

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		
			NFI		

(Parenthesis ( ) Indicate Expenditure Decreases)

SOURCES OF INFORMATION
LFC Files

Responses Received From
New Mexico Department of Environment (NMED)
Office of the State Engineer (OSE)

SUMMARY

Synopsis of Bill

Senate Bill 844 would exempt from the Hazardous Waste Act and Ground Water Protection Act above ground storage tanks with a capacity of 1,250 gallons or less that are composed of two separate compartments of 500 gallons or less and are lined and sealed to prevent leaks.

Significant Issues

NMED indicates that this bill is unnecessary and contradictory legislation as there is already language in 20.5.1 NMAC that exempts above ground storage tanks with a capacity of 1,250 gallons or less. The definition of above ground storage tank (AST) contains a lower volume limit of 1,320, and an upper limit of 55,000 gallons. ASTs below a 1,250-gallon threshold are already not regulated storage tanks by the PSTB. The current regulations consider that a compartment tank with a combined capacity of 1,320 gallons or more and 55,000 gallons or less is considered to be one tank regardless of the number of compartments and the number of regulated substances contained. This compartment tank clarification is the same language as the federal rules for underground storage tanks and is taken directly from the enacting legislation.

FISCAL IMPLICATIONS

No fiscal impact.

OTHER SUBSTANTIVE ISSUES

NMED noted that SB333, which was signed into law during the 2001 legislative session, amended the Hazardous Waste Act to require that agency to regulate ASTs containing petroleum as part of its underground storage tank program. The Act required that NMED develop and adopt similar regulations for above ground tanks that were previously in place for underground storage tanks, including measures for release prevention, release reporting and corrective action. The bill also gave owners and operators of ASTs access to the Corrective Action Fund. So, the Bureau was given the authority to developing and enforcing pollution prevention and pollution abatement regulations. Regulation development involved public participation of tank owners, marketers, corrective action contractors, tank manufacturers and installers, environmental groups, state and local government agencies for approximately a 2-year period. Many identified issues and ensuing compromises resulted in the development of a functional set of regulations defining operating standards and corrective action requirements for above ground storage tanks.

One issue that was extensively discussed during public stakeholders meetings were size limits on regulated ASTs. Above ground storage tanks less than 1,320 gallons and 55,000 gallons or larger were exempted from the developed regulations. The lower limit was selected to be greater than 1,000-gallon tanks, which are commonly used in industry as portable tanks that are used for short periods of time and have no associated piping. These smaller ASTs were considered to be less of a threat to the environment. A survey performed in May 2003 of the registered tank database indicated that only 22 registered ASTs were between 1,000 and 1,320-gallon capacity. The upper limit was selected to exclude very large ASTs that could bankrupt the Corrective Action Fund if one of them were to experience a catastrophic release.

NMED added that, reviewing the same registered tank database (May 2003) shows that modifying a lower limit, from 1,320 to 1,250 gallons would not accomplish either an increase or decrease to the number of regulated ASTs.

DH/yr