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FISCAL IMPACT REPORT

SPONSOR Brown ORIGINAL DATE 2/13/17
LAST UPDATED 2/25/17 HB 363/aHENRC

SHORT TITLE Pipeline & Tank Tester Compliance SB _____

ANALYST Armstrong

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY17	FY18	FY19		
\$0.0	\$0.0	>\$5.0	Recurring	Corrective Action Fund

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

NM Environment Department (NMED)

Energy, Minerals and Natural Resources Department (EMNRD)

SUMMARY

Synopsis of Bill

The House Energy, Environment and Natural Resources Committee amended the title of Section 74-4-4.4 NMSA 1978, to include "TESTER CERTIFICATION".

Synopsis of Bill

House Bill 363 (HB363) updates the definition of "pipeline facility" to ensure consistency with the federal regulations and defines a tank tester in both the Hazardous Waste Act and the Ground Water Protection Act.

FISCAL IMPLICATIONS

According to NMED, there is minimal fiscal impact related to defining a tank tester and developing a certified tank tester program which can be absorbed by the agency's operating budget. A processing fee will be set to offset the costs of processing applications and maintain associated lists of certified testers and associated records. Estimated revenue will be less than \$5 thousand per year.

SIGNIFICANT ISSUES

The federal definition referenced by current law has been replaced. HB363 amends the Hazardous Waste Act, 74-4-3 NMSA 1978, and the Ground Water Protection Act, 74-6B-3 NMSA 1978, to better define the pipeline facilities excluded from the law by replacing references to the names of two federal laws with the United States Code citation and define “tank tester” as “any individual who tests storage tanks.”

The bill also amends 74-4-4.4 NMSA 1978 to allow the Environmental Improvement Board to require the certification of “tank testers,” provide for grounds upon which such certification can be suspended or revoked, and set reasonable and necessary fees for “tank testers” certification.

According to NMED:

Both federal and state regulations mandate that tank systems are tested regularly as part of operation and maintenance requirements. Testing ensures that tanks, and associated spill prevention and release detection equipment, are competent and functioning to protect human health and the environment such that releases are prevented or are identified as soon as possible, to minimize the magnitude of releases from petroleum storage tanks.

The proposed definition of a certified tank tester ensures that accurate and reliable tests are being performed in compliance with the regulations and industry codes and standards to ensure the integrity of the tank systems and that persons performing the tests have received required training and meet applicable qualifications.

Having a process to identify certified testers will reduce the burden on tank owners who would otherwise have to demonstrate and document the qualifications of persons performing the required tests each time a test is performed.

NMED’s Petroleum Storage Tank Bureau’s Prevention and Inspection program significantly reduces the number and magnitude of releases from petroleum storage tanks per year such that less than 30 new releases were reported per year over the last 10 years compared to over 100 per year in the preceding two decades. Regular testing and maintenance of the tank systems is a critical component of preventing leaks.

Petroleum storage tanks hold flammable substances that can create potentially explosive situations if not handled correctly. Under HB363, owners and operators would have a mechanism to identify qualified testers, and a process to report testers who have performed tests in manners that are unsafe or do not meet existing regulatory requirements.

The certification program will provide a level of assurance to both tank owners and the public that the tester is knowledgeable and experienced in safely performing the tests that demonstrate and confirm the integrity of the tank systems. Without a certification program, tank owners do not have a venue to be assured that the tests are required and are being performed in accordance with regulations. It will also ensure that testers know how to work around, and with, flammable and regulated substances.