

Legislation Text

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Receive report from EAA staff on proposed compliance settlement offers to owner/operators of facilities with aboveground storage tank (AST) systems that operated on the Edwards Aquifer Recharge Zone after December 31, 2018 in violation of EAA rules.

STAFF RECOMMENDED MOTION:

This item is for discussion purposes only. No action is required.

SUMMARY

The purpose of this agenda item is for the board to receive a report from EAA staff regarding potential settlements to the registered owner/operators of facilities with aboveground storage tank (AST) systems that were operated on the Edwards Aquifer Recharge Zone (EARZ) in violation of EAA rules. The new *EAA General Manager Compliance and Settlement Guidelines*, considered in an earlier agenda item, do not list this specific violation, as it relates to a regional deadline requirement and considered a one-time occurrence. With the board's concurrence with the proposed approach, EAA staff will present the settlement offer to fully resolve this compliance matter.

As outlined in §713.605 (c) of the EAA rules, "irrespective of any other provision in these rules, no later than December 31, 2018, the owner or operator of an existing, regulated AST located on the Recharge Zone shall incorporate an approved method of secondary containment; or remove the AST from service."

As previously reported to the Permits/Enforcement Committee, since the beginning of 2018, EAA staff reminded and offered assistance to over 50 facilities who had not yet satisfied this requirement, and as the 12/31/18 deadline passed, 13 AST systems are identified as failing to incorporate an approved method of secondary containment, and did not removed the AST from service. As of this report, 12 of the facilities have completed compliance requirements and are now operating in compliance with EAA rules. The final AST system, which is integrated into a larger underground storage tank (UST) system, is being administered under a different compliance approach, and is therefore not included in this proposed settlement.

For the facilities now operating in compliance with EAA rules, staff is prepared to recommend a GM Settlement Offer (to pay \$500 per half-month) for operating an unapproved AST system on the EARZ. If approved, the settlement would be offered based on the number of days in violation as described below:

Violation Date: 01/01/2019

Compliance Date: 01/15/2019

Max. Days in Violation: 1 to 14
Proposed Settlement: \$500

Compliance Date: 01/31/2019
Max. Days in Violation: 15 to 30
Proposed Settlement: \$1,000

Compliance Date: 02/15/2019
Max. Days in Violation: 31 to 45
Proposed Settlement: \$1,500

Compliance Date: 02/28/2019
Max. Days in Violation: 46 to 58
Proposed Settlement: \$2,000

Compliance Date: 03/15/2019
Max. Days in Violation: 59 to 73
Proposed Settlement: \$2,500

Compliance Date: 03/31/2019
Max. Days in Violation: 74 to 89
Proposed Settlement: \$3,000

If the GM Settlement Offer is not accepted by the AST owner/operator, EAA staff will forward this unresolved violation to the board with a recommendation to assess an administrative penalty.

At the March 26 meeting of the Permits/Enforcement Committee, EAA staff presented this proposed settlement approach.

STRATEGIC PLAN REFERENCE:

This agenda item does not relate to a specific goal or action step within the Strategic Plan, but supports the general EAA mission.

FISCAL IMPACT:

Revenue received through compliance settlements is dedicated to the Conservation/Aquifer Protection Fund. This revenue is used solely to fund projects expressly devoted to the protection and benefit of the endangered species associated with the Edwards Aquifer. No revenue derived from compliance settlements is used to fund the operating expenses or capital purchases of the EAA.