

## UNDERGROUND STORAGE TANK INSTALLATION

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**Senate Bill 1169 (S-3) as passed by the Senate**  
**Sponsor: Sen. Curtis S. VanderWall**  
**House Committee: Regulatory Reform [Discharged]**  
**Senate Committee: Environmental Quality**  
**Complete to 12-7-22**

Analysis available at  
<http://www.legislature.mi.gov>

### SUMMARY:

Senate Bill 1169 would amend section 21102a of the Natural Resources and Environmental Protection Act (NREPA) and add a new section, section 21102b. These changes would amend provisions enacted by 2022 PA 160 (Senate Bill 991)<sup>1</sup> related to the installation of underground storage tanks and the conditions under which they may be installed within certain distances of drinking wells.

An *underground storage tank system* is presently defined in NREPA as a tank or combination of tanks, including underground pipes connected to the tank or tanks, which is, was, or may have been used to contain an accumulation of regulated substances, and the volume of which, including the volume of the underground pipes connected to the tank or tanks, is 10% or more beneath the surface of the ground. (The term is commonly used to refer to tanks used to store gasoline, although that is not the only regulated substance that the tanks may be used to store.)

### General distance requirements

Under current law and the bill, except as described under “Exceptions” below, an underground storage tank cannot be installed if it meets any of the following conditions:

- It is within 2,000 feet of an existing Type I community or Type IIA noncommunity public water well.<sup>2</sup>
- It is within 800 feet of an existing Type IIB or Type III noncommunity public water well.
- It is within 300 feet of any other type of well.

### Exceptions

Section 21102a currently allows a tank that does not meet the above conditions to be installed if it is replacing an active tank and both of the following are met:

- A professional engineer or qualified underground storage tank consultant certifies that a combination of the construction material of the underground storage tank and the leak detection used to monitor the underground storage tank is more likely to prevent and detect a release from the replacement underground storage tank than the existing underground storage tank.
- The facility where the active, existing underground storage tank is located is in compliance with Part 211 of NREPA and the rules promulgated under Part 211.

<sup>1</sup> <http://legislature.mi.gov/doc.aspx?2022-SB-0991>

<sup>2</sup> [R 325.10502](#) of the Michigan Administrative Code contains definitions for each public water supply classification.

The bill would amend the above exception to apply only to a replacement to an existing tank that is in active use.

In addition, the bill would add section 21102b, which would allow the installation of a new underground storage tank at a new underground storage tank location, or an additional new underground storage tank at an existing underground storage tank location that does not meet the conditions described above and that is not replacing an existing, installed underground storage tank (as detailed in section 21102a). For such an installation, a person could install a new underground storage tank only if a professional engineer certifies that the proposed location where the underground storage tank will be installed is such that, if a release were to occur from the underground storage tank, no well would be impacted by the release.

**Absolute setback requirements**

Finally, the bill would provide that an underground storage tank<sup>3</sup> cannot be located within any of the following setback distances:

- Within 50 feet of a single-family drinking water well.
- Within 75 feet of an existing Type IIB or Type III noncommunity public water well.
- Within 200 feet of an existing Type I community or Type IIA noncommunity public water well.

MCL 324.21102a and proposed MCL 324.21102b

**FISCAL IMPACT:**

The bill is unlikely to affect costs or revenues for the Department of Environment, Great Lakes, and Energy (EGLE) or local governments.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.

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<sup>3</sup> These absolute setback requirements would apply to all of the types of underground storage tanks addressed by the bill: a replacement to an active, installed underground storage tank (section 21102a), a new underground storage tank at a new underground storage tank location (section 21102b), and an additional new underground storage tank at an existing underground storage tank location (section 21102b).