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Senate Bill 1169 (as introduced 9-20-22)
Sponsor: Senator Curtis S. VanderWall
Committee: Environmental Quality

Date Completed: 11-9-22

CONTENT

The bill would amend Part 211 (Underground Storage Tank Regulations) of the Natural Resources and Environmental Protection Act (NREPA) to do the following:

- **Apply the current setback distances from water wells for the installation of a new underground storage tank to the replacement of an existing, installed underground storage tank.**
- **Allow a person to install a new underground storage tank at a new location or an additional new underground storage tank at an existing location that did not meet current setback requirements if a professional engineer or qualified consultant certified specific information.**
- **Prohibit a person from installing a new underground storage tank at a new location or an additional underground storage tank at an existing location within specified setback distances, such as 50 feet from a single-family drinking well.**

Replacement of an Existing Tank

Part 211 generally prohibits a person from installing an underground storage tank that is located within any of the following setback distances:

- The tank is within 2,000 feet of an existing type I community or type IIa noncommunity water well.
- The tank is within 800 feet of an existing type IIb or type III noncommunity public water well.
- The tank is within 300 feet of any other type of well not described above.

Under the bill, this prohibition would apply to a replacement to an existing installed tank.

(Part 211 defines "underground storage tank system" 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 (generally, hazardous substances under the Comprehensive Environmental Response, Compensation, and Liability Act; petrochemicals; and hazardous air pollutants under the Clean Air Act), 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. See **BACKGROUND** for information concerning water well types.)

Part 211 allows a person who wishes to install an underground storage tank that does not meet the conditions described above to replace only an active underground storage tank if the following requirements 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 was in compliance with Part 211 and the rules promulgated under Part 211.

Under the bill, the prohibitions and exceptions provided above would apply to the replacement of an existing (instead of "active"), installed underground storage tank, instead of the installation of a new underground storage tank.

Installation of a New Tank

Under the bill, except as provided below, a person could not install a new storage tank at a new underground storage tank location or install an additional new underground storage tank at an existing underground storage tank location that was located within any of the setback distances described above.

The bill would allow a person that wished to install 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 did not meet the setback conditions and was not replacing an existing, installed underground storage tank to install a new underground storage tank at a new location or an additional new underground storage tank at an existing location only if a professional engineer or qualified underground storage consultant certified that a combination of the construction material of the underground storage tank, the leak detection used to monitor the underground storage tank, and the proposed location where the underground storage tank would be installed was such that, if a release were to occur from the underground storage tank, no well within the setback distances described below would be affected by the release.

The bill specifies that 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 could not 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 et al.

BACKGROUND

According to the Department of Environment, Great Lakes, and Energy, water wells are classified by the nature and size of the population they serve. Type I community water wells provide year-round service to at least 25 people or at least 15 living units. Type II noncommunity water wells serve at least 25 people for at least six months per year or at least 60 days per year, depending on their usage. Type II wells are further classified based on their water production: 1) type IIa wells have an average production of 20,000 gallons or more per

day during their peak month; and 2) type IIb wells have an average production of less than 20,000 gallons per day during their peak month. Type III noncommunity public water wells are any wells not considered type I or type II water wells that serve fewer than 25 people and 15 connections, or that operate for fewer than 60 days a year.

Legislative Analyst: Tyler P. VanHuyse

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Jonah Houtz

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.