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Senate Bill 991 (as introduced 3-24-22)
Sponsor: Senator Rick Outman
Committee: Environmental Quality

Date Completed: 5-4-22

CONTENT

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

- **Prohibit the installation of an underground storage tanks within certain distances of existing water wells.**
- **Require a person to apply for a variance with the Department of Licensing and Regulatory Affairs (LARA) for the installation of an underground storage tank.**
- **Require LARA to grant a variance to the prohibition under certain circumstances.**
- **Prohibit a variance granted by LARA from exceeding setback limits from water wells as prescribed by the bill.**

Specifically, except as provided below, the bill would prohibit a person from installing an underground storage tank that met any of the following conditions:

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

(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, 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.)

The bill would require a person who wished to install an underground storage tank that did not meet the conditions prescribed by the bill above to apply for a variance with LARA on a form and in a manner it prescribed. The Department would have to approve a variance if the underground storage tank were replacing an active, existing underground storage tank, and the following requirements were met:

- A professional engineer or qualified underground storage tank consultant certified that a combination of the construction material of the underground storage tank and the leak detection used to monitor the underground storage tank was 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 was located complied with Part 211 and the rules promulgated under Part 211.

(Part 211 defines "release" as any spilling, leaking, emitting, discharging, escaping, leaching, or disposing from an underground storage tank system into groundwater, surface water, or subsurface soils.)

Alternatively, LARA would have to approve a variance if the underground storage tank were not replacing an active, existing underground storage tank and the following requirements were met:

- The new underground storage tank would be installed to meet the appropriate setback limit described below.
- A professional engineer or qualified underground storage tank consultant certified that the new underground storage tank would be installed in a location where, if a release occurred, the release would not affect any well within the setback distance.

"Professional engineer" would mean that term as it is defined in Section 2001 of the Occupational Code: a person who, by reason of knowledge of mathematics, the physical sciences, and the principles of engineering, acquired by professional education and practical experience, is qualified to engage in the practice of professional engineering. "Qualified underground storage tank consultant" would mean an individual who met the requirements under Section 21325. (Section 21325 of NREPA specifies that a person is considered a qualified underground storage tank consultant if the person has experience in all phases of underground storage tank work, possesses certain licenses, certifications, or educational attainment, has several insurance policies, such as worker's compensation insurance, and demonstrates compliance with Occupational Safety and Health Act regulations.)

The bill specifies that a variance granted by LARA could not exceed any of the following setback limits:

- Within 50 feet of a single-family drinking water well.
- Within 75 feet of an existing type IIb or III noncommunity public water well.
- Within 200 feet of an existing type I or type IIa noncommunity public water well.

Proposed MCL 324.21102a

BACKGROUND

According to 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 VanHuyse

FISCAL IMPACT

The bill would have no fiscal impact on LARA or local units of government. The bill would modify an existing permitting process at the Department and would not increase operating costs.

Fiscal Analyst: Elizabeth Raczowski

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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.