THE SENATE
THIRTIETH LEGISLATURE, 2019
STATE OF HAWAII

S.B. NO. 1372

JAN 24 2019

A BILL FOR AN ACT

RELATING TO UNDERGROUND STORAGE TANKS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. The legislature finds that underground storage tank and tank system regulations are intended to protect the environment by preventing the release of petroleum and hazardous substances into the environment. According to the Environmental Protection Agency, underground storage tank systems pose a substantial threat to human health and the environment.

The legislature also finds that the lands and waters of Hawai‘i are unique and delicately balanced resources, the protection of which is vital to the economy of the State, and the protection of groundwater is an urgent matter of the highest priority. As the primary source of potable water in Hawai‘i, groundwater must be preserved in as close to pristine condition as possible and accommodate the needs of multiple public and private users.

The legislature further finds that the storage, transportation, and disposal of petroleum products, pollutants, and hazardous substances in underground storage tanks and tank

systems within the jurisdiction of the State and in state waters are a hazardous undertaking, and that spills, discharges, and releases of the substances that occur as a result of private and governmental actions involving the storage, transportation, and disposal of these products pose serious threats to the environment of the State, to citizens of the State, and to other interests deriving livelihood from the State. These hazards have occurred in the past and are occurring now, and present future threats of potentially catastrophic proportions, all of which are expressly declared to be inimical to the paramount interests of the State as set forth in this section. Such state interests outweigh any economic burdens imposed by the legislature upon those engaged in storing, transporting, or disposing of petroleum products, pollutants, and hazardous substances and related activities.

The legislature further finds that the Red Hill bulk fuel storage facility, the State's largest field-constructed underground storage tank system, stores more fuel in a single location than any other underground storage tank system in Hawai‘i. The facility stores up to 187 million gallons of fuel per day, has a total capacity of 250 million gallons, and is

located only one hundred feet above a federally designated sole-source aquifer drinking water source. Core samples from nineteen of the twenty tanks at Red Hill have existing contamination, and a release of nearly forty thousand gallons of petroleum products in 2014 further endangered Hawai'i's groundwater resources. However, concern exists that field-constructed underground storage tanks, tank systems, and related piping, including the Red Hill bulk fuel storage facility, are exempt from the requirements that must be met by owners and operators of other underground storage tanks or tank systems. Providing the State's largest field-constructed underground storage tank facility with an exemption from regulatory requirements that must be met by other underground storage tank and tank system owners is extremely detrimental to human health and the environment.

The purpose of this Act is to protect the State's underground drinking water sources and surrounding environment by requiring the department of health to adopt rules for underground storage tanks, tank systems, and related piping that conform with recent revisions to federal regulations and include additional requirements for certain field-constructed

underground storage tanks including compliance with certain requirements in chapter 11-280.1, Hawaii Administrative Rules, or successor rules.

SECTION 2. On or before September 1, 2019, the department of health shall adopt rules pursuant to chapter 91, Hawaii Revised Statutes, including necessary revisions, to conform Hawai'i's underground storage tank and tank system rules with the July 15, 2015, revisions to the United States Environmental Protection Agency underground storage tank regulations codified in title 40 Code of Federal Regulations part 280; provided that the department shall additionally require through rules that:

(1) Field-constructed underground storage tanks with storage capacities greater than fifty thousand gallons that were installed before July 15, 2015, shall:

(A) Be subject to the upgrade requirements specified in title 40 Code of Federal Regulations section 280.21;

(B) Be required to upgrade with secondary containment with interstitial monitoring by July 1, 2028;

(C) Be subject to the permitting requirements specified in chapter 11-280.1, Hawaii Administrative Rules, or successor rules; and

(D) Prior to upgrading with secondary containment:

(i) Be subject to the release detection rules specified in title 40 Code of Federal Regulations part 280, subpart D;

(ii) Except for the exemption from secondary containment and release detection, be subject to title 40 Code of Federal Regulations part 280, subpart K; and

(iii) Be monitored using release detection methods authorized in chapter 11-280.1, Hawaii Administrative Rules, or successor rules; or use a release detection method that can detect a 0.5 gallon per hour leak rate with a probability of detection of 0.95 and a probability of false alarm of 0.05;

provided further that owners and operators of field-constructed storage tank systems without secondary containment shall install a release

detection system meeting the requirements of this paragraph by July 1, 2020;

(2) Field-constructed underground storage tank systems first installed or replaced on or after July 15, 2015, shall:

(A) Be secondarily contained; and

(B) Have interstitial monitoring in accordance with title 40 Code of Federal Regulations part 280, subpart D, using either vacuum, pressure, hydrostatic, electronic sensors, or other methods of release detection that can detect a 0.2 gallon per hour leak rate with a probability of detection of 0.95 and a probability of false alarm of 0.05;

(3) Onsite integral piping connected to field-constructed underground storage tanks with storage capacities greater than fifty thousand gallons that was installed before July 15, 2015, shall:

(A) Be required to upgrade with secondary containment with interstitial monitoring by July 1, 2028, if

the piping is in contact with the soil, concrete, or cannot be visually inspected;

(B) Be subject to the permitting requirements specified in chapter 11-280.1, Hawaii Administrative Rules, or successor rules;

(C) Prior to upgrading with secondary containment:

(i) Be subject to the release detection rules specified in title 40 Code of Federal Regulations part 280, subpart D;

(ii) Except for the exemption from secondary containment and release detection, be subject to title 40 Code of Federal Regulations part 280, subpart K. Metallic piping that is in contact with the soil or with concrete must have corrosion protection in accordance with title 40 Code of Federal Regulations part 280 and with chapter 11-280.1, Hawaii Administrative Rules, or successor rules. Non-metallic piping must be listed by Underwriters Laboratories (UL) and meet UL 971 standards, be certified by a

national or internationally recognized laboratory, or be approved by a State of Hawaii Registered Professional Engineer; and

(iii) Be monitored using release detection methods authorized in chapter 11-280.1, Hawaii Administrative Rules, or successor rules; or use a release detection method that can detect a 0.5 gallon per hour leak rate with a probability of detection of 0.95 and a probability of false alarm of 0.05; provided further that owners and operators of field-constructed storage tanks system onsite integral piping without secondary containment shall install a release detection system meeting the requirements of this paragraph by July 1, 2020;

provided that onsite integral piping that is not in contact with the soil that can be visually inspected shall perform release detection with monthly visual inspections and integrity testing by a certified American Petroleum Institute (API)

571 inspector in accordance with API Standard 571 every ten years; provided further that in addition to the requirements in this subparagraph, onsite integral piping that is in contact with the soil or with concrete must be integrity tested by a certified API 571 Inspector in accordance with API Standard 571 every three years;

provided that "onsite integral piping" means on-site piping, originating or terminating at the regulated storage tank or tanks, that conveys regulated substances. Vapor, or other recovery lines, pipeline facilities, and vent lines, are not considered integral piping. Integral piping includes all valves, elbows, joints, flanges, pumps, and flexible connectors associated with the pipe originating at the storage tank up to the union of the integral piping with the dispensing system, the fill valve, the forwarding pump used for transferring regulated substances to a flow-through process tank or an industrial production or manufacturing point of use,

the first flange or connection within a loading rack containment area, or the first shoreside valve after the marine transfer area for on-site piping at regulated UST facilities;

(4) Owners and operators of field-constructed underground storage tanks that fail to meet the deadline specified in paragraph (1)(B) and (3)(A) shall empty the storage tank system, take the system out-of-service by July 1, 2028, and permanently close the tank by July 1, 2030;

(5) The department of health shall revoke the permits of any owners and operators of field-constructed underground storage tanks that fail to meet the deadline specified in paragraph (1)(B) and (3)(A) for upgrading with secondary containment; and

(6) Field-constructed underground storage tanks shall not be installed on or after July 1, 2020, unless the storage tank and piping have secondary containment and comply with all requirements specified in chapter 11-280.1, Hawaii Administrative Rules, or successor rules.

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SECTION 3. This Act shall take effect on July 1, 2019.

INTRODUCED BY: _____

S.B. NO. 1372

Report Title:
Underground Storage Tanks and Systems; Environmental Protection; Department of Health

Description:
Requires, on or before 9/1/2019, that the department of health adopt rules for underground storage tanks and tank systems to conform with certain federal regulations and that include additional requirements for field-constructed underground storage tanks and tank systems.

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