

JAN 24 2018

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# A BILL FOR AN ACT

RELATING TO UNDERGROUND STORAGE TANKS.

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

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

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

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



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

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



1 located only one hundred feet above a federally designated sole-  
2 source aquifer drinking water source. Core samples from  
3 nineteen of the twenty tanks at Red Hill have existing  
4 contamination, and a release of nearly forty thousand gallons of  
5 petroleum products in 2014 further endangered Hawaii's  
6 groundwater resources. However, chapter 11-281, Hawaii  
7 Administrative Rules, exempts field-constructed underground  
8 storage tanks, tank systems, and related piping, including the  
9 Red Hill bulk fuel storage facility, from the requirements that  
10 must be met by owners and operators of other underground storage  
11 tanks or tank systems. Providing the State's largest field-  
12 constructed underground storage tank facility with an exemption  
13 from regulatory requirements that must be met by other  
14 underground storage tank and tank system owners is extremely  
15 detrimental to human health and the environment.

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



1 underground storage tanks including compliance with certain  
2 requirements in chapter 11-281, Hawaii Administrative Rules, or  
3 successor rules.

4 SECTION 2. On or before September 1, 2018, the department  
5 of health shall adopt rules pursuant to chapter 91, Hawaii  
6 Revised Statutes, including necessary revisions, to conform  
7 Hawaii's underground storage tank and tank system rules with the  
8 July 15, 2015, revisions to the United States Environmental  
9 Protection Agency underground storage tank regulations codified  
10 in title 40 Code of Federal Regulations part 280; provided that  
11 the department shall additionally require through rules that:

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

15 (A) Be subject to the upgrade requirements specified  
16 in title 40 Code of Federal Regulations section  
17 280.21;

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



- 1 (C) Be subject to the permitting requirements  
2 specified in chapter 11-281, Hawaii  
3 Administrative Rules, or successor rules; and
- 4 (D) Prior to upgrading with secondary containment:
- 5 (i) Be subject to the release detection rules  
6 specified in title 40 Code of Federal  
7 Regulations part 280, subpart D;
- 8 (ii) Except for the exemption from secondary  
9 containment and release detection, be  
10 subject to title 40 Code of Federal  
11 Regulations part 280, subpart K; and
- 12 (iii) Be monitored using release detection methods  
13 authorized in chapter 11-281, Hawaii  
14 Administrative Rules, or successor rules; or  
15 use a release detection method that can  
16 detect a 0.5 gallon per hour leak rate with  
17 a probability of detection of 0.95 and a  
18 probability of false alarm of 0.05;
- 19 provided further that owners and operators of  
20 field-constructed storage tank systems without  
21 secondary containment shall install a release



1                   detection system meeting the requirements of this  
2                   paragraph by July 1, 2019;

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

- 6           (A) Be secondarily contained; and
- 7           (B) Have interstitial monitoring in accordance with
- 8           title 40 Code of Federal Regulations part 280,
- 9           subpart D, using either vacuum, pressure,
- 10           hydrostatic, electronic sensors, or other methods
- 11           of release detection that can detect a 0.2 gallon
- 12           per hour leak rate with a probability of
- 13           detection of 0.95 and a probability of false
- 14           alarm of 0.05;

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

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



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

3           (B) Be subject to the permitting requirements  
4           specified in chapter 11-281, Hawaii  
5           Administrative Rules, or successor rules;

6           (C) Prior to upgrading with secondary containment:  
7           (i) Be subject to the release detection rules  
8           specified in title 40 Code of Federal  
9           Regulations part 280, subpart D;

10          (ii) Except for the exemption from secondary  
11          containment and release detection, be  
12          subject to title 40 Code of Federal  
13          Regulations part 280, subpart K. Metallic  
14          piping that is in contact with the soil or  
15          with concrete must have corrosion protection  
16          in accordance with title 40 Code of Federal  
17          Regulations part 280 and with chapter 11-  
18          281, Hawaii Administrative Rules, or  
19          successor rules. Non-metallic piping must  
20          be listed by Underwriters Laboratories (UL)  
21          and meet UL 971 standards, be certified by a



1 national or internationally recognized  
2 laboratory, or be approved by a State of  
3 Hawaii Registered Professional Engineer; and  
4 (iii) Be monitored using release detection methods  
5 authorized in chapter 11-281, Hawaii  
6 Administrative Rules, or successor rules; or  
7 use a release detection method that can  
8 detect a 0.5 gallon per hour leak rate with  
9 a probability of detection of 0.95 and a  
10 probability of false alarm of 0.05; provided  
11 further that owners and operators of field-  
12 constructed storage tanks system onsite  
13 integral piping without secondary  
14 containment shall install a release  
15 detection system meeting the requirements of  
16 this paragraph by July 1, 2019;  
17 provided that onsite integral piping that is not  
18 in contact with the soil that can be visually  
19 inspected shall perform release detection with  
20 monthly visual inspections and integrity testing  
21 by a certified American Petroleum Institute (API)





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1           571 inspector in accordance with API Standard 571  
2           every ten years; provided further that in  
3           addition to the requirements in this  
4           subparagraph, onsite integral piping that is in  
5           contact with the soil or with concrete must be  
6           integrity tested by a certified API 571 Inspector  
7           in accordance with API Standard 571 every three  
8           years;

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



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

5 (4) Owners and operators of field-constructed underground  
6 storage tanks that fail to meet the deadline specified  
7 in paragraph (1)(B) and (3)(A) shall empty the storage  
8 tank system, take the system out-of-service by July 1,  
9 2028, and permanently close the tank by July 1, 2030,  
10 in accordance with chapter 11-281, Hawaii  
11 Administrative Rules, or successor rules;

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

17 (6) Field-constructed underground storage tanks shall not  
18 be installed on or after July 1, 2019, unless the  
19 storage tank and piping have secondary containment and  
20 comply with all requirements specified in chapter



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1 11-281, Hawaii Administrative Rules, or successor  
2 rules.

3 SECTION 3. This Act shall take effect on July 1, 2018.

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INTRODUCED BY:

Neke Golda

Golda

Will Eyo

Ed Lewis

BTG

Anna Thul

Scotty Aguiar

Anna Mercedes K.

Breene Hunt

Clarene K. Washburn



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**Report Title:**

Underground Storage Tanks and Systems; Environmental Protection;  
Department of Health

**Description:**

Requires, on or before 9/1/2018, 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.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

