

1 H.531

2 Introduced by Representative Connor of Fairfield

3 Referred to Committee on

4 Date:

5 Subject: Conservation and development; aboveground storage tanks;
6 inspection; design

7 Statement of purpose of bill as introduced: This bill proposes to require the
8 inspection of aboveground storage tanks every three years. The bill also
9 requires newly installed aboveground storage tanks installed in structures to be
10 fitted with a drip pan or other secondary containment system. The bill
11 proposes to amend the Petroleum Cleanup Fund requirements in order to
12 specify the amount of grants available from the Fund for different aboveground
13 storage tanks or underground storage tanks. The bill also increases from
14 \$350,000.00 to \$400,000.00 the amount of assistance the Secretary of Natural
15 Resources may authorize from the Heating Fuel Account of the Fund for
16 underground and aboveground heating fuel tanks in any one fiscal year.

17 An act relating to aboveground storage tanks

1 It is hereby enacted by the General Assembly of the State of Vermont:

2 ~~Sec. 1. 10 V.S.A. § 1929a is amended to read:~~

3 § 1929a. STANDARDS FOR ABOVEGROUND STORAGE TANKS

4 (a) ~~No later than~~ On or before December 31, 2011, the ~~secretary~~ Secretary
5 shall adopt rules addressing the design and proper installation of aboveground
6 storage tanks.

7 (b) After January 1, 2012, no person shall offer for sale, install, or
8 substantially improve an aboveground storage tank that does not meet the
9 standards adopted by the secretary under subsection (a) of this section.

10 (c) A person installing an aboveground storage tank in a structure after
11 July 1, 2016 shall attach a tag or mark to the tank indicating the date of tank
12 installation. An aboveground storage tank installed in a structure after July 1,
13 2016 shall be fitted with a drip pan or other secondary containment system.

14 (d)(1) A fuel supplier shall inspect an aboveground storage tank prior to the
15 first delivery of fuel to the tank on or after January 1, 2017 and at least every
16 three years thereafter. A fuel supplier shall inspect an aboveground storage
17 tank prior to delivery to the tank if the tank has not received a delivery of fuel
18 within two or more years. An inspection of an aboveground storage tank shall
19 be conducted according to the requirements of this chapter and the rules
20 adopted under the chapter. A tank inspector shall be certified under section
21 1.13 of the Vermont Fire and Building Safety Code.

1 ~~(2) Upon determination by a tank inspector that an aboveground storage~~
2 ~~tank complies with the requirements of this chapter and the rules adopted~~
3 ~~under the chapter, the tank inspector shall attach a tag to the tank in order to~~
4 ~~verify the date and result of the inspection. If a tank inspector determines that~~
5 ~~a tank is noncompliant with the requirements of this chapter or the rules~~
6 ~~adopted under this chapter, the tank inspector shall attach a red tag to the tank~~
7 ~~fill pipe. The tank inspector shall report to the Agency of Natural Resources~~
8 ~~any tank that is red-tagged and shall identify the requirements of this chapter or~~
9 ~~the rules adopted under this chapter for which the tank is noncompliant.~~

10 (3) The Secretary shall maintain a database of "red-tagged" tanks that
11 shall be accessible to the public.

12 (4) The Secretary of Natural Resources shall adopt by rule the protocol
13 to be followed and criteria to be reviewed in the performance of an inspection
14 required by this subsection. The rule shall include an updated inspection
15 checklist.

16 (e)(1) No person shall deliver heating fuel to an aboveground storage
17 tank that:

18 (A) is visibly designated as noncompliant with the tank inspection
19 requirement of this chapter or the rules adopted under this chapter; or

20 (B) has not been inspected within the timeframe required under
21 subdivision (d)(1) of this subsection.

1 ~~(2) A person that delivers heating fuel to a tank in violation of this~~
2 subsection shall be responsible for any abatement of a release or threatened
3 release and for the costs of investigation, removal, and remedial actions
4 necessary to protect the public health or the environment as a result of the
5 violation.

6 (f) If the owner of an aboveground storage tank in a structure converts the
7 type of fuel used for home heating purposes from a petroleum product to
8 another type of fuel, the aboveground storage tank used to store petroleum
9 products shall be retired from use and removed from the structure and the fill
10 pipe shall be removed or sealed.

11 (g) As used in this subsection, "structure" means any assembly of materials
12 that is intended for occupancy or use by a person and that has at least three
13 walls and a roof.

14 Sec. 2. 10 V.S.A. § 1941(g) is amended to read:

15 (g) The owner of a farm or residential heating fuel storage tank used for
16 on-premises heating or an underground or aboveground heating fuel storage
17 tank used for on-premises heating by a mobile home park resident, as defined
18 in section 6201 of this title, who desires assistance to close, replace, or upgrade
19 the tank may apply to the Secretary for such assistance. The financial
20 assistance may be in the form of grants of up to: \$2,000.00 or the costs of
21 closure, replacement, or upgrade, whichever is ~~less~~ least for an aboveground

1 ~~storage tank located inside a structure; up to \$3,000.00 or the costs of closure,~~
2 replacement, or upgrade, whichever is least for an aboveground storage tank
3 located outside a structure; and up to \$4,000.00 or the costs of closure,
4 replacement, or upgrade, whichever is least for an underground storage tank.

5 Grants shall be made only to the current property owners, except at mobile
6 home parks where a grant may be awarded to a mobile home park resident. To
7 be eligible to receive the grant, an environmental site assessment must be
8 conducted by a qualified consultant during the tank closure, replacement, or
9 upgrade if the tank is an underground heating fuel storage tank. In addition, if
10 the closed tank is to be replaced with an underground heating fuel storage tank,
11 the replacement tank and piping shall provide a level of environmental
12 protection at least equivalent to that provided by a double wall tank and
13 secondarily contained piping. Grants shall be awarded on a priority basis to
14 projects that will avoid the greatest environmental or health risks. The
15 Secretary shall also give priority to applicants who are replacing their
16 underground heating fuel tanks with aboveground heating fuel storage tanks
17 that will be installed in accordance with the Secretary's recommended
18 standards. The Secretary shall also give priority to lower income applicants.
19 To be eligible to receive the grant, the owner must provide the previous year's
20 financial information, and, if the replacement tank is an aboveground tank,
21 must assure that any work to replace or upgrade a tank shall be done in

1 ~~accordance with industry standards (National Fire Protection Association, or~~
2 NFPA, Code 31), as it existed on July 1, 2004, until another date or edition is
3 specified by rule of the Secretary. The Secretary shall ~~only~~ authorize only up
4 to ~~\$350,000.00~~ \$400,000.00 in assistance for underground and aboveground
5 heating fuel tanks in any one fiscal year from the Heating Fuel Account for this
6 purpose. The application must be accompanied by the following information:

7 (1) proof of ownership, including information disclosing all owners of
8 record of the property, except in the case where the applicant is a mobile home
9 park resident;

10 (2) for farm or residential aboveground heating fuel storage tank
11 owners, a copy of the federal income tax return for the previous year;

12 (3) identification of the contractor performing any heating fuel storage
13 tank closure, replacement, or upgrade;

14 (4) an estimated cost of tank closure, replacement, or upgrade;

15 (5) the amount and type of assistance requested;

16 (6) a schedule for the work;

17 (7) description of surrounding area, including location of water supply
18 wells, surface waters, and other sensitive receptors; and

19 (8) such other information and assurances as the Secretary may require.

1 ~~Sec. 3. 10 V.S.A. § 8003(a) is amended to read:~~

2 (a) The Secretary may take action under this chapter to enforce the
3 following statutes and rules, permits, assurances, or orders implementing the
4 following statutes, and the Board may take such action with respect to
5 subdivision (10) of this subsection:

6 * * *

7 (8) 10 V.S.A. chapter 59, relating to underground storage tanks and
8 aboveground storage tanks;

9 * * *

10 Sec. 4. EFFECTIVE DATES

11 This act shall take effect on July 1, 2016, except that 10 V.S.A.
12 § 1929a(d)(1)-(3) (aboveground storage tank inspection) shall take effect on
13 January 1, 2017.

Sec. 1. 10 V.S.A. § 1929a is amended to read:

§ 1929a. STANDARDS FOR ABOVEGROUND STORAGE TANKS

*(a) ~~No later than~~ On or before December 31, 2011, the ~~secretary~~ Secretary
shall adopt rules addressing the design and proper installation of aboveground
storage tanks.*

*(b) After January 1, 2012, no person shall offer for sale, install, or
substantially improve an aboveground storage tank that does not meet the*

standards adopted by the ~~secretary~~ Secretary under subsection (a) of this section.

(c) On or before July 1, 2017, the Secretary shall adopt rules for the inspection of aboveground storage tanks. The rules shall include, at a minimum, the following:

(1) when installation of secondary containment systems for types of aboveground storage tanks is required, the required specifications of the systems, and the process for installation of the systems;

(2) the protocol to be followed and the criteria to be reviewed in the performance of inspections required under this section, including:

(A) the appropriate methods to document the age of tanks installed on or after July 1, 2017;

(B) the frequency of required tank inspections;

(C) requirements for the tagging or marking of tanks and tank fill pipes when tanks are determined to be noncompliant with the requirements of this section or the rules adopted by the Secretary under this section;

(3) an updated checklist to be used in the performance of inspections required under this section or the rules adopted by the Secretary under this section;

(4) training and certification requirements for tank inspectors; ~~and~~

(5) the protocol to address tanks identified as noncompliant with the inspection criteria established by the rules adopted by the Secretary under this section; and

(6) requirements for the reuse of an aboveground storage tank removed under the requirement of subsection (g) of this section.

(d) A fuel supplier shall inspect an aboveground storage tank in accordance with the requirements of this chapter and the rules adopted by the Secretary pursuant to subsection (c) of this section.

(e) The Secretary shall maintain a database of tanks that have been determined to be noncompliant with the requirements of this section or the rules adopted by the Secretary pursuant to subsection (c) of this section. The database shall be accessible to the public.

(f) No person shall deliver heating fuel to an aboveground storage tank which has been visibly designated as noncompliant with the requirements of this chapter.

~~(g) If the owner of an aboveground storage tank in a structure converts the type of fuel used for home heating purposes from fuel oil or kerosene to natural gas or propane, the owner shall have the aboveground storage tank used to store fuel oil or kerosene and any fill pipes retired from use and removed from the structure at the same time as the conversion. As used in this~~

~~subsection, "structure" means any assembly of materials that is intended for occupancy or use by a person and that has at least three walls and a roof.~~

~~(g) If the owner of any aboveground storage tank that serves a structure converts the type of fuel used for the structure from fuel oil or kerosene to natural gas so that the structure is no longer served for any purpose by the aboveground storage tank, the owner shall have the aboveground storage tank used to store fuel oil or kerosene and any fill pipes removed at the same time as the conversion. As used in this subsection, "structure" means any assembly of materials that is intended for occupancy or use by a person and that has at least three walls and a roof.~~

Sec. 2. 10 V.S.A. § 1941(g) is amended to read:

(g) The owner of a farm or residential heating fuel storage tank used for on-premises heating or an underground or aboveground heating fuel storage tank used for on-premises heating by a mobile home park resident, as defined in section 6201 of this title, who desires assistance to close, replace, or upgrade the tank may apply to the Secretary for such assistance. The financial assistance may be in the form of grants of up to: \$2,000.00 or the costs of closure, replacement, or upgrade, whichever is least for an aboveground storage tank located inside a structure; up to \$3,000.00 or the costs of closure, replacement, or upgrade, whichever is least for an aboveground storage tank located outside a structure; and up to \$4,000.00 or the costs of closure,

replacement, or upgrade, whichever is least for an underground storage tank.

As used in this subsection, “structure” means any assembly of materials that is intended for occupancy or use by a person and that has at least three walls and a roof. Grants shall be made only to the current property owners, except at mobile home parks where a grant may be awarded to a mobile home park resident. To be eligible to receive the grant, an environmental site assessment must be conducted by a qualified consultant during the tank closure, replacement, or upgrade if the tank is an underground heating fuel storage tank. In addition, if the closed tank is to be replaced with an underground heating fuel storage tank, the replacement tank and piping shall provide a level of environmental protection at least equivalent to that provided by a double wall tank and secondarily contained piping. Grants shall be awarded on a priority basis to projects that will avoid the greatest environmental or health risks. The Secretary shall also give priority to applicants who are replacing their underground heating fuel tanks with aboveground heating fuel storage tanks that will be installed in accordance with the Secretary’s recommended standards. The Secretary shall also give priority to lower income applicants. To be eligible to receive the grant, the owner must provide the previous year’s financial information, and, if the replacement tank is an aboveground tank, must assure that any work to replace or upgrade a tank shall be done in accordance with industry standards (National Fire Protection Association, or

NFPA, Code 31), as it existed on July 1, 2004, until another date or edition is specified by rule of the Secretary. The Secretary shall authorize only up to \$400,000.00 in assistance for underground and aboveground heating fuel tanks in any one fiscal year from the Heating Fuel Account for this purpose. The application must be accompanied by the following information:

(1) proof of ownership, including information disclosing all owners of record of the property, except in the case where the applicant is a mobile home park resident;

(2) for farm or residential aboveground heating fuel storage tank owners, a copy of the federal income tax return for the previous year;

(3) identification of the contractor performing any heating fuel storage tank closure, replacement, or upgrade;

(4) an estimated cost of tank closure, replacement, or upgrade;

(5) the amount and type of assistance requested;

(6) a schedule for the work;

(7) description of surrounding area, including location of water supply wells, surface waters, and other sensitive receptors; and

(8) such other information and assurances as the Secretary may require.

Sec. 3. 10 V.S.A. § 8003(a) is amended to read:

(a) The Secretary may take action under this chapter to enforce the following statutes and rules, permits, assurances, or orders implementing the

*following statutes, and the Board may take such action with respect to
subdivision (10) of this subsection:*

* * *

*(8) 10 V.S.A. chapter 59, relating to underground storage tanks and
aboveground storage tanks;*

* * *

Sec. 4. EFFECTIVE DATES

*This act shall take effect on July 1, 2016, except that 10 V.S.A.
§ 1929a(d)–(g) (aboveground storage tank inspection, database, delivery, and
removal requirements) shall take effect on July 1, 2017.*