

MAR 10 2017

SENATE CONCURRENT RESOLUTION

REQUESTING THE DEPARTMENT OF HEALTH TO UPDATE HAWAII
ADMINISTRATIVE RULES REGULATING UNDERGROUND STORAGE TANKS
CONSISTENT WITH THE ENVIRONMENTAL PROTECTION AGENCY
REGULATIONS, EFFECTIVE AS OF OCTOBER 13, 2015.

1 WHEREAS, in response to the January 2014 fuel release from
2 the Red Hill facility, the Environmental Protection Agency and
3 Department of Health negotiated an enforceable agreement, the
4 Administrative Order on Consent (Order), with the U.S. Navy and
5 the Defense Logistics Agency, which went into effect on
6 September 28, 2015; and
7

8 WHEREAS, the Order requires the Navy and Defense Logistics
9 Agency to take actions, subject to approval by the Environmental
10 Protection Agency and Department of Health, to address fuel
11 releases and implement infrastructure improvements to protect
12 human health and the environment; and
13

14 WHEREAS, the Order includes a Statement of Work that lays
15 out the specific work to be completed by the Navy and Defense
16 Logistics Agency to address the January 2014 fuel release and
17 improve the facility's infrastructure to prevent future fuel
18 releases, including upgrades to the Red Hill storage tanks
19 within a twenty-two-year deadline; and
20

21 WHEREAS, the Statement of Work states: "On June 22, 2015,
22 [the Environmental Protection Agency] promulgated new
23 regulations that apply to field-constructed underground storage
24 tank systems. These new regulations will not become legally
25 enforceable in states with federally-approved programs, such as
26 the State of Hawaii, until the state's rules are updated, and
27 the state successfully receives federal approval of their
28 revised regulations. Notwithstanding this schedule, Navy and
29 [the Defense Logistics Agency] shall begin coordinating with the
30 Regulatory Agencies in order to comply with the new federal



S.C.R. NO. 99

1 [Underground Storage Tank] regulations (see 80 Fed. Reg. 41623-
2 41683) applicable to the Facility as soon as possible."; and
3

4 WHEREAS, parties to the Order acknowledged and anticipated
5 state action to adopt updated rules regulating field-constructed
6 underground storage tanks in Hawaii; and
7

8 WHEREAS, as of March 7, 2017, the Department of Health has
9 not updated Hawaii's underground storage tank regulations;
10 therefore, the State of Hawaii does not have the ability to
11 enforce the current Environmental Protection Agency standards
12 for underground storage tanks; now, therefore,
13

14 BE IT RESOLVED by the Senate of the Twenty-ninth
15 Legislature of the State of Hawaii, Regular Session of 2017, the
16 House of Representatives concurring, that the Department of
17 Health is requested to update Hawaii Administrative Rules
18 regulating underground storage tanks and tank systems to be
19 consistent with the revisions to the United States Environmental
20 Protection Agency underground storage tank regulations codified
21 in title 40 Code of Federal Regulations part 280 and effective
22 as of October 13, 2015; and
23

24 BE IT FURTHER RESOLVED that the Department of Health is
25 requested to provide by rule that:
26

27 (1) Field-constructed underground storage tanks with
28 storage capacities greater than fifty thousand gallons
29 that were installed before July 15, 2015:
30

31 (A) Be subject to the upgrade requirements specified
32 in title 40 Code of Federal Regulations part 280,
33 effective as of October 13, 2015, or the
34 equivalent or superior standards;
35

36 (B) Be permitted to upgrade in accordance with rules
37 adopted by the Department of Health in phases;
38 provided that all tanks in operation meet the
39 regulatory upgrade standards no later than
40 September 28, 2037;
41



S.C.R. NO. 99

- 1 (C) Be subject to the permitting requirements
- 2 specified in chapter 11-281, Hawaii
- 3 Administrative Rules, or successor rules; and
- 4
- 5 (D) Prior to upgrading with secondary containment or
- 6 the equivalent or superior standards, be subject
- 7 to the release detection rules specified in title
- 8 40 Code of Federal Regulations part 280,
- 9 effective as of October 13, 2015, or the
- 10 equivalent or superior standards, and be
- 11 monitored using release detection methods
- 12 authorized in chapter 11-281, Hawaii
- 13 Administrative Rules, or successor rules or the
- 14 equivalent or superior standards; and
- 15
- 16 (2) The construction or installation of field-constructed
- 17 underground storage tanks shall be prohibited on or
- 18 after July 1, 2017, unless the storage tank and piping
- 19 have secondary containment or the equivalent or
- 20 superior standards and comply with all requirements
- 21 specified in chapter 11-281, Hawaii Administrative
- 22 Rules, or successor rules; and
- 23

24 BE IT FURTHER RESOLVED that certified copies of this
 25 Concurrent Resolution be transmitted to the Governor and
 26 Director of Health.

27 OFFERED BY:

	
	
	
	
	
	

