WHEREAS, the adversity brought about by the global economic downturn also provides an opportunity to augment the practices of state government in such a way as to create efficiencies and reduce costs while still meeting the goals of a particular policy; and

WHEREAS, the Department of Health's Clean Water Branch is responsible for regulating the federal Clean Water Act, and more specifically, the Clean Water Branch is responsible for reviewing applications and granting permits for potential sites of nonpoint source pollution, such as construction sites and facilities, and enforcement of penalties on those that violate the Clean Water Act's standards; and

WHEREAS, part of the solution to limited resources for the provision of government services is cooperation with the private sector; and

WHEREAS, cooperation with the private sector with respect to self-monitoring is consistent with long-standing U.S. Environmental Protection Agency (EPA) policy as in Volume 51, Number 131, of the Federal Register dated July 9, 1986, the EPA announced a final policy statement in which it submitted that, "[E]nvironmental audits can improve compliance by complementing conventional federal, state and local oversight [. . .]

Environmental auditing has developed for sound business reasons, particularly as a means of helping regulated entities manage pollution control affirmatively over time instead of reacting to crises. Auditing can result in improved facility environmental performance, help communicate effective solutions to common
environmental problems, focus facility managers' attention on current and upcoming regulatory requirements, and generate protocols and checklists which help facilities better manage themselves. Auditing also can result in better-integrated management of environmental hazards, since auditors frequently identify environmental liabilities which go beyond regulatory compliance. [.. .] EPA encourages regulated entities to adopt sound environmental management practices to improve environmental performance. [.. .] Audits can be conducted effectively by independent internal or third party auditors."

WHEREAS, this policy is incorporated and supported in a 1997 EPA document entitled "Voluntary Environmental Self-Policing and Self-Disclosure Policy", where the EPA states, "One of the Environmental Protection Agency's most important responsibilities is obtaining compliance with federal laws that protect public health and safeguard the environment. That goal can be achieved only with the voluntary cooperation of thousands of businesses and other regulated entities subject to these requirements [.. .] the Agency recognizes that we cannot achieve maximum compliance without the cooperation of a regulated community willing to act responsibly by detecting, disclosing, and correcting violations. Already, regulated entities have many compelling incentives to implement environmental management/auditing systems, as noted in EPA's 1986 auditing policy."; and

WHEREAS, this policy was further updated and strengthened in Volume 65, Number 70, of the Federal Register dated April 11, 2000, where the EPA issued a final policy statement in which it proposed, among other things, that "[t]he purpose of the Policy is to enhance protection of human health and the environment by encouraging regulated entities to voluntarily discover, disclose, correct and prevent violations of Federal environmental law [.. .] The revised Policy reflects EPA's continuing commitment to encouraging voluntary self-policing while preserving fair and effective enforcement."; and

WHEREAS, the benefits to cooperation in this case can include cooperative self-monitoring, which can provide a
mechanism by which real-time electronic transmission of data
related to regulated sites and facilities to regulatory
authority can occur; and

WHEREAS, the information gathered through cooperative self-
monitoring can include permit applications, best management
practices and related attachments associated with these
applications, and site and facility inspection results, which
would allow regulatory agencies to be more readily capable of
addressing the constraints of limited public resources while
continuing to fulfill their role in the common purpose of
stewardship of the environment; now, therefore,

BE IT RESOLVED by the House of Representatives of the
Twenty-Fifth Legislature of the State of Hawaii, Regular Session
of 2010, that the Department of Health is requested to convene a
task force for the purpose of determining how cooperation
between the public and private sector can further the purposes
of the Clean Water Act; and

BE IT FURTHER RESOLVED that the task force be chaired by
the Director of Health and consist of the following members:

(1) A representative from the U.S. Environmental
Protection Agency;

(2) The director of the department of transportation, or
his designee;

(3) A representative from a county agency responsible for
environmental regulation;

(4) A representative from a county agency responsible for
transportation management, provided that this
representative shall not be from the same county as
the representative from a county agency responsible
for environmental regulation;

(5) A member of the house of representatives, as selected
by the speaker of the house of representatives;
(6) A member of the senate, as selected by the senate president; and

(7) Four persons who have volunteered to be regulated through the Hawaii Task Force for the Modernization of Clean Water Act Compliance, as selected by the persons regulated through the Hawaii Task Force for the Modernization of Clean Water Act Compliance; and

BE IT FURTHER RESOLVED that the task force is requested to look into the best standards, rules, and procedures for managing or mitigating nonpoint source pollution or maintaining compliance with adopted department rules or standards for nonpoint source pollution management that are at least equal to those promulgated by the department, and that these best standards, rules, and procedures be used to maximize the use of public-private partnerships to supplement and augment the public resources with private resources to create greater efficiencies in effecting the public purposes of this resolution, including:

(1) uniform auditing and enforcement protocols and standards, including uniform training of auditors and field agents;

(2) use of third-party agents to audit sites of possible nonpoint source pollution; and

(3) data collection and transmission features that assist the department in meeting any state or federal reporting guidelines with respect to nonpoint source pollution, and access rights to the data; and

BE IT FURTHER RESOLVED that the task force report its findings and recommendations, including any proposed legislation or rules, to the Legislature not later than twenty days prior to the convening of the Regular Session of 2011; and

BE IT FURTHER RESOLVED that certified copies of this Resolution be transmitted to the Administrator of the United States Environmental Protection Agency, the State Director of Health, the State Director of Transportation, the Mayors of all
counties, the President of the Senate, the Speaker of the House
of Representatives, and the Governor.

OFFERED BY:

MAR 10 2010