SENATE CONCURRENT RESOLUTION

URGING THE DEPARTMENT OF HEALTH TO ADOPT RULES FOR UNDERGROUND STORAGE TANKS AND TANK SYSTEMS THAT CONFORM WITH RECENT REVISIONS TO FEDERAL REGULATIONS AND INCLUDE ADDITIONAL REQUIREMENTS FOR CERTAIN FIELD-CONSTRUCTED UNDERGROUND STORAGE TANKS.

WHEREAS, 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; and

WHEREAS, according to the Environmental Protection Agency, underground storage tank systems pose a substantial threat to human health and the environment; and

WHEREAS, the lands and waters of Hawaii 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; and

WHEREAS, as the primary source of potable water in Hawaii, groundwater must be preserved in as close to pristine condition as possible and accommodate the needs of multiple public and private users; and

WHEREAS, 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; and
WHEREAS, 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 imimical to the paramount interests of the State, outweigh any economic burdens imposed by the State upon those engaged in storing, transporting, or disposing of petroleum products, pollutants, and hazardous substances and related activities; and

WHEREAS, the Red Hill bulk fuel storage facility, the State's largest field-constructed underground storage tank system, stores up to 187 million gallons of fuel per day, has a total capacity of 250 million gallons, which is the most fuel stored in a single location in Hawaii, and is located only one hundred feet above a federally designated sole-source aquifer drinking water source; and

WHEREAS, 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 Hawaii's groundwater resources; and

WHEREAS, chapter 11-281, Hawaii Administrative Rules, exempts field-constructed underground storage tanks and tank systems, including the Red Hill bulk fuel storage facility, from the requirements that must be met by owners and operators of other underground storage tanks or tank systems; and

WHEREAS, 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; now, therefore,

BE IT RESOLVED by the Senate of the Twenty-ninth Legislature of the State of Hawaii, Regular Session of 2017, the House of Representatives concurring, that the Department of Health is urged to adopt rules on or before September 1, 2018, and pursuant to chapter 91, Hawaii Revised Statutes, including necessary revisions, to conform Hawaii'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; and
BE IT FURTHER RESOLVED that the Department of Health is urged to 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:

(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;

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

(D) Prior to upgrading with secondary containment, be subject to the release detection rules specified in title 40 Code of Federal Regulations part 280, subpart D, and:

(i) Be monitored using release detection methods authorized in chapter 11-281, Hawaii Administrative Rules, or successor rules; or

(ii) 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;

(E) Without secondary containment, be required to install a release detection system meeting the requirements of paragraph (D) by July 1, 2019; and

(F) Except for the exemption from secondary containment and release detection, be subject to title 40 Code of Federal Regulations part 280, subpart K;
(2) Field-constructed underground storage tank systems first installed or replaced on or after July 15, 2015:

(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 monthly visual 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) Owners and operators of field-constructed underground storage tanks that fail to comply with rules adopted by the Department of Health, be required to empty the storage tank system, take the system out-of-service, and permanently close the tank, in accordance with chapter 11-281, Hawaii Administrative Rules, or successor rules;

(4) Any owners and operators of field-constructed underground storage tanks that fail to comply with rules adopted by the Department of Health for upgrading with secondary containment have their permits revoked; and

(5) Field-constructed underground storage tanks not be installed on or after July 1, 2017, unless the storage tank and piping have secondary containment and comply with all requirements specified in chapter 11-281, Hawaii Administrative Rules, or successor rules; and

BE IT FURTHER RESOLVED that a certified copy of this Concurrent Resolution be transmitted to the Director of Health.