SENATE CONCURRENT RESOLUTION


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

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

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

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

WHEREAS, as of March 7, 2017, the Department of Health has not updated Hawaii's underground storage tank regulations; therefore, the State of Hawaii does not have the ability to enforce the current Environmental Protection Agency standards for underground storage tanks; 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 requested to update Hawaii Administrative Rules regulating underground storage tanks and tank systems to be consistent with the revisions to the United States Environmental Protection Agency underground storage tank regulations codified in title 40 Code of Federal Regulations part 280 and effective as of October 13, 2015; and

BE IT FURTHER RESOLVED that the Department of Health is requested to provide by rule 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 part 280, effective as of October 13, 2015, or the equivalent or superior standards;

(B) Be permitted to upgrade in accordance with rules adopted by the Department of Health in phases; provided that all tanks in operation meet the regulatory upgrade standards no later than September 28, 2037;
(C) Be subject to the permitting requirements specified in chapter 11-281, Hawaii Administrative Rules, or successor rules; and

(D) Prior to upgrading with secondary containment or the equivalent or superior standards, be subject to the release detection rules specified in title 40 Code of Federal Regulations part 280, effective as of October 13, 2015, or the equivalent or superior standards, and be monitored using release detection methods authorized in chapter 11-281, Hawaii Administrative Rules, or successor rules or the equivalent or superior standards; and

(2) The construction or installation of field-constructed underground storage tanks shall be prohibited on or after July 1, 2017, unless the storage tank and piping have secondary containment or the equivalent or superior standards and comply with all requirements specified in chapter 11-281, Hawaii Administrative Rules, or successor rules; and

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

OFFERED BY:

[Signatures]

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