

MAR 10 2017

SENATE 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
31 [Underground Storage Tank] regulations (see 80 Fed. Reg. 41623-
32 41683) applicable to the Facility as soon as possible."; and
33



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

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

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

20 BE IT FURTHER RESOLVED that the Department of Health is
21 requested to provide by rule that:
22

23 (1) Field-constructed underground storage tanks with
24 storage capacities greater than fifty thousand gallons
25 that were installed before July 15, 2015:
26

27 (A) Be subject to the upgrade requirements specified
28 in title 40 Code of Federal Regulations part 280,
29 effective as of October 13, 2015, or the
30 equivalent or superior standards;
31

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

38 (C) Be subject to the permitting requirements
39 specified in chapter 11-281, Hawaii
40 Administrative Rules, or successor rules; and
41



(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 Resolution be transmitted to the Governor and Director of Health.

OFFERED BY:

[Signature]
Cherise K. Hoshikawa
Breene Hamlin
AC. Kishida

[Signature]
Hal Akana
Rosalee H. Baker
John H.
ED. Hines
Will Ego
Katherine R. Monroe

