

JAN 17 2025

A BILL FOR AN ACT

RELATING TO TOXIC CHEMICALS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. The legislature finds that certain state agencies, including the department of health, monitor the presence of environmentally toxic chemicals in water, soil, and air, and require remedial action if pollution levels exceed certain concentrations, often called environmental action levels or EALs. When an EAL is exceeded, the person or entity responsible for the existence of the pollution is legally required to take remedial action to reduce the level of toxicity in the area under the person's or entity's control, so that the EAL is no longer exceeded.

The legislature further finds that there are currently no procedural requirements or standards to establish EALs for various toxins that are monitored, or to raise or lower EALs for toxins and pollutants. Previously, EALs have been raised by state agencies without public notice and without publication of the scientific justification, resulting in a relaxation of enforcement standards and a potential increase in pollution.



1 The legislature further finds that some increases in local
2 EALs have lacked scientific justification and that the increases
3 are contrary to the EALs established and enforced by federal
4 agencies and agencies of other states. These increases may pose
5 unreasonable risks to the environment and the residents of the
6 State, and therefore it is necessary that any increases in EALs
7 be scientifically justifiable and based on the severity of risks
8 to human health and the environment, as well as the probability
9 of adverse effects. Procedures must be established to provide
10 the public with advance notice and the opportunity to respond to
11 proposed increases in EALs. Moreover, these actions by Hawaii
12 state agencies without adequate scientific basis and procedural
13 safeguards may violate the guarantees of article XI, sections 1
14 and 7 of the Hawaii State Constitution.

15 The legislature affirms that the public has a right to know
16 all relevant information concerning environmental toxins and
17 that state agencies charged with monitoring and remediating
18 environmental toxins are responsible for ensuring that the
19 public receives all relevant information about the presence of
20 environmental toxins in a timely manner.



1 The legislature also finds inconsistencies between EALs for
2 per- and polyfluoroalkyl substances (PFAS), such as
3 perfluorooctanesulfonic acid (PFOS) and perfluorooctanoic acid
4 (PFOA), established by state agencies and the maximum
5 contaminant levels (MCLs) recently adopted by the United States
6 Environmental Protection Agency (EPA) for PFAS. For example,
7 the local EAL for PFOS in drinking water is seventy parts per
8 trillion (ppt), while the EPA's newly adopted MCL for PFOS is
9 four ppt. Similarly, the local EAL for PFOA is seventy ppt,
10 while the EPA's newly adopted MCL for PFOA is four ppt. These
11 discrepancies highlight the need to align EALs established by
12 state agencies with federal standards to ensure the protection
13 of public health and the environment.

14 Additionally, the local EALs for total petroleum
15 hydrocarbons (TPH) in drinking water are as follows:

- 16 • TPH-G (gasoline range organics): One hundred parts per
17 billion (ppb);
- 18 • TPH-D (diesel range organics): Two hundred sixty-six ppb;
19 and
- 20 • TPH-O (oil range organics): Five hundred ppb.



1 However, it has been observed that individuals are
2 experiencing symptoms at levels as low as thirty-five to forty
3 ppb, indicating that existing local EALs may not be adequately
4 protecting public health.

5 The legislature also notes that the local EAL for lead in
6 drinking water is fifteen ppb, which is consistent with the
7 EPA's MCL for lead in drinking water, also set at fifteen ppb.
8 Furthermore, the legislature finds that the EALs established by
9 state agencies for polycyclic aromatic hydrocarbons (PAHs) are
10 consistent with EPA guidelines. For example, the local EAL for
11 benzo(a)pyrene in groundwater is 0.2 ppb, which aligns with the
12 EPA's MCL for benzo(a)pyrene.

13 The following table summarizes the comparisons between the
14 EALs established by state agencies and the EPA's MCLs for
15 various contaminants:

Contaminant	Local EAL (Drinking Water)	EPA MCL (Drinking Water)
Lead	15 ppb	15 ppb
PFOS	70 ppt	4 ppt
PFOA	70 ppt	4 ppt
TPH-G (Gasoline Range Organics)	100 ppb	No specific MCL
TPH-D (Diesel Range Organics)	266 ppb	No specific MCL
TPH-O (Oil Range Organics)	500 ppb	No specific MCL
Benzo(a)pyrene (PAH)	0.2 ppb	0.2 ppb
Naphthalene (PAH)	6 ppb	No specific MCL
Fluoranthene (PAH)	0.2 ppb	No specific MCL



Mercury	2 ppb	2 ppb
Cadmium	5 ppb	5 ppb
Arsenic	10 ppb	10 ppb
Benzene	5 ppb	5 ppb

Notes:
Lead: Both the State and EPA have set the same action level at 15 ppb.
PFOS and PFOA: Local EALs are significantly higher than the newly adopted EPA MCLs.
TPH-G, TPH-D, TPH-O: EPA does not have specific MCLs for these fractions of total petroleum hydrocarbons.
PAHs: The EAL for benzo(a)pyrene is consistent with the EPA MCL, while other PAHs like naphthalene and fluoranthene do not have specific MCLs set by the EPA.
Mercury, Cadmium, Arsenic, Benzene: Both have set the same action levels and MCLs for these contaminants.

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2 This comparison highlights the need for alignment between
3 state and federal standards to ensure the protection of public
4 health and the environment.

5 The legislature additionally finds that dioxins and furans
6 are highly toxic environmental pollutants that belong to the
7 group of persistent organic pollutants and are by-products of
8 various industrial processes and combustion activities, such as
9 waste incineration, chemical manufacturing, and the burning of
10 fossil fuels and wood. These compounds are known for their
11 long-term persistence in the environment and their ability to
12 bioaccumulate in the food chain, leading to significant health
13 risks.

14 The legislature notes that local EALs for dioxins and
15 furans were established to guide the assessment and remediation



1 of contaminated sites. The most toxic dioxin:
2 2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD), has an EAL of
3 0.00004 ppb in drinking water.

4 The EPA has also set guidelines for dioxins and furans.
5 The EPA's MCL for TCDD in drinking water is 0.00003 ppb. These
6 levels are designed to protect human health by limiting exposure
7 to these highly toxic compounds.

8 Accordingly, the purpose of this Act is to establish
9 procedural and substantive requirements for the establishment
10 and modification of environmental action levels by state
11 agencies.

12 SECTION 2. (a) Every state agency that monitors
13 environmental toxins and pollutants shall establish
14 environmental action levels or substantively similar triggering
15 mechanisms that are consistent with the best practices and most
16 recent scientific evidence relating to the preservation of a
17 safe environment.

18 (b) No modification to any environmental action levels or
19 similar triggering mechanism shall be made except after adequate
20 advance notice to the public, which shall include the provision
21 of all relevant scientific justifications for the proposed

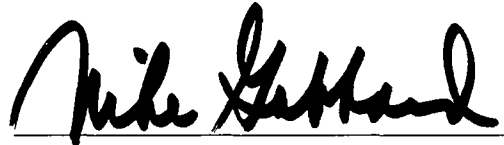


1 modification. Any state agency proposing a modification shall
2 comply with the requirements of chapter 91, Hawaii Revised
3 Statutes, and allow not less than thirty days for the public to
4 comment on the proposed modification, and conduct one or more
5 public hearings where comments to the proposed action shall be
6 received.

7 SECTION 3. Any resident of the State may petition an
8 agency that has established environmental action levels or
9 similar triggering mechanism for the modification of any
10 established environmental action levels or similar triggering
11 mechanisms. The agency shall promptly respond to the petition
12 in the manner provided by chapter 91, Hawaii Revised Statutes.

13 SECTION 4. This Act shall take effect upon its approval.
14

INTRODUCED BY:



S.B. NO. 539

Report Title:

EALs; Toxic Chemicals; Pollutants; Procedural Requirements;
Public Notice

Description:

Requires state agencies that monitor environmental toxins and pollutants to establish environmental action levels (EALs) to ensure the preservation of a safe environment. Prohibits modifications to EALs unless certain procedural requirements are met. Establishes a process to allow any resident to petition for modifications to an established EAL.

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