



STATE OF HAWAII
DEPARTMENT OF HEALTH
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**Testimony COMMENTING on SCR133
URGING EVERY STATE AGENCY THAT MONITORS ENVIRONMENTAL
TOXINS AND POLLUTANTS TO FOLLOW CERTAIN PROCEDURAL AND
SUBSTANTIVE REQUIREMENTS FOR THE ESTABLISHMENT AND
MODIFICATIONS OF ENVIRONMENTAL ACTION LEVELS**

SENATOR MIKE GABBARD, CHAIR
SENATE COMMITTEE ON AGRICULTURE AND ENVIRONMENT

Hearing Date: March 27, 2024

Room Number: 224

1 **Fiscal Implications:** None

2 **Department Testimony:** The Department of Health (Department) appreciates the opportunity
3 to clarify misconceptions on the development and use of risk based Environmental Action Levels
4 (EALs). EALs are concentrations of contaminants in soil, soil gas, and groundwater that are
5 used in the decision making process to conduct site investigation activities and response actions.
6 The Department closely follows the approaches EPA uses to develop the EPA's Regional
7 Screening Levels (RSLs). Many of Hawaii EALs are more conservative and protective than the
8 RSLs due to the incorporation of state-specific concerns, such as an increased focus on the
9 protection of affected communities, groundwater, and aquatic habitats.

10 Based on the availability of new scientific studies and analyses, the EALs are evaluated and
11 reflect updates to chemical-specific toxicity factors published by the EPA. Updates to the
12 Department's EALs are documented in publicly available appendices to the Department
13 publication *Evaluation of Environmental Hazards at Sites with Contaminated Soil and*
14 *Groundwater – Hawaii Edition*, and significant changes are proposed in technical memoranda.
15 Before official changes are made to the EALs, draft technical memoranda are published in the
16 Department's website with an invitation to the public to offer comments. Department staff

1 routinely meet with environmental experts in the EPA, other federal agencies, international
2 environmental protection agencies, and experts in the private sector to discuss necessary updates
3 to EAL guidance documents.

4 Use of chapter 91 requirements could hamper the Department's ability to rapidly update EALs
5 when new toxicity information becomes available or when circumstances arise that are different
6 from those assumed during the development of the EALs, such as in an environmental
7 emergency. A petition process could result in intentional or unintentional manipulation of EALs
8 by industry, political, or other interests in a manner that is not adequately protective of human
9 health and the environment.

10 The Department currently sets and modifies EALs based on scientific and documented
11 procedures. We are committed to the protection of public health and the environment and will
12 always work towards advocating for public trust with open communication and dialogue.

13 Thank you for the opportunity to testify.



Environmental Caucus of The Democratic Party of Hawai'i

March 26, 2024

To: Senate Committee on Agriculture and Environment
Hon. Mike Gabbard, Chair
Hon. Herbert M. "Tim" Richards, III, Vice Chair

Re: SCR 133, SR 115 EAL Public Hearings

Hearing: Wednesday, March 27, 2024, 1:00 p.m., Room 224 & videoconference

Position: Strong Support

Aloha, Chair Gabbard, Vice Chair Richards, and Members of the Committee on Agriculture and Environment:

The Environmental Caucus of the Democratic Party of Hawai'i comprises of over 7,500 politically active members of Hawai'i's majority political party. We strongly support urging every state agency that monitors environmental toxins and pollutants to follow certain procedural and substantive requirements for the establishment and modification of environmental action levels.

Hawaii's Environmental Action Levels (EALs) play a crucial role in protecting both human health and the environment for several reasons: (1) **Health Protection:** EALs are designed as a threshold level below which no adverse health effects are anticipated. They incorporate uncertainty factors to ensure they are protective of human and environmental health; (2) **Decision Making:** EALs are concentrations of contaminants in soil, soil gas, and groundwater that are used in decision making throughout the Environmental Hazard Evaluation (EHE) process. This process is the link between site investigation activities and response actions carried out to address hazards posed by the presence of contaminated soil and groundwater; (3) **Guidance and Standards:** The EALs refer to EPA Regional Screening Levels (RSLs) as one of a number of sources for soil, water, and air screening levels. However, the EPA RSLs cannot be used as a stand-alone tool to evaluate the need for additional actions at contaminated sites. Therefore, EALs provide a more comprehensive framework for evaluating environmental hazards; and (4) **Updates and Revisions:** EALs are periodically updated to reflect new information on risks posed by certain substances. For example, Hawaii will be updating its EALs for per- and polyfluoroalkyl Substances to reflect U.S. EPA toxicity factors once its interim Maximum Contaminant Levels (MCLs) become permanent. The EPA is also considering new information on risks posed by total petroleum hydrocarbons (TPH).

By having these EALs, Hawaii ensures a consistent, rigorous approach to environmental protection, safeguarding the health of its residents and the integrity of its unique ecosystems.



Environmental Caucus of
The Democratic Party of Hawai'i

There are several arguments in favor of requiring public hearings for modification to Environmental Action Levels: (1) **Public Participation:** Public hearings provide an opportunity for all interested parties, including the general public, to present their views on a proposed issue or action. This ensures that a wide range of perspectives are considered, which can lead to more balanced and informed decisions; (2) **Transparency:** Public hearings promote transparency by allowing the public to gain access to information about the proposed modifications and their potential impacts. This can help to build trust between the public and the state agencies that monitor environmental toxins and pollutants; (3) **Accountability:** Requiring public hearings holds state agencies accountable to the public. It ensures that any changes to the EALs are not made arbitrarily or without due consideration of their potential impacts; (4) **Education:** Public hearings can serve as an educational tool, helping to raise public awareness about environmental toxins and pollutants and the importance of EALs in protecting human health and the environment; and (5) **Informed Decision Making:** Listening to public comments and concerns can provide clarity on the issue being considered and can contribute to more informed decision making.

Historically, public participation has been instrumental in shaping environmental policies and regulations in many instances; therefore, public participation when considering modifications to the EALs would be of great public benefit and interest. Here are examples where public participation led to favorable environmental outcomes: (1) **Community Right-to-Know Laws.** In the U.S., laws like the Emergency Planning and Community Right-to-Know Act (EPCRA) were enacted in response to public demand for greater access to information about environmental hazard. These laws have led to increased transparency and have empowered communities to advocate for cleaner and safe environments; (2) **Public Comments on Rulemaking:** Many environmental agencies, such as the U.S. Environmental Protection Agency (EPA), are required to solicit public comments when proposing new rules or regulations. These comments can influence the final rule, and there have been instances where rules were significantly altered in response to public input; (3) **Citizen Suits:** The Clean Water Act, Clean Air Act, and other environmental laws in the U.S. allow citizens to sue violators and sometimes even the government if it fails to enforce the laws properly. These citizen suits have resulted in significant improvements in environmental quality; and (4) **Local Environmental Initiatives:** There are numerous examples of local communities coming together to protect their environment, such as community-led efforts to clean up polluted rivers or to stop the construction of potentially harmful projects. These initiatives often involve significant public input and can lead to positive environmental outcomes. While these examples may not directly involve EALs, they highlight the potential impact of public input on environmental decision-making.

On behalf of the Environmental Caucus, we thank you very much for your support of these resolutions. Thank you for the opportunity to testify on these important resolutions.

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Co-Chairs, Environmental Caucus

SCR-133

Submitted on: 3/23/2024 12:27:48 PM

Testimony for AEN on 3/27/2024 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Jacqueline S. Ambrose	Individual	Support	Written Testimony Only

Comments:

Aloha,

Yes to; URGING EVERY STATE AGENCY THAT MONITORS ENVIRONMENTAL TOXINS AND POLLUTANTS TO FOLLOW CERTAIN PROCEDURAL AND SUBSTANTIVE REQUIREMENTS FOR THE ESTABLISHMENT AND MODIFICATIONS OF ENVIRONMENTAL ACTION LEVELS.

SCR-133

Submitted on: 3/23/2024 9:09:32 AM

Testimony for AEN on 3/27/2024 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Lisa Bishop	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Gabbard and AEN Committee Members,

i strongly support this resolution and urge your unanimous support . it is long overdue!

With Aloha,

Lisa Bishop

Oahu Resident