

BOARD OF WATER SUPPLY

CITY AND COUNTY OF HONOLULU
630 SOUTH BERETANIA STREET
HONOLULU, HI 96843
www.boardofwatersupply.com



February 11, 2020

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Deputy Manager and Chief Engineer *llk*

The Honorable Nicole E. Lowen, Chair
and Members
Committee on Energy and Environment Protection
House of Representatives
State Capitol, Room 325
Honolulu, Hawaii 96813

The Honorable John M. Mizuno, Chair
and Members
Committee on Health
House of Representatives
State Capitol, Room 325
Honolulu, Hawaii 96813

Dear Chair Lowen, Chair Mizuno and Members:

Subject: House Bill 2579: Relating to the Department of Health

The Honolulu Board of Water Supply (BWS) strongly supports House Bill (HB) 2579.

This bill proposes to amend Hawaii Revised Statutes (HRS) 128D-7 (b) to require any minimum hazard threshold levels and environmental clean-up levels developed by the Department of Health to be peer reviewed and approved by an independent technical advisory committee.

The Hawaii Department of Health's (HDOH) Environmental Hazards Evaluation Guidance, dated Fall 2017, describes the process for evaluating potentially contaminated sites for any environmental hazards. The process uses threshold levels and environmental action levels (EALs) to evaluate the type and amount of contamination that may pose a risk to human health and the environment. However, according to this document "HDOH reserves the right to change this information at any time without public notice." The document also states "HDOH may elect to follow the information provided herein or act at a variance with the information, based on an analysis of site-specific circumstances."

We support the HDOH efforts to set guidance and threshold levels for various hazardous contaminants to protect human health and the environment. However,

The Honorable Nicole E. Lowen, Chair
and Members
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and Members
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that effort should not be done “at any time without public notice” nor come with discretionary options that allow a variance without external review and validation. A peer review committee of credentialed experts should be included in the process to evaluate and affirm the actions taken.

Presently hazard thresholds and EALs can be set by one or more health professionals without the benefit of peer review by those with expertise in multiple disciplines necessary to ensure that the levels are scientifically sound and truly protective of public health and the environment. Hazard thresholds and EALs presently set by the HDOH under the current statute could deviate from their published guidance at any time without technical review, public notice, or consideration of all parties that may ultimately be affected by a change to the hazard threshold or EALs.

Peer review is embraced by the scientific community in publications as well as by government agencies for setting environmental action levels both nationally and by states. The United States Environmental Protection Agency, the U.S. Navy, and the National Aeronautics and Space Administration all use peer review committees. Many states also involve multiple levels of review. For example, Washington State has a drinking water advisory group that provides input and review of levels developed by the Washington Department of Health as well as a Board of Health for final review and approval. Although not all advisory groups in other states include the range of technical expertise specified in HB 2579, these states often have multiple individuals with various expertise within their health and environmental departments who confer and review these levels prior to their promulgation. Even larger state health agencies that have many in-house experts, such as the State of California, have external advisory groups or separate state organizations to provide peer review. In many other states, stakeholder and public involvement is also included as part of the input process, either during advisory committee or health department meetings, or through a public comment period on proposed draft levels.

In summary, a more rigorous process that includes the necessary technical review, as outlined in HB 2579, is needed for setting or changing hazard thresholds and EALs in Hawaii. The advisory committee can also allow stakeholder and public input. Such independent review and communication are of great importance to protecting the health and welfare of our State as well as to earn the trust of the

The Honorable Nicole E. Lowen, Chair
and Members

The Honorable John M. Mizuno, Chair
and Members

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public and stakeholders that hazard thresholds and EALs are scientifically accurate and appropriately protective for our State.

Thank you for the opportunity to testify on HB 2579.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Ernest Y.W. Lau".

ERNEST Y.W. LAU, P.E.
Manager and Chief Engineer

HB-2579

Submitted on: 2/6/2020 8:38:56 PM

Testimony for EEP on 2/11/2020 8:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
David Mulinix	Our Revolution Hawaii	Support	No

Comments:

On behalf of Our Revolution Hawaii's 5,000 members and supporters, we strongly support HB2579. There is a lot of concern in the community that the Hawaii Department of Health is not responding adequately to the threat from the Navy's Red Hill fuel tanks to the main drinking water supply for the majority of the residents of State of Hawaii. It is vital that this bill pass to protect the health and safety of the people of Hawaii.



Progressive Democrats of Hawai'i

<http://pd-hawaii.com>

PO Box 51 Honolulu HI 96810

email: info@pd-hawaii.com

February 9, 2020

To: The Honorable John M. Mizuno, Chair
The Honorable Bertrand Kobayashi, Vice Chair, and Members of the
HOUSE COMMITTEE ON HEALTH
And
The Honorable Nicole E. Lowen, Chair,
The Honorable Tina Wildberger, Vice Chair, and Members of the HOUSE
COMMITTEE ON ENERGY AND ENVIRONMENTAL PROTECTION

Re: **HB 2579, Relating to the Department of Health (Red Hill UST Monitoring Wells)**
Hearing: Tuesday, February 11, 2020, 8:30 a.m., Room 329
Position: **Strong Support, with suggested amendment**

Aloha, Chairs Mizuno and Lowen, Vice Chairs Kobayashi and Wildberger, and Members of the Committees,

Progressive Democrats of Hawai'i strongly support HB 2579. The intent of this bill is to require the State Department of Health to justify its "Environmental Action Levels" ("EALs") relating to groundwater pollution in the vicinity of the Navy's Red Hill massive, multi-million gallon jet-fuel underground storage tanks, by demonstrating that those "action levels", or more frankly, "inaction levels," are justified by scientific evidence as approved by a panel of relevantly qualified scientists.

Why is this technical legislation needed? Because, in recent years, the State Department of Health has raised the EALs relating to certain pollutants found in the monitoring wells near Red Hill when the levels of those pollutants began to rise. By raising the EALs, the Department of Health has relieved the Navy of any legal duty to take any action to clean up the pollutants and to remove the source of the leaks that were causing the groundwater pollution levels to rise. When the Honolulu Board of Water Supply (BWS) questioned the Department of Health as to why it had raised the EALs, the Department gave no satisfactory answers.

This situation is not tolerable and violates the State's obligation to act transparently. For this reason, this bill is absolutely necessary for as long as the people of Oahu must endure the continued presence of the Red Hill USTs, which appears will be a very long time. We have one request, however. We ask that the bill be amended to clarify that the existing EALs be subject to the same level of scientific scrutiny. The bill currently is ambiguous in this regard. Thank you for the opportunity to testify on this urgent and very important matter.

Alan B. Burdick, Co-Chair
Progressive Democrats of Hawai'i
Burdick808@gmail.com/ 486-1018



**HUMAN ENVIRONMENTAL IMPACTS COMMITTEE
ENVIRONMENTAL CAUCUS**

LATE

Tuesday, February 11, 2020

**House Bill 2579
Testifying in STRONG SUPPORT**

Aloha Chairs Lowen and Mizuno, Vice Chairs Wildberger and Kobayashi, and Members of the Committee on Energy & Environmental Protection and Members of the Committee on Health:

The Human Environmental Impacts Committee, Environmental Caucus of the Democratic Party of Hawai'i stands in **STRONG SUPPORT** of HB2579. This measure "provides that any minimum threshold levels, including any environmental cleanup levels, developed by the department of health pursuant to Section 128D-7, HRS, shall be peer reviewed and approved by an independent technical advisory committee consisting of subject matter experts in toxicology, chemistry, environmental contaminate fate and transport, and Oahu hydrogeology and geology."

This measure is reasonable and justifiable in light of the ongoing increases of the EALs by the Department of Health seemingly without any peer review or public hearing to determine the reasonableness and justification to loosening the EAL limits when it pertains to the Red Hill Underground Fuel Storage Tanks and groundwater samples taken in the vicinity of this tank farm.

Examples of public concern can be found in a letter to Dr. Bruce S. Anderson, Director, Department of Health, from Ernest Y. W. Lau, P.E., Manager and Chief Engineer, Board of Water Supply, dated August 20, 2018. In this letter, Mr. Lau acknowledges certain DOH findings:

"In November 2017, the DOH raised its groundwater EALs for TPH-d. The TPH-d EAL based on health protection was increased from 160 micrograms per liter ($\mu\text{g/L}$) to 400 ($\mu\text{g/L}$) and the EAL based on odor or taste was increased from 100 $\mu\text{g/L}$ to 500 $\mu\text{g/L}$ (DOH 2016, 2017).

These EALs are amounts of TPH-d in water that DOH considers to be "safe" for drinking water and household use of tapwater. An increase in TPH-d EALs means that DOH is now allowing more TPH-d in tapwater at what it regards as a safe level.

The BWS considers these EALs for certain constitutes that do not have drinking water standards to help ensure that the water we provide our customers is safe and free of objectionable qualities. Consequently, the BWS respectfully requests a detailed explanation of the scientific basis of these changes in TPH-d EALs. This will greatly assist us in responding to public comments and concerns regarding the safety and quality of our water. . . .”

A month earlier, on July 19, 2018, Mr. Lau transmitted a letter of concern to Dr. Bruce Anderson, Director, DOH, an excerpt is as follows: “

“The Navy’s fourth quarter 2017 cumulative groundwater results show past detections of TPH-d Red Hill Shaft. On June 28, 2005, three samples were collected and recorded TPH-d levels of 43 ppb, 67 ppb and 58 ppb. On September 8, 2005, 43 ppb was detected. On December 6, 2005, two samples detected 38 and 24 ppb, respectively. On January 20, 2016, 20 ppb was detected. We believe these historical detections warrant monthly testing given Red Hill Shaft is an important drinking water source to Joint Base Pearl Harbor Hickam (JBPHH). On December 13, 2016, the BWS sent a letter to DOH transmitting the results of two independent studies that BWS commissioned to determine screening levels for TPH-d in drinking water. Both studies calculated values that were very consistent with DOH’s TPH-d gross contamination (taste and odor threshold) environmental action limit EAL of 100 ppb and TPH-d Drinking Water toxicity EAL of 160 ppb. In Fall 2017, the DOH relaxed these EALs by raising them to 500 ppb and 400 ppb, respectively. The BWS would like to know the detailed basis DOH used to relax the EAL standard and receive a copy of the data used to make its decision. The BWS believes the previous DOH EALs were protective of the environment, human health and relaxing the EALs is a backsliding that is not in the best interest of our community. The BWS urges the DOH to reconsider and reinstate the 100 ppb and 160 ppb EAL values.”

In 2018, the O`ahu County Democrats, out of dire concern over the risk to the Moanalua-Waimalu Aquifer, our major drinking water source for Moanalua to Hawai`i Kai, affecting hundreds of thousands of residents, businesses and visitors of the County of Honolulu, adopted the following resolution:

OC 2018-11. Urging the United States Navy to retro fit its twenty jet fuel tanks or relocate them to a location away from the aquifer

Whereas, A Navy analysis may underestimate the contamination potential of leaks from giant fuel tanks from Red Hill; and

Whereas, The Navy has 20 underground fuel storage tanks dating to World War II in Red Hill above Pearl Harbor; and

Whereas, The tanks sit on an aquifer that supplies a quarter of the water consumed in urban Honolulu; and

Whereas, More than 27,000 gallons of jet fuel leaked from one of the tanks in 2014; and

Whereas, The Navy's evaluation of the potential risks appears to be skewed toward concluding that millions of gallons of jet fuel could be released without damaging the groundwater; and

Whereas, The Navy cannot locate the leaked fuel or accurately assess the risk to our groundwater; and

Whereas, Instead, the Navy is providing models to produce its preferred outcomes; and

Whereas, The Navy and regulatory agencies are working on a 20-year-plan to reduce the risk of leaks and fuel contamination from the tanks; and

Whereas, The plan includes new tank designs and potentially storing the fuel someplace other than Red Hill; and therefore, be it

Resolved, That the O‘ahu County Democrats of the Democratic Party of Hawai‘i urge the United States Navy to install double-walled tanks at Red Hill within five years or move the tanks if the Navy is unable to retrofit the twenty tanks into double-walled tanks within the time prescribed; and be it further

Resolved, That the O‘ahu County Demoicrats of the Democratic Party of Hawai‘i urge the Hawai‘i State Legislature, and the U.S. Congress to mandate that the Navy retrofit the twenty Red Hill tanks to double-walled tanks within five years and or relocate the twenty tanks to a location where the risk of leakage into the aquifer and groundwater is greatly minimized; and be it

Ordered, That copies of this resolution be transmitted to the United States Navy, members of the Hawai‘i Congressional Delegation, the Governor of the State of Hawai‘i, the Lt. Governor of the State of Hawai‘i, Hawai‘i Legislators who are members of the Democratic Party; the Mayor of the City and County of Honolulu; and Members of the City Council of the County of Honolulu; and the 2018 convention resolutions committee of the Democratic Party of Hawai‘i.

For these reasons, the Human Environmental Impacts Committee supports the passage of this measure to require that any increase in minimum threshold levels, including any environmental cleanup levels, developed by the department of health pursuant to Section 128D-7, HRS, shall be peer reviewed and approved by an independent technical advisory committee consisting of subject matter experts in toxicology, chemistry, environmental contaminate fate and transport, and Oahu hydrogeology and geology so that the people of the state of Hawai‘i, particularly those residing, working, and visiting within the county of Honolulu can rest assured that any increase in the EAL will still render their tapwater safe and risk-free of scientifically unreasonable and unjustifiable petroleum contamination.

Mahalo for the opportunity to testify,
/s/ Melodie Aduja
Chair, Human Environmental Impacts Committee
Environmental Caucus
Democratic Party of Hawai‘i

HB-2579

Submitted on: 2/9/2020 10:24:21 PM

Testimony for EEP on 2/11/2020 8:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Pete Doktor	Individual	Support	No

Comments:

I write in strong support for HB2759, for requiring a minimum hazard threshold level developed by the Department of Health to be peer reviewed and approved of by an independent advisory committee as a means to secure and maintain safe drinking water.

As a parent in a home in which we can see Red Hill from our lanai, we worry about the impact of leakages past, present and future on our daughter's brain development and overall health.

As a State resident, I am concerned about the reoccurrence of incidents and accidents, e.g., out-of-control control burn fires at MÄ• kua Training Facilities.

As a citizen, I expect governments of this land to protect the public health and safety, to include the very resources which sustain life on remote islands, and to uphold the Constitutional principle of civilian responsibility and accountability over a nation's armed forces.

HB-2579

Submitted on: 2/9/2020 6:27:01 PM

Testimony for EEP on 2/11/2020 8:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Terri Choy	Individual	Oppose	No

Comments:

Proposed amendment to HRS Section 128D-7, Subsection (b) seeks to mandate peer review and approval by an independent multidisciplinary technical advisory committee of criteria that take into account factors relating to the public health and the environment...

The proposed amendment is flawed as it is unclear to the manner of selection of the independent (unbiased) technical advisory committee and the rules which govern the committee, and more so that an additional layer of peer review is unnecessary as explained below.

The department (Hawaii Department of Health [HDOH]) has adopted rules which follow a risk-based approach that most states and the EPA have integrated into their cleanup programs.

HDOH publishes "minimum hazard threshold levels", referred to as "Environmental Action Level (EALs)" which represent a compilation of state, federal and related guidance for a variety of technical topics, modified to reflect local environmental conditions and are updated every 2-3 years to reflect updates to USEPA guidance and incorporate new research.

The methodology on which many sets of screening levels available are based have been formally reviewed, and have had decades of user input from agency personnel and other users. Most of the default exposure assumptions and toxicity values behind screening levels are based on peer-reviewed agency guidance (e.g., Exposure Factors Handbook and IRIS Toxicity values.)

More importantly, screening levels like HDOH EALs and EPA Risk Screening Levels (RSLs) are advisory numbers. They are not legally binding. As part of the CERCLA process, interested parties have the opportunity to comment/refute on the applicability of the screening level for a particular site which can be discussed in light of applicability of assumptions on which the screening level is based to the site-specific conditions.

There would be virtually no benefit from an adding an additional layer of peer review, particularly in light of the fact that the resulting screening level is only an advisory value, the validity of which needs to be evaluated at specific sites.

The expertise and review discussed in the proposed legislation would be better applied to site management decisions and to the validity of the applicability screening levels like EALs to site management decisions.

HB-2579

Submitted on: 2/9/2020 12:02:34 PM

Testimony for EEP on 2/11/2020 8:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
WILLIAM MURPHY	Individual	Oppose	Yes

Comments:

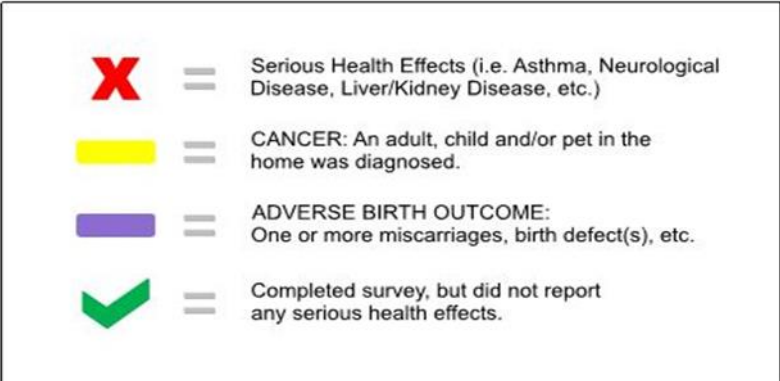
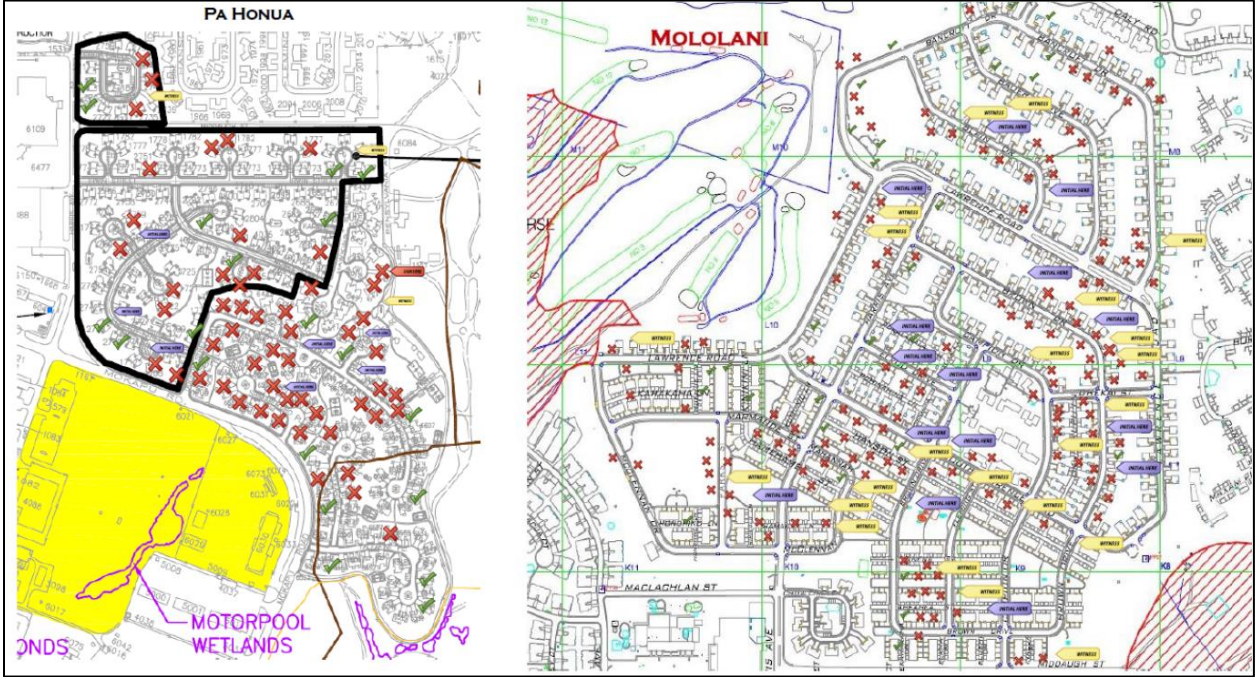
I have provided written testimony in the attached document.

I will attend the hearing and will be available for questions at the Chair's request.

Thank you.

In short, the HDOH's environmental action levels (EALs) is the introduction of hazardous substances into our environment. The impact to human health and the environment is "assumed" to be safe based on the concept that exposing people to hazardous substances is acceptable if the increased risk to cancer and illnesses are within a range, e.g., one in ten thousand. The EALs allows use of hazardous substances that cause harm to human health and the environment. Consider the introduction of arsenic or poisons into your living environment because the HDOH assumes that the chances of anyone getting sick or dying is only one in ten thousand. The basic right for us to be provided a healthful environment is violated each time the HDOH uses the EALs. The increased levels of contaminants in the Red Hill aquifers or use of topsoils contaminated with carcinogens is permitted by the HDOH without adequate justification for the exposures to human health and the environment. Attached is a colored illustration of an informal survey conducted by residents in contaminated military family housing projects where these EALs were approved for use. Would you live in these neighborhoods? The clusters of illnesses associated with these neighborhoods were reported to the HDOH and serve as an example of the effects of the EALs. The HDOH approved the use of the EALs in these neighborhoods. What studies were completed to show the short and the long term effects of these EALs on the residents in Hawaii? The EALs for the drinking water or contaminated soil affect adults, the unborn, infants and children. The EALs are administrative guides issued by the HDOH and are not enforceable or monitored. Peer reviews is a step in the right direction. What we do now affects future generations.

WOULD YOU LIVE HERE?



WOULD YOU LIVE HERE? If the HDOH assures you that an increased risk of cancer and illnesses is only one in ten thousand or one in one hundred thousand?

HB-2579

Submitted on: 2/10/2020 11:50:57 AM

Testimony for EEP on 2/11/2020 8:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
lois berger	Individual	Support	No

Comments:

The DOH needs to be more transparent and objective. It has lost my trust in its processes and behind the scenes activities as seen with the Red Hill fuel tank situation. I think public trust in the DOH has been adversely affected. I am stunned at the poor half hearted efforts at their public hearings, which is to just allow people to vent but not affect their policy. Apparently already making behind closed door decisions that affect all of the people of Hawaii. The process should be to hear the people and then make their decision. Not the other way around. Just because they're elected officials do not make them immune to will of the people. Those that think the people of Hawaii should have no say in what is being done to their environment/community should be removed.

What has be done so far with the Red Hill fuel tanks and roll back of water quality standards is another example of DOH poor's leadership and lack of care for the land and the people of Hawaii. It shouldn't only be the DOH decision when it comes to water and the environment as it affects all of us and all of the people will pay for it. I read their decison on lowering water quality standards for fuel contaminants and I don't agree with their conclusions at all. Do they think the people of Hawaii are too stupid to understand what is being done? What the people do understand is that the DOH needs to be monitored by an independent party and made to justify their decisions based on scientific evidence because they are not trustworthy.

Thank you.

HB-2579

Submitted on: 2/10/2020 4:10:43 PM

Testimony for EEP on 2/11/2020 8:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Lynda Nishihara	Individual	Support	No

Comments:

Yes,I believe DOH actions should be followed more closely, as they had suspiciously raised

acceptable EAL level when EAL was found to have increased

HB-2579

Submitted on: 2/10/2020 3:12:10 PM

Testimony for EEP on 2/11/2020 8:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Margaret Maupin	Individual	Support	No

Comments:

LATE

HB-2579

Submitted on: 2/10/2020 6:09:34 PM

Testimony for EEP on 2/11/2020 8:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Damon Hamura	Individual	Oppose	No

Comments:

Aloha-

My name is Damon Hamura and I'm a Principal at EnviroServices & Training Center, LLC. I would like to respectfully submit testimony against House Bill 2579.

Language in the HB 2579 proposes modifications to a process that does not need fixing. The language is superfluous – it proposes peer review by a technical advisory committee – this is already being done through collaboration by the Hawaii DOH with a much broader field of nationwide experts than a technical advisory committee could ever include.

The proposed language will add a layer of bureaucracy. I fear that the added layer will slow down the progress that I've seen the Hawaii DOH make over the last 20 years. In my opinion, this progress has been beneficial to all the stakeholders in the State of Hawaii.

The proposed language will hand off control of what should be a purely scientific endeavor to entities (technical advisory committee) who may be influenced by "others" with their own agendas. These outside influences may not necessarily be in the best interests of the residents in the State of Hawaii.

Thank you for allowing me to provide my opinions on this matter.

LATE

HB-2579

Submitted on: 2/10/2020 9:41:39 PM
Testimony for EEP on 2/11/2020 8:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Vicky Choo	Individual	Support	No

Comments:

I am writing in strong support of SB2774 and as a concerned citizen. Water is life, WATER is OUR LIFE in these islands! It is imperative for measures to be taken before dire consequences become irreversible for all of us on Oahu.

LATE

HB-2579

Submitted on: 2/11/2020 4:14:43 AM

Testimony for EEP on 2/11/2020 8:30:00 AM

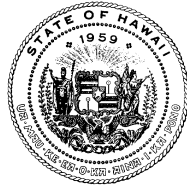
Submitted By	Organization	Testifier Position	Present at Hearing
Ashley Nishihara	Individual	Support	No

Comments:

I am in support of HB2579, which “requires certain minimum hazard threshold levels developed by the Department of Health to be peer reviewed and approved of by an independent technical advisory committee.” This forces the DOH to be held accountable and makes it harder for them to change the EAL to whatever they want whenever they want. They need to be scrutinized, because they raised the EAL in November 2017. Why is that suspicious? According to a series of graphs from the Board Of Water Supply which measured the groundwater aquifer contamination underneath the Red Hill Tanks, shortly after they raised the EAL there was a sharp spike upwards in the groundwater contamination level! In order to justify the raising of the EAL, certain requirements for safe drinking water that are usually present in the water systems across the rest of the US had to be dropped or not taken into account. This is unacceptable and shows an appalling lack of interest on the DOH’s part to do their job, which is to protect the health of our citizens.

This bill also needs to be more explicit when it comes to being “peer reviewed and approved of by an independent technical advisory committee.” Which committee? Who would do this? What’s to stop the DOH from simply hiring somebody and paying them off to say exactly what they want them to say? I think this bill needs to take it a step further and have the DOH submit their EAL and their justification for it to be reviewed AND approved by the Board Of Water Supply, at the very least. There has to be strict parameters and guidelines that scrutinize exactly who this so called “independent technical advisory committee” is. When I read this bill, it went into more detail than in the description, but it only listed what qualifications the technical advisory committee should have (should be “experts in toxicology, chemistry, environmental contaminant fate and transport, and Oahu hydrogeology and geology”); if the DOH has some sort of power/influence over these “experts,” then what does it matter what their qualifications are?

-Ashley Nishihara



LATE

STATE OF HAWAII
DEPARTMENT OF HEALTH
P. O. Box 3378
Honolulu, HI 96801-3378
doh.testimony@doh.hawaii.gov

Testimony in OPPOSITION to HB2579
RELATING TO THE DEPARTMENT OF HEALTH

REPRESENTATIVE NICOLE E. LOWEN, CHAIR
REPRESENTATIVE TINA WILDBERGER, VICE CHAIR
HOUSE COMMITTEE ON ENERGY AND ENVIRONMENTAL PROTECTION

REPRESENTATIVE JOHN M. MIZUNO, CHAIR
REPRESENTATIVE BERTRAND KOBAYASHI, VICE CHAIR
COMMITTEE ON HEALTH

Hearing Date: 2/11/2020

Room Number: 325

- 1 **Fiscal Implications:** This unfunded measure may impact the priorities identified in the
- 2 Governor's Executive Budget Request for the Department of Health's (Department)
- 3 appropriations and personnel priorities.

- 4 **Department Testimony:** The Department respectfully opposes this bill, while recognizing the
- 5 need to formally notify County Water Departments of proposed changes affecting drinking water
- 6 safety. The bill proposes establishment of an independent advisory committee responsible for
- 7 review and approval of chemical "minimum hazard thresholds" published by the Department's
- 8 Hazard Evaluation and Emergency Response (HEER) Office. These thresholds, referred to in
- 9 HEER guidance documents as Environmental Action Levels (EALs), are primarily used to
- 10 identify the presence of contaminated soil and groundwater at existing or former industrial,
- 11 commercial and agricultural properties that might require management and cleanup.

- 12 The Department concurs that clear, consistent and transparent guidance development and
- 13 consultation to establish minimum hazard thresholds is essential to protect human health and the
- 14 environment in Hawaii. The process for adding and updating EALs, documented in HEER's
- 15 Environmental Hazard Evaluation Guidance (EHEG), meets these criteria in a robust fashion,

1 while maintaining necessary decision-making independence. Key aspects of the Department's
2 Environmental Hazard Evaluation Guidance include:

- 3 (1) A scientifically defensible process that mirrors the State of California methodology to
4 develop Environmental Screening Levels (ESLs).
- 5 (2) EALs are not promulgated and are optional for use. Responsible parties and resource
6 owners may seek approval for site-specific action levels on a case-by-case basis.
- 7 (3) Research and publication of EALs for over 150 common contaminants in soil, water and
8 air. The EALs represent a compilation of state, federal and related guidance for a variety
9 of technical topics, modified to reflect local environmental conditions and expertise.
- 10 (4) EALs that are more comprehensive and, in many cases, more stringent than similar
11 environmental "screening levels" published by the USEPA as well as standards
12 promulgated in Hawaii, particularly for the protection of groundwater and drinking water
13 supplies.
- 14 (5) The EALs are updated every 2-3 years to reflect updates to USEPA guidance and
15 incorporate new research, most recently in 2017, with new updates in progress.
- 16 (6) Department staff coordinate closely on updates with local toxicologists, chemists,
17 geologists and as well as a broad range of experts in the USEPA and other government
18 and private entities.
- 19 (7) Comment opportunities on proposed guidance changes are offered prior to publication to
20 over 200 government and private environmental experts nationwide included in the
21 HEER Office contact list. These parties represent a continuous group of informal peer
22 reviewers as well as EAL guidance users that could not be replicated by a limited
23 advisory committee.
- 24 (8) The Department reviews and considers comments provided, but retains decision making
25 authority on EAL updates to preserve needed regulatory independence.
26 Extensive on-line resources are available at [https://health.hawaii.gov/heer/guidance/ehe-
and-eals/](https://health.hawaii.gov/heer/guidance/ehe-
27 and-eals/), including a detailed webinar on the EHEG and EALs.

1 The Department recognizes the importance of EAL development to County drinking water
2 Departments and commits to providing advance notice of proposed changes to drinking water
3 EALs and inviting technical interaction and comment opportunities during each EAL revision
4 cycle.

5 The Department has the following concerns with respect to establishing an outside technical
6 committee:

- 7 (1) Replacing this process with an advisory committee with decision making authority would
8 directly impede the Director's statutory authority to protect human health and the
9 environment.
- 10 (2) Appointment and retention of committee members for such highly technical and time
11 intensive regulatory assessments is a major barrier to success likely to introduce
12 inconsistency, delays and instability into the scientific defensibility of the EALs.
- 13 (3) Questions of scope, leadership, appointment and compensation criteria, meeting
14 frequency and committee duration are unclear and do not describe how the objectives
15 will be met.
- 16 (4) Finally, Department does not have existing staff or resources necessary to implement this
17 measure and is concerned it will take away from other critical program needs.

18 For these reasons, we respectfully request that this measure be deferred.

19 **Offered Amendments:** None

20 Thank you for the opportunity to testify on this measure.