



STATE OF HAWAII  
DEPARTMENT OF HEALTH  
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WRITTEN  
TESTIMONY ONLY

**Testimony in OPPOSITION to SB0582 SD1  
RELATING TO THE ENVIRONMENT**

SENATOR KARL RHOADS, CHAIR  
SENATE COMMITTEE ON JUDICIARY

Hearing Date: 2/23/21

Room Number: Videoconference

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

4 **Department Testimony:** The Department acknowledges the intent of this measure, but  
5 respectfully opposes it and submits the following comments.

6 Adding "plastic" to the definition of "water pollutant" in Hawaii Revised Statutes (HRS)  
7 §342D-1 is redundant and unnecessary as plastics are a subset of garbage and solid refuse, both  
8 of which are currently included in the definition. Further, the addition of plastic to the definition  
9 will have no specific actionable effect in the Department's administration of Hawaii's water  
10 pollution control law.

11 **"Plastic" is already a "water pollutant."** The United States Environmental Protection  
12 Agency (EPA) recognizes that most of the trash that pollutes the nation's waters is plastic trash,  
13 and that plastic trash threatens human health and aquatic ecosystems. However, the EPA does  
14 not differentiate plastic from other forms of trash (i.e., garbage or solid refuse), nor does it  
15 differentiate plastic from microplastic. The definition of "pollutant" in both the federal Clean  
16 Water Act (CWA) and HRS §342D-1 are substantively the same. Since Hawaii interprets HRS  
17 §342D-1 at least as broadly as the EPA interprets the CWA, plastics is interpreted to be a subset  
18 of garbage and solid refuse, both of which are currently identified as water pollutants in HRS  
19 §342D-1.

1            **Designating plastic does not directly improve water quality standards.** Further,  
2 adding “plastic” to the definition of “water pollutant” will, as a practical matter, have little or no  
3 actionable effect. Hawaii can already find a violation of water pollution laws for putting plastic  
4 into State waters. The Department’s other broad area of enforcement is considering plastic for  
5 the purpose of setting water quality standards. The specific mechanism is Hawaii’s  
6 determination whether a waterbody should be deemed “impaired” for water quality purposes.

7            For impaired waterbodies, section 303(d) of the CWA requires states to establish a  
8 priority ranking of those waters within its boundaries which designation would further require  
9 establishing total maximum daily loads (TMDL). A TMDL is a limit on the aggregate amount of  
10 a particular pollutant that can be permitted to enter a waterbody per day from all sources. The  
11 objective is to reach an overall reduction in the level of the specific pollutant in the waterbody to  
12 a point where it is no longer impaired.

13            Currently, there are no specific criteria to assess waterbody impairment due to plastic as  
14 opposed to other forms of trash. As a result, even if plastic is added to the definition of water  
15 pollutant, all such impairments will still be listed as trash in future Integrated Reports to the EPA  
16 (IR) as plastic is not differentiated from other forms of trash when making field assessments.  
17 Accordingly, there would likely be no separate TMDL for plastic as that would already be  
18 incorporated into a TMDL for trash.

19            **Clarifying SSCR 29.** The Senate Committee on Agriculture and Environment found: (1)  
20 The EPA held that 17 waterbodies around the Hawaiian Islands are impaired by plastic pollution;  
21 and (2) that on March 30, 2020, the EPA rescinded its approval of Hawaii’s 2018 List of  
22 Impaired Waters, stating that Hawaii did not satisfy its statutory and regulatory obligation to  
23 assemble and evaluate all existing and readily available water-quality data and information for  
24 plastic trash. The Department clarifies that, in more detail, the EPA ordered the State to evaluate  
25 all five studies regarding plastics in 19 waterbodies that were submitted for Hawaii’s 2018 IR.

26            In the Department’s subsequent report to the EPA, the State found that the impairment  
27 threshold for plastics was unknown and undeterminable for each of the sites identified in those

1 five studies and that several sites were beyond the jurisdictional limit of the State. Further, each  
2 study used independent, non-standard testing and evaluation methods, making it impossible for  
3 the State to evaluate the data in a consistent manner.

4 In its July 7, 2020 response to the Department, the EPA approved Hawaii's decision not  
5 to list 17 of 19 identified waterbodies as impaired. The EPA rejected Hawaii's decision to not  
6 list two of the waterbodies (Kamilo Beach and Tern Island) and clarified its position that the  
7 pollutant causing impairments in those two waterbodies was trash: "All of the data and infor  
8 mation reviewed for this action pertained to the presence of plastic debris and other materials,  
9 which are a subcategory of trash. Accordingly, for the purposes of this action and the State's  
10 Section 303(d) List, the pollutant causing the impairment of the two segments that are the subject  
11 of the EPA's disapproval is trash." The EPA further stated that "...the existing and readily  
12 available data information on those 2 waterbodies indicate that they are impaired for trash..."

13 **Offered Amendments:** None

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



February 23, 2021

TO: The Honorable Karl Rhoads, Chair  
Members, Senate Committee on Judiciary

FROM: Tim Shestek  
Senior Director, State Affairs

RE: **SB 582 SD1 Relating to the Environment – OPPOSE**

I am writing on behalf of the American Chemistry Council (ACC) and its members to express our opposition to SB582 SD1, which seeks to amend the current definition of water pollutant to specifically include plastic. ACC represents a diverse set of companies engaged in the business of chemistry, including the leading manufacturers of plastic resins.

ACC recognizes that plastic waste is a global problem that requires everyone from plastic producers, product manufacturers, brands, retailers, recyclers and waste haulers, as well as communities, nonprofits and federal, state and local government to come together to create a more circular economy for plastics. This means more efficiently using plastics by keeping them in use for as long as possible, getting the most from them during use, and recovering them to make new products

In order to achieve these objectives, ACC recently announced goals that [100% of plastics packaging is recyclable or recoverable by 2030](#) and we continue to be engaged in developing policies and programs aimed at increasing the recovery of plastic packaging and developing new domestic markets for recycled materials. These efforts include building on recent domestic industry-announced investment of more than \$5 billion in traditional and advanced recycling; using recycled plastic as feedstock to produce new plastics and other products; improving plastic product design to increase recyclability; and developing plastics value chain financing for collecting and sorting various plastics packaging formats.

As you may know, litter of all kinds, including plastic litter, is already covered and regulated under the Clean Water Act (CWA) as it prohibits the “discharge of any pollutant by any person.” The CWA defines “discharge” very broadly as “any addition of any pollutant to navigable waters from any point source.”<sup>1</sup> Further, the Act broadly defines “pollutant” to include any solid waste (and municipal waste). Litter and garbage in the environment are already considered solid waste under the Act.

It is also important to note that the Environmental Protection Agency (EPA) took action in 2020 to require Hawaii to reevaluate its List of Impaired Waters to consider the impacts of plastic pollution. In July the EPA found the waters around Kamilo Beach and Tern Island to be impaired by trash and ordered the state to take corrective action.

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<sup>1</sup> US Supreme Court in County of Maui vs Hawaii Wildlife Fund (2020)



Amending the code to add “plastic” as a discrete category of pollution in Hawaii may potentially downplay the role of other pollutants in the environment. Even a spill of sugar, salt, honey, molasses, milk or chocolate entering a body of water is a regulated pollutant under the CWA. In fact, in 2015, Matson Terminals was forced to pay \$1 million in fines and restitution for discharging molasses into Honolulu Harbor.<sup>2</sup> This is an example that further reinforces our contention that the definitions in current law are already appropriately broad and have been recognized as such by the EPA and the courts.

ACC believes SB582 SD1 is unnecessary and the broad definition of “pollutant” should remain as it is. The focus should properly be on any trash or garbage, regardless of material composition. The terms “solid refuse,” “garbage” and “industrial, municipal and agricultural waste” currently in statute already cover garbage made in part or whole from plastic. As such, it is unclear what purpose this bill is seeking to achieve.

Lastly, ACC believes many of the findings contained in SB582 SD1 are incorrect, over generalized and not supported by scientific data. For the reasons stated, we urge you to oppose this bill.

Thank you for the opportunity to share our views. Should you have any questions or concerns, please do not hesitate to contact me at 916-448-2581 or [Tim\\_Shestek@americanchemistry.com](mailto:Tim_Shestek@americanchemistry.com). You may also contact ACC’s Hawaii based representative Ross Yamasaki at 808-531-4551 or [ryamasaki@808cch.com](mailto:ryamasaki@808cch.com)

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<sup>2</sup> <https://archive.epa.gov/epa/newsreleases/epa-settlement-matson-resolves-2013-molasses-spill-honolulu-harbor.html>



February 22, 2021

Judiciary Committee  
Hawai'i State Capitol  
Honolulu, Hawai'i 96813

Dear Chair Rhoads, Vice-Chair Keohokalole, and Members of the Judiciary Committee,

The Surfrider Foundation would like to offer this testimony in **support of SB582**.

The Surfrider Foundation is a national nonprofit organization dedicated to the protection and enjoyment of our ocean, waves, and beaches. Addressing plastic pollution and ensuring the protection of clean water are two of Surfrider Foundation's primary focus areas.

The impacts and presence of plastic pollution are clearly documented - not only in Hawai'i but across the world. Plastic pollution in Hawaii ranges from microplastics that contaminate coastal waters and harm marine life to massive piles of plastic waste along Kamilo Beach, nicknamed "Plastic Beach." Studies indicate that 17 water bodies around the Hawaiian islands are impaired by plastic pollution. Surfrider Foundation's chapters across the state have for years been removing and documenting plastic pollution in coastal areas. In 2020 alone, the Surfrider Foundation Kaua'i Chapter removed an estimated 60,000 pounds of plastic pollution from the island's shorelines.

In addition, the Environmental Protection Agency (EPA) acknowledges the need to incorporate plastic pollution into Hawaii's 303(d) List of Impaired Waters determinations. In a [final ruling](#) dated March 30, 2020, the Environmental Protection Agency (EPA) rescinded its approval of the State of Hawai'i 2018 Section 303(d) List of Impaired Waters, citing specifically that "the State's submission does not demonstrate that it has satisfied its statutory and regulatory obligation to assemble and evaluate all existing and readily available data and information related to plastics." As a result, EPA Regional Administrator John W. Busterud unilaterally decided to list Tern Island and Kamilo Beach as "impaired" by plastic pollution and ordered Hawai'i to include them in water-quality management plans to reduce the impact of plastic pollution on its waters, beaches and wildlife.

Plastic pollution, however, impairs multiple beaches and coastlines across Hawai'i and poses serious threats to coastal ecosystems and public health. Surfrider Foundation therefore strongly supports SB 582 to amend [HRS § 342D-1](#) to explicitly include "plastic" within the definition of "Pollutant." The definition of "water pollutant" is already broad and inclusive. Plastic when discharged to water is already included implicitly as a water pollutant. However, given the significance of plastic as a harmful and effectively indestructible water pollutant, Surfrider Foundation believes its specific inclusion is necessary and warranted. Furthermore, by clearly defining plastic as a water pollutant under chapter 342D, both state and federal regulators will be able to utilize the full extent of the law to protect our ocean, communities, and wildlife from this toxic threat.

Sincerely,

Lauren Blickley

A handwritten signature in black ink that reads "Lauren Blickley". The signature is written in a cursive, flowing style.

Hawai'i Regional Manager  
Surfrider Foundation

**LATE**



CENTER for BIOLOGICAL DIVERSITY

*Because life is good.*

February 22, 2021

COMMITTEE ON JUDICIARY

Senator Karl Rhoads, Chair

Senator Jarrett Keohokalole, Vice Chair

February 23, 2021 at 9:45 a.m.

VIA VIDEO CONFERENCE

**Re: TESTIMONY IN STRONG SUPPORT OF SENATE BILL 582 - RELATING TO THE ENVIRONMENT.**

Aloha Chair Rhoads and Members of the Committee,

Please accept these comments submitted by the Center for Biological Diversity (Center) in **strong support of SB 582** which amends the definition of “water pollutant” as used in chapter 342D, HRS, to include plastic.

The Center is a non-profit 501(c)(3) membership corporation dedicated to the protection of native, threatened, and endangered species and the habitats they depend on to survive. Through science, policy, and environmental law, the Center is actively involved in conserving marine ecosystems. The Center has more than 88,000 members throughout the United States, including Hawai‘i, with a direct interest in ensuring that imperiled species are properly protected from destructive practices in our oceans. In pursuit of this mission, the Center has worked extensively to protect ocean ecosystems in Hawai‘i and nationwide from various threats including plastic pollution. The Center has engaged in efforts to protect endangered marine species threatened by plastic pollution in Hawai‘i, such as Hawaiian monk seals, sea turtles, whales, and corals.

Plastic pollution poses a serious threat to Hawai‘i’s water quality and vulnerable marine ecosystems. Plastics pollution has a direct and deadly effect on wildlife. Thousands of seabirds and sea turtles, seals, and other marine mammals are killed each year after ingesting plastic or getting entangled in it. Microplastics, or plastics that have broken into tiny pieces, are emerging as a major threat to marine wildlife, water quality, and human health. Microplastics can absorb environmental toxins and get eaten by fish, other marine life, and can eventually be consumed by humans. Numerous studies have documented the presence of microplastics in Hawaiian waters, indicating that this is a serious water quality problem. The ocean plastic pollution crisis is a public health crisis. Plastic permeates our waters, chokes wildlife and carries toxins onto our beaches, through our food web, and eventually onto our tables. Hawai‘i must address this threat before it is too late.

As a result of a lawsuit filed by the Center, Surfrider, and Sustainable Coastlines Hawai‘i, the Environmental Protection Agency (EPA) finally acknowledged the need to incorporate plastic pollution into Hawai‘i’s 303(d) List of Impaired Waters determinations. In its final ruling dated March 30, 2020, the EPA rescinded its approval of the State of Hawai‘i 2018 Section 303(d) List of Impaired Waters, citing specifically that “the State’s submission does not demonstrate that it has satisfied its statutory and regulatory obligation to assemble and evaluate all existing and readily available data and information related to plastics.” As a result, EPA listed Tern Island and Kamilo Beach as “impaired” by plastic pollution and ordered Hawai‘i to include them in water-quality management plans to reduce the impact of plastic pollution on its waters, beaches and wildlife.

By clearly defining plastic as a water pollutant under chapter 342D both state and federal regulators will be able to utilize the full extent of the law to protect our ocean, communities, and wildlife from this toxic threat. We humbly urge this committee to **please pass SB 582.**

Mahalo for your consideration,

/s/ Maxx Phillips

Maxx Phillips, Esq.

Hawai‘i Director and Staff Attorney

Center for Biological Diversity

1188 Bishop Street, Suite 2412

Honolulu, Hawai‘i 96813

(808) 284-0007

[MPhillips@biologicaldiversity.org](mailto:MPhillips@biologicaldiversity.org)



**SB-582-SD-1**

Submitted on: 2/18/2021 10:35:32 PM

Testimony for JDC on 2/23/2021 9:45:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Natalie Wohner	Individual	Support	No

Comments:

Dear members of the JDC Committee,

My name is Natalie Wohner, I am a resident of Manoa, and I strongly support SB 582 which recognizes plastics as a "water pollutant" to the Hawaii Revised Statutes.

Our Hawaiian waters are covered with plastics, especially east facing shores, and we need to act to protect our environment, our marine life and human health. The annual damage of plastics to marine ecosystems is at least \$13billion per year (World Economic Forum• £). Wildlife become entangled in plastic, they eat it or mistake it for food and feed it to their young, and those plastics eventually end up in humans through the food chain.

There is no doubt that plastics pose a threat to our fragile ecosystem and this bill would be a step into the right direction to recognize the plastic pollution problem so we can act!

Mahalo for your time and giving me the chance to testify,

Protecting what we love, Natalie Wohner

**SB-582-SD-1**

Submitted on: 2/19/2021 9:40:06 AM

Testimony for JDC on 2/23/2021 9:45:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Camile Cleveland	Individual	Support	No

Comments:

Plastics do not belong in the ocean, just as other classified pollutants do not belong in the ocean. Plastic ocean pollution negatively affects the ocean's living creatures, overall health, and diverse ecosystems. Plastic ocean pollution is also much more visible and apparent, moreso than other pollutants, as many beaches across the island become inundated with microplastics throughout the year - times when micropolastics are more abundant than seashells on the shore. I fully support this bill as it is imperative we formally recognize plastics and microplastics and the harm that they cause to the ocean.

Thank you.

**SB-582-SD-1**

Submitted on: 2/19/2021 12:04:33 PM

Testimony for JDC on 2/23/2021 9:45:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Jennifer Milholen	Individual	Support	No

Comments:

Mahalo for supporting this bill representing an important step forward for plastics being legally identified as water pollutants, and the positive implications for reducing their entry into our water ways and bodies.

**SB-582-SD-1**

Submitted on: 2/20/2021 11:19:10 AM

Testimony for JDC on 2/23/2021 9:45:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Moriah Peña	Individual	Support	No

Comments:

Plastic never fully biodegrades or decomposes. Adding plastic to the definition of water pollutants increases accountability for companies and individuals as they'll be forced to recognize the effect that the use of plastic has on our environment and community.

**SB-582-SD-1**

Submitted on: 2/20/2021 2:13:26 PM

Testimony for JDC on 2/23/2021 9:45:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
jenelle higgins	Individual	Support	No

Comments: Please add plastic as a water pollutant in the Hawaii Revised Statutes. This needs to be updated as it has become as serious problem in our states waters and poses great risks to the peopleâ€™s, flora and fauna of Hawaii. Do the right thing and protect our beautiful islands!!

**SB-582-SD-1**

Submitted on: 2/20/2021 10:28:48 PM

Testimony for JDC on 2/23/2021 9:45:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Laura Ramirez	Individual	Support	No

Comments:

Plastic is polluting Hawaiian waters, killing and injuring wildlife, being eaten by fish and eventually moving up the food chain to be consumed by people and poison us. We must take action and get control of the situation now!

**SB-582-SD-1**

Submitted on: 2/21/2021 6:42:52 AM

Testimony for JDC on 2/23/2021 9:45:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
gisella	Individual	Support	No

Comments:

We must to take the action for our children and future generations right now. It is disheartening to see plastics littering everywhere on our beautiful island. Our playgrounds... the beaches and in ocean. Our neglectful excessively consumerism are killing marine animals. We need to do better starting at our homes and normalize the 4 R's recycle, reuse, repurpose, and refill! Stop plastic pollution.

**SB-582-SD-1**

Submitted on: 2/21/2021 9:48:23 AM

Testimony for JDC on 2/23/2021 9:45:00 AM

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

Comments:

SB582 – RELATING TO THE ENVIRONMENT

Members of the committee,

My name is Ashley Shirriff, and I am writing in **support** of SB 582, which includes plastic within the definition of “water pollutant” in Hawaii’s statutes on water pollution. Microplastics pose a significant threat to Hawaii’s waters, not only harmfully impacting vulnerable marine ecosystems, but also human health.

As a student in healthcare, I am growing increasingly aware of how the pressing danger of plastic pollution is an issue not receiving much attention yet has serious repercussions on the health and wellbeing of our community. Bioaccumulation of microplastics in seafood has been linked to human health impacts such as those mentioned in the bill (cancer, reproductive disorders, etc.). There are likely additional impacts that we have yet to uncover as well. As there are increasing rates of plastic pollution and the already documented presence in Hawaiian waters, we are currently exposing our community members and the problem will only get worse. Further, it cannot be neglected that much of our community relies on fishing not only for subsistence but also as a cultural practice. Plastic pollution has the chance of introducing such harmful toxins into the diets and bodies of our local community members, creating a future burden on our health system with additional cases of cancer, reproductive disorders, etc. And as the current definition of water pollutant includes materials that can have severe health impacts such as chemical waste, plastics clearly fall into line with their long term health impacts.

If this bill is passed, it has the potential to not only keep our oceans clean, our animals safe, but also our communities healthy. Additionally, it will allow people to continue to



eat seafood (a healthy source of essential nutrients such as omega 3 fatty acids) and not have to be scared that they may be putting themselves and their loved ones at risk of developing health conditions down the line. A lot of these chemicals leaching out of plastics are still being researched and we don't understand their full impact on humans and how long they can persist in our environment and bodies, what we know could just be the tip of the iceberg. We already know that it can cause harm, it is better to regulate now to prevent this problem from progressing further.

Thank you for the opportunity to provide testimony on this bill.

Best,

Ashley Shirriff

**LATE**

**SB-582-SD-1**

Submitted on: 2/22/2021 10:01:06 AM  
Testimony for JDC on 2/23/2021 9:45:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Douglas Perrine	Individual	Support	No

Comments:

I support SB 582

**LATE**

**SB-582-SD-1**

Submitted on: 2/22/2021 11:21:28 AM

Testimony for JDC on 2/23/2021 9:45:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Elizabeth Benyshek	Individual	Support	No

Comments:

I am writing to support SB582 SD1, which adds 'plastic' to the definition of 'water pollution'. We see plastic pollution litter our windward coastline consistently. In order to properly address these issues, plastic needs to be acknowledge as a major pollutant. This will help bring us closer to healthier beaches and oceans.

Thank you for your time and consideration.

Elizabeth Benyshek

Vice Chair, Surfrider Foundation Oahu Chapter

**SB-582-SD-1**

Submitted on: 2/22/2021 11:50:01 AM

Testimony for JDC on 2/23/2021 9:45:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Criste Ching	Individual	Support	No

Comments:

Plastic never fully biodegrade or decomposes. It breaks unto microplastics and has affected every ecosystem and food chain on our planet. Animals and humans consume microplastics everyday and it is literally poisoning us. The fact that plastic us not already classified as a water pollutant is appalling. This is a long overdue and vital step to toward holding plastic producers accountable for the devastation their products create. This bill must pass and be followed by many others that create producer responsibility!

**SB-582-SD-1**

Submitted on: 2/22/2021 12:03:01 PM

Testimony for JDC on 2/23/2021 9:45:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Daniel Amato	Individual	Support	No

Comments:

I am writing in support of Bill **SB582**. As a scientist, surfer, and resident of Oahu, I am very concerned about the amount of plastic in the water and on the beaches of Hawaii. It is obvious that it is a pollutant, it does not belong in the ocean or in the guts of animals that rely on clean water to thrive. Please vote for legislation that prioritizes reef and human health instead of the interests of chemical corporations. Thank you. -Daniel Amato

**LATE**

**SB-582-SD-1**

Submitted on: 2/22/2021 2:35:44 PM

Testimony for JDC on 2/23/2021 9:45:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Maui OFR	Individual	Support	No

Comments:

8 million metric tons of plastic gets added to the ocean every year. We need to do more to stop this! The wording of the law is important, and plastic is a huge pollutant. Add it to the definition!