

## Public hearing transcript

Hearing for the proposed amendment of chapter 11-280.1, Hawaii Administrative Rules

September 12, 2024

Noa Klein: Okay, I think we're going to go ahead and get started. Thanks for coming everybody. Appreciate you being here this morning. We have some recorders on. My name is Noa Klein. I'm a Planner for the Solid and Hazardous Waste Branch.

Oh, come on down! Come sign in and grab a handout. [pause] We're just getting started.

So, I'm going to be the hearings officer. [pause] And we're recording for posterity and meeting our legal obligations for the hearing. [laugh] So I'm obligated to say that today is September 12<sup>th</sup>, [laugh] 2024, and the time is, what did you say? 10:08? 10:09?

Lauren Cruz: 10:08.

NK: 10:08! And we're going to make a transcript of this that is like a public document. [aside] One of each handout.

Okay, and this is a public hearing for the proposed amendment of chapter 11-280.1, Hawaii Administrative Rules, that regulates underground storage tanks. So, did everybody get a copy of the handout? I know you did, because I saw you. But we either have to read the entire public notice into the recorder or hand it to you. [small laugh] So I'm not going to read it to you. So, the public notice is on one side of the handout that has paragraphs, and I am going to summarize it, which I'm required to do if I don't read it. [small laugh]

So, the proposed changes align the default criteria for remediation of contaminated soil and groundwater following an underground storage tank system release with the department's updated Environmental Action Levels. They also correct typographical errors, clarify existing requirements, and better align with federal regulations. So, you all know when the hearing is, because you made it here, so I'm not going to read that part. We do have a copy of the proposed rules in their entirety here for you to review if you would like to and we'll have plenty of time for that. At the bottom, in bold, it tells you that the deadline for written comments is September 19<sup>th</sup> and you can either hand deliver them, mail them into our office, but they have to be *received* by September 19<sup>th</sup> in the postal mail, so I don't really recommend that, or email them. There are two email addresses listed here. You can send to both of them please.

Okay. So then, on the other side of that handout there's a more detailed listing of all of the proposed changes for this rulemaking. [pause] So, I'm going to go through them, but not in super deep detail, and then on the other handout, there's a table that actually shows what most of the changes are. So, on the list of changes, number 1: Tier 1 screening levels for soil and for groundwater are being added for two chemicals: 1-methylnaphthalene and 2-methylnaphthalene. These already have EALs, and so we're just adding them into this table in the UST rules. I'm not sure why they weren't in the table before. There's probably some historical story there, but I don't know what it is.

And then there's a list on 2 A through E of the ones that are being changed, where the chemical is already listed in the table, and then the action level- default action level in the UST rules for that chemical for remediation of a UST system release is being changed.

Number 3, we're correcting the spelling of tetrachloroethylene. I think it was just a typo, but [pause] now it's a proposed rule change, because that's how these things work. [small laugh]

And then number 4 is a non-substantive change to clarify the options available for release detection methods for piping, only for airport hydrant fuel distribution systems and for UST systems with field-constructed tanks that have a capacity greater than 50,000 gallons. And it gives the citation to where that is. And if you want to look at the detail of that, we have it in here. But it's not actually changing anything, it's just making it clearer what the rules already say.

So that's the summary of the rules, the proposed rule changes. And then on the other handout, where things are struck through and have brackets around them, those are being deleted, and where things are underlined, those are being added. So that's how you can see the changes to some of these numbers. And this is in section 65.3 of the rules. [long pause]

So now that I have talked, a lot, [laugh] I'm going to talk a little more. And I'll tell you the official hearing procedures that we will follow now. So, the purpose of this is for us to collect any feedback that you have. So, we're going to ask you to come up to the front if you want to give testimony, just so that you could speak directly into the recorders. Makes it easier for us to do the transcript and ensure that everyone other than the two of us, who works for the program, can see what your comments are. So, if you want to give comments, before you do, we're going to ask you to state your name for the record and the organization that you're representing, if you are. And we're also going to double check that your email address on the sign in sheet is legible. Because if you give comments, we have to directly provide you a copy of the response to comments. And then also I'm going to remind you again that you can provide written comments. And you can provide written comments to us today if you just want to scribble something down and hand it in, that's cool, but you also have one more week to be able to provide those. Email is the easiest. And yeah, that's- I'm done talking. And now it's your turn! Would anybody like to give public comments? On this proposed rule change?

[long pause]

NK: Come on down! [pause] Yeah, please.

Brian Carroll: Thanks.

NK: So, yeah, your name and your organization.

BC: My name is Brian Carroll and I work for Laulea Engineering Company. We do specialize in the underground storage tank closure assessments, and we've done a couple recently. And the thing that attracted me to the hearing that I'm curious about is, what is the reason, I guess, for such a drastic reduction of the TPH groundwater EALs? Because it was going from 3[00], 4[00], and 500 to 70 and 90, which seems like a really significant implication for projects that we do where there have been small releases that are being remediated.

NK: So that would be something to read about in the documentation from the HEER Office, which does the EALs. And we can talk a little bit more about it after we close the public hearing, because we're not here to answer questions during the hearing, we're just here to take your comments.

BC: Oh, okay.

NK: So, do you have a comment that you want to give?

BC: I guess my comment would be that seems like a very significant and drastic reduction of the EALs, specifically for groundwater and TPH. So, that was my comment. That was significant to me and stood out. And yeah, I'm going to be doing some more research into that, I guess.

NK: Okay, cool, thank you. We can always reopen the hearing after we talk.

BC: Yeah.

NK: And you can always provide written comments too.

BC: [inaudible] No problem.

NK: But I just don't want to make the transcript a super long thing of me talking. [laugh]

BC: For sure. Yeah I guess my secondary comment is, I think this has significant implications for a lot of projects, potentially, in that areas where there have been releases, even smaller releases, that have been remediated below the previous EALs, and that are maybe in areas where there are no drinking water wells or threats to any drinking water wells, if there would be any type of exceptions or things like that. So that's my comment, yeah.

NK: Okay. Thank you very much.

BC: No problem. Thank you.

NK: Appreciate it. Oh! Please come down and sign in and grab the handouts. [pause] Does anybody else want to give a public comment? I bet you do. [laugh] We're just in the giving public comments period.

Ernie Lau: [inaudible]

NK: But here, you can sign in.

EL: Okay.

NK: And we have two handouts.

EL: Thank you.

NK: Yep. [long pause] Anybody else want to give a comment? [pause]

EL: Thank you.

NK: Okay, we'll wait and see if Ernie wants to give a comment. [laugh] [long pause]

EL: I- we're-

NK: You can always give a written comment too.

EL: Yeah, we're going to do something in writing, but uh-

NK: Okay. If you want to give an oral comment, you can come sit over here by the recorder and do it.

EL: Oh, I will uh- I just wanted to ask, understand the basis for some of the changes.

NK: Can you come by the recorder?

EL: Oh, okay.

NK: [laugh]

EL: [laugh] This is very informal. [laugh]

NK: Yeah.

EL: Okay, so.

NK: Oh, can you say your name for the recorder and where you work for.

EL: Ernie Lau, Board of Water Supply.

NK: Thank you.

EL: You're welcome. Just wondering, for the- di- just an observation. Dichloroethylene went from .36 to 1.8 and what was the basis for that? [long pause]

NK: That's it?

EL: Well, that's my question and then I wanted to hear an answer today if you-

NK: Okay, well, we're not really here to answer questions. We're here to receive your comments today.

EL: Oh! Okay.

NKL So did you have any more comment that you wanted to give?

EL: Yes, maybe you can explain where we could get the information on the rationale or science behind the changes.

NK: Those changes to the EALs are done by the Hazard Evaluation and Emergency Response Office. So, I believe all of that documentation is on their website.

EL: It's on their website for the proposed changes?

NK: For *these* proposed changes to the underground storage tank rules all of the information was posted with this public notice on the Underground Storage Tank Program website.

EL: Okay.

NK: Yeah.

LC: I think I know what he's asking, though. [pause]

NK: But we're not answering questions right now though.

LC: [inaudible] Thank you.

EL: The basis for .36

NK: [laugh] Just taking comments.

EL: to 1.8 milligrams per kilogram. Yeah. Thank you.

NK: Okay, thanks. [short pause] Appreciate it. Does anybody else want to give public comments? [long pause] Because if you think this is informal, after we close the hearing, we can actually talk. [laugh] [pause] Going once. [pause] Going twice. Okay, so I'm going to go ahead and close the formal public hearing. We're going to shut off the recorders, and then we can talk. But from that point forward, those conversations are not public comments, and if you want to give more public comment, you need to ask us to reopen the hearing, or you need to give it as a written comment, okay? Good? [pause] One last time, anybody want to give a comment? [pause] Okay. Thank you. [Hearing adjourned at 10:21am.]