



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION IX  
75 Hawthorne Street  
San Francisco, CA 94105-3901

Keith Kawaoka, Deputy Director  
Environmental Health Administration  
Hawai'i Department of Health  
Kinau Hale  
1250 Punchbowl Street  
Honolulu, Hawai'i 96813

Re: Hawai'i's 2018 List of Impaired Waters under Clean Water Act (CWA) Section 303(d)

Dear Deputy Director Kawaoka,

The US Environmental Protection Agency (EPA) hereby affirms its July 10, 2020 addition of two waterbodies to Hawai'i's 2018 list (2018 List) of water quality limited segments requiring total maximum daily loads (TMDLs) pursuant to Clean Water Act Section 303(d), and 40 C.F.R. § 130.7(d) (2). EPA added the Kamilo Beach and Tern Island waterbodies to the 2018 List because the existing and readily available water quality-related data and information for those waterbodies indicate they are impaired by trash and require Total Maximum Daily Loads (TMDLs) under Clean Water Act Section 303(d).

EPA solicited public comment on this action beginning on July 17, 2020; the comments received and EPA's responses are summarized in the enclosed attachment. After consideration of public comments, EPA affirms its July 10, 2020 decision to add the Kamilo Beach and Tern Island waterbodies to Hawai'i's 2018 List.

I look forward to our continued partnership to protect Hawai'i's water quality and advance human health and wildlife protection. Please call me if you would like to discuss further, or your staff may contact Tina Yin at (415) 972-3589 with specific questions.

Sincerely,

**TOMAS  
TORRES**

Digitally signed by  
TOMAS TORRES  
Date: 2020.12.18  
08:57:39 -08'00'

Tomás Torres  
Director, Water Division

Enclosures

cc: Alec Wong

## **Enclosure**

### **Summary of Public Comments Received on EPA's Action to Add Waters to Hawai'i's 2018 List of Impaired Waters due to Trash, under Clean Water Act, Section 303(d)**

#### **Introduction**

On March 30, 2020, EPA withdrew specific aspects of EPA's August 16, 2018 approval of Hawai'i's 2018 Section 303(d) List of Impaired Waters. EPA had reevaluated the State's submission and determined that it was incomplete and thus not fully consistent with the requirements of Section 303(d) of the Clean Water Act (CWA) and EPA's implementing regulations. Specifically, the State's submission did not demonstrate that it satisfied its obligation to assemble and evaluate all existing and readily available water quality-related data and information.

EPA requested that the State, consistent with its responsibilities and obligations under Section 303(d)(1)(A) of the Clean Water Act and 40 C.F.R. § 130.7(b)(5), assemble and evaluate all existing and readily available water quality-related data and information related to plastics in Hawai'i waterbodies for which the State has data and information. EPA further requested that the State submit the results of that evaluation for EPA consideration by May 29, 2020, including any supporting documentation and, if appropriate, an assessment of whether the waters are meeting the applicable water quality standards. Hawai'i prepared a response and supplemental submission, which EPA received on May 27, 2020.

On July 10, 2020, EPA issued its decision that Hawai'i's supplemental submission partially met the requirements of CWA Section 303(d) and approved the State's decision not to list 17 of the 19 waterbodies evaluated. EPA disapproved the State's decision not to list the Kamilo Beach and Tern Island waterbodies because the existing and readily available water quality-related data and information for those waterbodies indicate they are impaired by trash and require Total Maximum Daily Loads (TMDLs) under CWA Section 303(d). EPA therefore found the State's decision was inconsistent with CWA Section 303(d) and EPA implementing regulations 40 C.F.R. § 130.7(d)(2) and added Kamilo Beach and Tern Island to Hawai'i's 2018 CWA Section 303(d) List for trash impairments of marine waters and marine bottom ecosystems designated uses.

On July 17, 2020, EPA began a public comment period on its action to add Kamilo Beach and Tern Island as impaired by trash to Hawai'i's 2018 303(d) List (Appendix 1). EPA solicited public comment by posting public notices on the national EPA Public Notices website, EPA Pacific Southwest website, and the Hawai'i Department of Health Clean Water Branch website. EPA's comment period was open for 34 days and closed on August 19, 2020. After review and consideration of the public comments, EPA affirms its decision to add the Kamilo Beach and Tern Island waterbodies to Hawai'i's 2018 303(d) List.

## **EPA Response to Comments**

EPA received 26 public comment submittals from 19 organizations and 16 individuals during the public comment period. EPA grouped and summarized similar comments received and provides its response to those comments below.

### **Summary of public comments and EPA responses**

- 1. 25 comments expressed support for EPA's action to add Kamilo Beach and Tern Island waterbodies to Hawai'i's 2018 303(d) List for trash.***

#### **EPA Response:**

EPA added the Kamilo Beach and Tern Island waterbodies to Hawai'i's 2018 303(d) List as described in its July 10, 2020 decision document. No public comments objected to EPA's decision to add these waterbodies. No modifications are being made to EPA's July 10, 2020 decision based on public comments received.

- 2. 6 comments requested EPA list some or all of the 17 other waterbodies that were considered in EPA's July 10, 2020 decision document. Some comments provided additional information and references related to plastics or trash at some of these sites.***

*12 comments also proposed additional locations to consider for listing (Appendix 2). Some comments provided additional information and references related to plastics or trash at some of these sites.*

#### **EPA Response:**

Consistent with EPA regulations, 40 C.F.R. § 130.7(d)(2), EPA sought public comments only on the addition of Kamilo Beach and Tern Island to Hawai'i's 2018 303(d) List. However, EPA will share additional listing recommendations and information submitted to EPA to the State for its consideration in future listing actions. The public also has an opportunity to directly submit data and information to the State for future State of Hawai'i Water Quality Monitoring and Assessment Reports (Integrated Reports), developed every two years. The State will solicit water quality data and information from the public, likely in 2021, as part the next 303(d) water quality assessment process for its 2022 Integrated Report.

- 3. 14 comments requested that EPA require the Hawai'i Department of Health (HDOH) to develop standard assessment methods and incorporate plastic pollution (including microplastic pollution) into an updated Water Quality Management Plan.***

#### **EPA Response:**

EPA acknowledges the need for assessment methods for trash pollution, including plastics, and will work with HDOH as it develops strategies for assessing these pollutants in Hawai'i's waters.

## Appendix 1

## Public Notice

An official website of the United States government.



## Public Notice: EPA's Action to Add Waters to Hawaii's 2018 List of Impaired Waters

### How to Comment

**Comments accepted through: 08/19/2020**

EPA is soliciting public comments on the addition of these two waterbodies as impaired by trash. After considering public comments and making any revisions EPA deems appropriate, EPA will transmit the listing to the State.

All interested persons wishing to comment on [EPA's action to add waters to Hawaii's 2018 List of Impaired Waters under Clean Water Act, Section 303\(d\)](#) may submit written comments to Eric Dubinsky at the email address below.

**Eric Dubinsky** ([dubinsky.eric@epa.gov](mailto:dubinsky.eric@epa.gov))  
(415) 972-3517

To ensure that they are considered, comments must be submitted in writing on or before August 19, 2020. We encourage electronic submittals, but if you are unable to submit electronically or need other assistance, please reach out to the contact listed in the notice or, if unavailable, EPA Region 9's Environmental Information Center will help route you: [r9.info@epa.gov](mailto:r9.info@epa.gov) or phone line or (415) 947-8000.option 5, then option 4.

EPA is committed to continuing our critical work on behalf of the American public while also safeguarding the health and safety of the public and the families of EPA employees by taking responsible measures to help prevent transmission of the coronavirus. Thank you for your cooperation and understanding.

If you need assistance in a language other than English or if you are a person with disabilities who needs a reasonable accommodation at no cost to you, please reach out to the listed contact by email or phone.

Publish Date: 07/17/2020

## Summary

EPA is soliciting public comments on EPA's action to add two waterbodies as impaired by trash to Hawaii's 2018 List of Impaired Waters under Clean Water Act, Section 303(d).

On March 30, 2020, EPA withdrew specific aspects of EPA's August 16, 2018 approval of Hawaii's 2018 Section 303(d) List of Impaired Waters. EPA reevaluated the State's submission and determined that it was incomplete and thus not fully consistent with the requirements of Section 303(d) of the Clean Water Act and EPA's implementing regulations. Specifically, the State's submission did not demonstrate that it satisfied its obligation to assemble and evaluate all existing and readily available water quality-related data and information.

EPA requested that the State, consistent with its responsibilities and obligations under Section 303(d)(1)(A) of the Clean Water Act and 40 C.F.R. § 130.7(b)(5), assemble and evaluate all existing and readily available water quality-related data and information related to plastics in Hawaii waterbodies for which the State has data and information. EPA further requested that the State submit the results of that evaluation for EPA consideration by May 29, 2020, including any supporting documentation and, if appropriate, an assessment of whether the waters are meeting the applicable water quality standards. Hawaii prepared a response and supplemental submission, which EPA received on May 27, 2020.

On July 10, 2020, EPA issued its **decision** that Hawaii's supplemental submission partially met the requirements of Clean Water Act Section 303(d). During its review, EPA identified two waterbodies that were not included in Hawaii's 303(d) List. Based on the existing and readily available water quality-related data and information, EPA has identified Kamilo Beach and Tern Island waterbodies as impaired by trash and as requiring Total Maximum Daily Loads (TMDLs) under Clean Water Act, Section 303(d).

EPA is soliciting public comments on the addition of these two waterbodies as impaired by trash. After considering public comments and making any revisions EPA deems appropriate, EPA will transmit the listing to the State.

## Applicant or Respondent

Hawaii Department of Health, Clean Water Branch  
1250 Punchbowl Street  
Honolulu,, HI 96813

**LAST UPDATED ON OCTOBER 8, 2020**

## Appendix 2

### Additional Locations Proposed in Public Comments for 303(d) Listing for Trash/Plastics

- Kahuku, O`ahu;
- Kaehu, Maui;
- West Hawai`i Island;
- James Campbell Wildlife Refuge, O`ahu;
- Koko Marina, O`ahu
- Hanuama Bay, O`ahu
- Kahuku Coastline, O`ahu
- Kokololio Beach including adjacent stream, O`ahu
- Ka Iwi Shoreline and inland waters, O`ahu
- Kaneohe Bay, O`ahu
- Maunalua Bay, O`ahu
- Makapu`u Beach, O`ahu
- Waimanalo Beach, O`ahu
- Bellows Beach, O`ahu
- Kainoa Beach, O`ahu
- Kaena Point, O`ahu
- Kahana Beach, O`ahu
- Kualoa Beach, O`ahu
- Kailua Beach, O`ahu
- Kealia Beach, Kaua`i
- Keomuku Beach, Lana`i
- Windward shorelines along the main Hawai`ian Islands
- Kitchens Beach, Kaua`i
- Shipwreck Beach, Lāna`i
- Nearshore waters of west Hawai`i (island)
- All windward beaches on all Hawaiian Islands
- All Hawai`i Beaches
- Makapu`u, O`ahu
- Waimānalo, O`ahu
- Northeast Oahu shorelines (particularly Kahuku Beach)
- Northeast Maui shorelines (from Kahului Harbor to Makamakaole)
- North facing Molokai shorelines (from Halawa to Mo`omomi)
- East Kauai shorelines (from Nukoli`i to Moloa`a)
- Kanapou Beach (Kaho`olawe)
- Mo'omomi Beach, Moloka'i
- East coast of O`ahu (between Kahuku and Turtle Bay)