



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

**Testimony COMMENTING on HB2407
RELATING TO STATEWIDE COMPOSTING**

REPRESENTATIVE NICOLE E. LOWEN, CHAIR
HOUSE COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION
REPRESENTATIVE JOHN M. MIZUNO, CHAIR
COMMITTEE ON HEALTH

Hearing Date: 2/11/2020

Room Number: 325

1 **Fiscal Implications:** This measure may 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 agrees that composting is a great option for organics
5 management and landfill diversion but does not support HB2407 in its current form. The bill in
6 its current form 1) establishes four classes of composting facilities based on the type of materials
7 accepted, and exempts Class III and Class IV composting facilities from solid waste regulations;
8 2) allows composting and co-composting in agricultural districts; 3) requires the Department to
9 adopt rules establishing a tiered registration and permitting system for composting facilities; and
10 4) requires the Department to update co-composting rules by January 1, 2021, and every five
11 years thereafter. The bill does not provide any resources with which the Department is to do this
12 the work of administrative rulemaking.

13 The Department disagrees that Class III and IV composting facilities, as defined in the
14 bill, should be exempt from regulatory oversight. The Department's concern over composting
15 operations are not limited to vector, dust, and odors, but also include fire potential, water
16 pollution, and the quality of the finished compost (stability, pathogens and other contaminants).
17 The bill proposes no restrictions on the compost's use or distribution; however, such restrictions

1 can and should be implemented as necessary through the administrative rules and permitting
2 process.

3 We are especially concerned over the management of potentially pathogenic waste,
4 including dead animals, raw rendering material, and animal waste, which can be accepted by
5 Class III facilities as currently defined in the bill. If not properly treated through the composting
6 operation, these wastes could be a source of pathogenic contamination. In addition, fire potential
7 poses a risk to the safety of nearby residents. Without procedural controls, heat produced by the
8 composting process can ignite a fire in the compost pile. The open burning of the pile would
9 offset the positive environmental impacts of composting.

10 By exempting facilities in the proposed Class III and Class IV from the Department's
11 regulations and permitting authority, we would be unable to evaluate the potential impact of the
12 operation and require appropriate controls that are protective of human health and the
13 environment. With the bill in its current form, the Department would also lose the ability to
14 effectively respond to complaints involving Class III and Class IV composting facilities. In the
15 past, we have responded to complaints concerning both permitted and unpermitted greenwaste
16 composting facilities that would otherwise be exempt under the proposed legislation. In one case,
17 an unpermitted facility was under investigation by the Department based on numerous
18 complaints when a fire occurred on the property.

19 The Department recognizes that not all regulations may be suitable to all types of
20 composting operations. As such, the Department already has a tiered solid waste permitting
21 program for composting operations, that includes 1) exemptions for the disposal of agricultural
22 waste from its products processing facility on its own agricultural land, which has been extended
23 to include land application of its associated composted agricultural waste; 2) a permit by rule for
24 relatively small composting facilities that compost less than 3,000 tons of yard trimmings per
25 year and 3) a general permit with a risk-based evaluation for all other composting operations.
26 Although general permits all use the same applications form, the permit conditions in general
27 permits issued by the Solid Waste Section are specific to each facility. The general permit

1 process takes into account the type and quantity of materials, facility design, operations plan, and
2 site-specific features to determine appropriate permit conditions that focus on minimizing the
3 particular risks of a given operation. For example, given that a Class I composting facility may
4 accept the same materials as a Class II facility plus mixed solid wastes, under the current
5 permitting system, the permit for the Class I facility would already include additional
6 requirements for receiving, handling, sorting, and distributing the mixed waste compost, while
7 the Class II facility permit would not.

8 The Department agrees that the Solid Waste regulations should be updated and we
9 believe the definition of classes or tiers of composting facilities can be better handled as part of
10 the administrative rulemaking process. All composting facilities should be subject to some
11 Departmental oversight. The legislature appears to recognize this with the inclusion of the
12 requirement that Class III and IV solid waste composting facilities “register with the department
13 as required under department rules” (page 6 lines 8 to 9 and 18 to 19), even as the bill also
14 exempts these same facilities from “rules adopted by the department” (page 6 lines 10 to 11 and
15 20 to 21). In order to update the administrative rules, the Department requests the creation of a
16 Program Specialist position in the Solid and Hazardous Waste Branch to focus on these
17 administrative rulemaking efforts and appropriation to fund the position. This position can also
18 be used to update rules for the other programs within the Branch. Drafting and adopting
19 administrative rules is highly technical work and it typically takes more than one year to
20 complete the revision of a rule chapter. The Solid Waste Section does not have any staff
21 positions allocated for this type of work, and would find it difficult to update the regulations with
22 its current resources.

23 **Offered Amendments:**

24 The Department requests that the requirement on page 4 lines 9 to 11 be broadened to
25 require that the Department update its Solid Waste regulations every five years thereafter,
26 allowing the Department to determine which parts of the Solid Waste regulations to focus on in
27 each update, and that the timeline for initial rule adoption be made more realistic:

1 "§342G- [Co-composting; rules.] Rules. By January 1, [2021,] 2022, and at least every
2 five years thereafter, the department shall update its rules regarding [~~co-composting~~]
3 solid waste."

4 The Department requests the creation of a Program Specialist position in the Solid and
5 Hazardous Waste Branch to focus on these administrative rulemaking efforts and appropriation
6 to fund the position.

7 The Department recommends deleting the proposed definitions and requirements for
8 classes of solid waste composting facilities from the bill (page 4 line 15 to page 6 line 21). The
9 Department believes the definition and regulation of different tiers of composting facilities can
10 be better handled as part of the administrative rulemaking process.

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

HB-2407

Submitted on: 2/6/2020 6:26:47 PM

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

Submitted By	Organization	Testifier Position	Present at Hearing
Dyson Chee	Hawaii Youth Climate Coalition	Support	No

Comments:



Sustainable Coastlines Hawaii
2909 Waiālae Avenue #19
Honolulu, HI 96826 USA
808-445-2085

HB 2407: Support
Hearing: Feb 11, 2020 8:30 AM
Committees on EEP/HLT

Dear Members of the House EEP/HLT Committees,

Sustainable Coastlines Hawaii strongly supports HB2407 and its efforts to expand the opportunity for composting across the state. As coastal defenders we realize the necessity in understanding connections from our soil to our oceans. Composting provides an opportunity for not only regenerating our soils and increasing carbon sequestration, but to increase the capacity of our island to grow food. This resilience model is imperative to things critical to our mission – specifically the reduced use of fossil-fuel based plastic products that continue to plague our island waters and the global oceans.

SCH has coordinated waste diversion programs with businesses and events around the island for almost a decade. The restrictive nature of regulation on composting that currently exists is a barrier to meaningful change. While we understand that the Department of Health is charged with the safety of our island, there is also a necessity to be nimble when sustainability opportunity arises. As plastics continue to be replaced by compostable alternatives, we should be looking for diversified mechanisms to effectively break these new materials down and produce a value-added product (nutrient rich compost) that can help regenerate our soils. The return of food waste back into our soils is also a far more restorative and circular principle than landfilling or incinerating this valuable resource.

HB 2407 will give the opportunity for a mixed-level approach to composting that doesn't restrict farmers, nonprofits, schools, or other community organizations from doing positive work. Smaller scale compost operations will open the possibilities for microgrid composting networks that require less transport and can serve localized systems. This model requires a non-uniform approach to permitting so that the burden is not the same for a small community pilot project as it would be for a large-scale industrial operation serving an entire island. Ultimately, our islands will be far more resilient by approaching systems management in this way.

Finally, we would like to add that by making composting more approachable across the board, the state will be providing a mechanism to help reach carbon neutrality goals. Healthy soils are recognized as the greatest carbon sink on earth and Hawaii has an enormous opportunity to protect its future by investing in its soil health.

With Aloha,



Sustainable Coastlines Hawaii
2909 Waiālae Avenue #19
Honolulu, HI 96826 USA
808-445-2085

A handwritten signature in black ink, appearing to read "Rafael Bergstrom", written in a cursive style.

Rafael Bergstrom
Executive Director
Sustainable Coastlines Hawaii
rafael@sustainablecoastlineshawaii.org
808-445-2085

LATE

HB-2407

Submitted on: 2/10/2020 11:19:00 PM

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

Submitted By	Organization	Testifier Position	Present at Hearing
Jennifer Milholen	Kokua Hawaii Foundation	Support	No

Comments:

Aloha, Committee Members. Our apologies for this late testimony. KÅ• kua Hawai'i Foundation is in strong support of HB2407 requiring the regulatory reform of the co-composting (food waste + green waste) permitting process. Diverting methane-generating food scraps away from our landfills through various composting methods is the number one land-based strategy for carbon sequestration and mitigating climate change. Encouraging composting of green waste (landscape trimmings) and food scraps along with compostable products, coffee grounds, brewery grain, and more, can divert 100s of thousands of tons away from strained landfills and incinerators. Currently there is only a single permit process for anyone wishing to accept food scraps for composting, no matter the size and risk potential of the operation. A single farmer wishing to have two small compost piles made from the local restaurants' food scraps has to fill out the same permit, and meet the same burdens, as an industrial-scale composting facility receiving an entire islands-worth of materials (hundreds of thousands of tons). The current permit requirements are sized appropriately for a mega facility, but create an onerous barrier for any smaller operations. For example, anyone wishing to be approved for accepting any amount of food scraps for composting has to do so on an impervious surface (cement pad, for example), which would cost more than \$10,000 dollars, and demonstrate a leachate management system (another several thousand dollars). This is in addition to the application procedure which took our staff 8 months to navigate and ended up being 200 pages long. No small operations wishing to divert organics from the landfills and create an urgently needed soil amendment for Hawai'i are likely to undertake this process. The unintended consequence of an unreasonable permitting process is the operation of facilities with zero oversight, because those that might have complied with registration and monitoring are deterred.

Our concern is that DOH, while fulfilling the important function of protecting public and environmental health, perceives food waste composting of any volumes as inherently dangerous. This is our biggest hurdle to overcome. The creation of compost is a science and an art, but not one that is particularly complicated. Anyone following basic steps of processing and maintenance for a composting recipe can create an operation free of odor, pests, noise and dust as well as a product free of pathogens and safe for use. This simple formula has been practiced for thousands of years.

The specific tiers set forth in this bill do not have to be set in stone. What is essential, though, for Hawai'i to be able to move forward with this crucial resource management strategy, is the reform toward regulation that equates level of risk (low to high volumes of food scraps) with level of application complexity and capital burden. The tiered system provides DOH with the ability to track and monitor, through registrations, a range of small to mid-scale operations. These operations could be providing proof of effective management and pathogen testing, and still meeting the requirements of a scaled-down permitting process that is made accessible and reasonable for all but the largest operations.

Mahalo for your support and passage of this bill. Please let us know if you have any questions about this issue.

KĀ• kua Hawai'i Foundation

HB-2407

Submitted on: 2/6/2020 7:46:54 AM

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

Submitted By	Organization	Testifier Position	Present at Hearing
Latai Soakai	Individual	Support	No

Comments:

HB-2407

Submitted on: 2/8/2020 12:55:53 PM

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

Submitted By	Organization	Testifier Position	Present at Hearing
Andrea Quinn	Individual	Support	No

Comments:

Dear Honorable Committee Members:

Please support HB2407. Composting will help to alleviate Hawaii's landfill problem.

Thank you for the opportunity to present my testimony.

Andrea Quinn

Kihei

HB-2407

Submitted on: 2/10/2020 10:16:40 AM

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

Submitted By	Organization	Testifier Position	Present at Hearing
Ruta Jordans	Individual	Support	No

Comments:

We desperately need HB2407 passed in order to be able to produce more compost in order to sequester carbon in the soil, Making regulations and permitting easier is one way to overcome present barriers to composting.

Nicole Chatterson
Executive Director
P: 808-561-7730
E: oahu.zerowaste@gmail.com



HSB 2407: Support
Hearing: Feb 11, 2020 8:30 AM
Committee on EEP/HLT

Dear Chair Lowern, Chair Mizuno and members of the EEP and HLT Committees,

Zero Waste O'ahu strongly supports HB 2407, which requires an update to the Department of Health composting rules and a re-evaluation of the limiting approach used to permit composters. This system currently places all food waste composters (regardless of size) in a risk-category that requires them to become permitted as "solid waste management facility"—a process which is inaccessible to most small operations.

From 2013-2016 the *Zero Food Waste Hui*, a group of over 50 local organizations, convened to support the growth of food waste composting projects in Hawai'i. Through these convenings it became clear that folks were held back from pursuing projects by the same issue: the Dept. of Health application and permitting requirements. A local farm processing small amounts of food waste from their neighbors would be treated as the same as a municipal scale composting facility. Small operators do not have the scale, impact, or risk level of an industrial solid waste management and it is to the detriment of our climate change goals to hold them to the same standards as one.

I will share a short narrative of the implications of requiring a small operation to apply for a solid waste management permit. A member of our team was recruited by the State of Hawai'i Host Committee for the United Nations World Conservation Congress (the largest gathering of its kind in the world, which held in Honolulu in 2016) to a divert food waste from the event to a well-managed local farm. The farm we were taking the food waste to was required to apply to become a solid waste management facility to carry out this short-term project. The application took over 8 months, 200 pages, and still did not receive authorization in time for us to divert the food waste because of a lack of staff to review the permit. It also required the farm to move their compost pile onto a concrete pad—an unnecessary and expensive improvement for an operation of their size to temporarily accept food waste. Hawai'i had made a promise to our international guests that would make this event as sustainable—instead our own permitting structure got in the way.

The data is clear that 1) food waste is an issue (the average household wastes 40% of purchased food and waste audits show food waste is about 30% for most institutions), 2) food waste creates more greenhouse gases when landfilled or burned than when composted, and 3) local compost can avoid imports of fertilizers and help us build up our local soil health and agriculture.

Nicole Chatterson
Executive Director
P: 808-561-7730
E: oahu.zerowaste@gmail.com



Mahalo for your time and consideration.

A handwritten signature in black ink, appearing to read "NCh", with a long horizontal stroke extending to the right.

Nicole Chatterson
Executive Director, Zero Waste O'ahu

HB-2407

Submitted on: 2/10/2020 2:35:11 PM

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

Submitted By	Organization	Testifier Position	Present at Hearing
Natalie Wohner	Individual	Support	No

Comments:

My name is Natalie Wohner, a student at UH Manoa, and I strongly support HB2407.

A huge chunk of our waste is food waste which gets currently burned instead of diverting it and making it into healthy soil to use on our farmlands. The establishment of a composting operation enables the reduction of waste, supports local food security and ultimately paves the path to a sustainable circular economy.

Please support local farmers by supporting this measure.

Mahalo!