

HB-1349

Submitted on: 2/2/2021 1:40:19 PM

Testimony for EEP on 2/4/2021 9:00:00 AM

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

Comments:

Dear Honorable Committee Members:

Please support HB1349.

Thank you,

Andrea Quinn



DAVID Y. IGE
Governor

JOSH GREEN
Lieutenant Governor

MIKE MCCARTNEY
Director

LAND USE COMMISSION
Department of Business, Economic Development & Tourism
State of Hawai'i

DANIEL ORODENKER
Executive Officer

SCOTT A.K. DERRICKSON AICP
Chief Planner

RILEY K. HAKODA
Chief Clerk/Planner

NATASHA A. QUINONES
Program Specialist

FRED A. TALON
Drafting Technician

Statement of
Daniel E. Orodenker
Executive Officer
State Land Use Commission

Before the
House Committee on
Energy and Environmental Protection

Thursday February 4, 2021
8:30 AM
State Capitol, Room 325 and Virtual Video Conference

In consideration of
HB 1349
RELATING TO STATEWIDE COMPOSTING

Chair Lowen; Vice Chair Marten; and members of the House Committee on Energy and Environmental Protection:

The Land Use Commission has no position on HB 1349. However, as the State agency authorized to implement the statute proposed for amendment; we are available for any questions that may arise with respect to HRS Chapter 205.

Thank you for the opportunity to testify on this matter.

OFFICE OF ECONOMIC DEVELOPMENT

NALANI BRUN, DIRECTOR



DEREK S.K. KAWAKAMI, MAYOR
MICHAEL A. DAHLIG, MANAGING DIRECTOR

Testimony of Ben Sullivan

Energy & Sustainability Coordinator, Office of Economic Development

Before the

House Committee on Energy and Environmental Protection

February 4, 2021; 8:30 am

Conference Room 325

In consideration of

House Bill 1349

Relating to Statewide Composting

Honorable Chair Lowen, Vice Chair Marten, and Members of the committee:

The County of Kaua'i **supports** HB 1349, which requires the Department of Health to establish a multi-tiered registration and permitting system for composting facilities, to update its composting rules by 1/1/2023, and permits composting and co-composting operations in agricultural districts.

Tiered regulations for composting are a means of enabling a beneficial activity while appropriately managing the associated public health risk. With a tiered approach, larger facilities handling more food waste and other material are required to meet more rigorous compliance standards while smaller operations, while still regulated, can operate with less of a burden. Numerous states have successfully implemented tiered regulations for composting facilities including Ohio, Massachusetts, Oregon, and Puerto Rico.

Current State DOH administrative rules for composting facilities are 'one-size fits-all' and can be difficult for smaller operations to navigate. As a result, there are very few permitted food waste composting facilities in operation around the State. By making it easier for composters to receive food waste, we can reduce what is sent to our landfills and increase the production of valuable compost for agricultural use. This strategy creates a win for our farmers, businesses, taxpayers, and for the environment.

The County of Kaua'i is currently challenged with as little as 7 years before we run out of space at our Kekaha Landfill. Any new landfill will require careful controls and reduction of landfilled organics, especially food, in order to limit attracting wildlife, to control vectors, and to minimize odors and emissions. By supporting expanded composting, we can create a safer, lower impact,

lower cost landfill operation and avoid increasing the burden that solid waste management places on Kaua'i taxpayers.

Food waste composting also aligns with the trend in Hawai'i's food service industry to switch to compostable service wear. With the development of composting infrastructure, food service businesses who switch to compostable products can reduce their waste stream and divert a much larger portion of their post-consumer waste to compost facilities.

We thank you for the opportunity to testify in support of this measure.

HB-1349

Submitted on: 2/2/2021 9:11:24 PM

Testimony for EEP on 2/4/2021 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Ted Bohlen	Climate Protectors Coalition	Support	No

Comments:

To: The House Committee on Energy and Environmental Protection (EEP)

From: Climate Protectors Coalition

Hearing Date: Thursday, February 2, 2021, 9:00 am

In support of HB1349 RELATING TO STATEWIDE COMPOSTING

Aloha Chair Lowen, Vice Chair Marten, and Energy and Environmental Protection Committee members:

The Climate Protectors Coalition **supports HB856.**

The Climate Protectors Coalition is a group inspired by the Mauna Kea Protectors but focused on reversing the climate crisis. As a tropical island State, Hawaii will be among the first places harmed by the global climate crisis, with more intense storms, loss of protective coral reefs, food insecurity, and rising sea levels destroying our shorelines. We must do all we can to reduce our carbon footprint and become at least carbon neutral as soon as possible.

This bill would reduce greenhouse gas emissions by exempting small scale composting and artisan scale composting from certain requirements.

The Climate Protectors ask that you pass this bill. Mahalo!

Climate Protectors Coalition (by Ted Bohlen)

DAVID Y. IGE
Governor

JOSH GREEN
Lt. Governor



PHYLLIS SHIMABUKURO-GEISER
Chairperson, Board of Agriculture

MORRIS M. ATTA
Deputy to the Chairperson

State of Hawaii
DEPARTMENT OF AGRICULTURE
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**TESTIMONY OF PHYLLIS SHIMABUKURO-GEISER
CHAIRPERSON, BOARD OF AGRICULTURE**

**BEFORE THE HOUSE COMMITTEE ON ENERGY AND ENVIRONMENTAL
PROTECTION**

**THURSDAY, FEBRUARY 4, 2021
8:30 A.M.
VIA VIDEO CONFERENCE**

**HOUSE BILL NO. 1349
RELATING TO STATEWIDE COMPOSTING**

Chairperson Lowen and Members of the Committee:

Thank you for the opportunity to testify on House Bill No. 1349 that requires the Department of Health to establish a multi-tiered registration and permitting system for all classes of solid waste composting facilities; requires the Department to update its co-composting rules and every ten years thereafter, and permits composting and co-composting operation throughout the Agricultural District. The Department of Agriculture has strong concerns.

The Department of Agriculture requests the proposed Solid Waste Composting Facilities definitions, establishment of classes I through IV, and rules be amended to directly prevent the spread of invasive species such as coconut rhinoceros beetles, little fire ants, noxious weeds, and plant pathogens such as coffee leaf rust and rapid ohia death by the all tiered and exempt composting and co-composting operations. These invasive species may be spread by the transport of material that incorporates known infested material that may not have been treated properly during the composting process. The County of Hawaii Department of Environmental Management shares this



concern and has detailed requirements to prevent the spread of invasive species in their green waste diversion program.

Furthermore, food waste that is a byproduct of food services from small businesses, restaurants, and resorts is a valuable food resource for swine operations across the State. Encouraging or requiring composting of this food waste may be in conflict with existing county waste recycling programs such as Honolulu's food waste recycling ordinance (Section 9-3.5, ROH). The rapid onset of the pandemic and the sudden reduction in the supply of food waste is the reason the Uluono Fund agreed to fund the Hawaii Department of Agriculture COVID-19 Emergency Hog Farmer Relief Program that distributed \$20,000 to hog farmers to buy grain feed in place of the food waste. In a separate but similar action funded by Uluono and the Department of Agriculture, a grain feed subsidy program was implemented to reduce the price of grain per bag to hog farmers.

Thank you for the opportunity to comment on this measure.



STATE OF HAWAII
DEPARTMENT OF HEALTH
P. O. Box 3378
Honolulu, HI 96801-3378
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**Testimony in OPPOSITION to HB1349
RELATING TO STATEWIDE COMPOSTING**

REPRESENTATIVE NICOLE E. LOWEN, CHAIR
HOUSE COMMITTEE ON ENERGY AND ENVIRONMENTAL PROTECTION
Hearing Date: 2/4/2021 Room Number: Via Videoconference

1 **Fiscal Implications:** Unknown

2 **Department Testimony:** The Department of Health (Department) agrees that composting is a
3 great option for organics management and landfill diversion but does not support HB1349 in its
4 current form. The bill in its current form 1) establishes four classes of composting facilities
5 based on the type of materials accepted and requires registration, permitting, and training
6 certification for each class while exempting Class IV facilities from impermeable surface
7 requirements, leachate management infrastructure, and Department permitting through the
8 National Pollutant Discharge Elimination System (NPDES), the Clean Air Branch and the Clean
9 Water Branch; 2) requires the Department to adopt rules establishing a multi-tiered registration
10 and permitting system for composting facilities; 3) requires the Department to update co-
11 composting rules by January 1, 2023, and every ten years thereafter; and 4) allows composting
12 and co-composting in agricultural districts. The bill does not provide any resources with which
13 the Department is to do the work of administrative rulemaking.

14 The Department recognizes that not all regulations may be suitable for all types of
15 composting operations. As such, the Department already has a tiered solid waste permitting
16 program for composting operations, that includes 1) exemptions for example, the disposal of
17 agricultural waste from its products processing facility on its own agricultural land, which has
18 been extended to include land application of its associated composted agricultural waste; 2) a
19 permit by rule for relatively small composting facilities that compost less than 3,000 tons of yard

1 trimmings per year and 3) a general permit with a risk-based evaluation for all other composting
2 operations. Although it may appear that all general permit applications receive the same permit
3 conditions, they do not. The general permit process takes into account the type and quantity of
4 materials, facility design, operations plan, and site-specific features to determine appropriate
5 permit conditions that focus on minimizing the particular risks of a given operation. For
6 example, given that a Class I composting facility may accept the same materials as a Class II
7 facility plus mixed solid wastes, under the current permitting system, the permit for the Class I
8 facility would already include additional requirements for receiving, handling, sorting, and
9 distributing the mixed waste compost, while the Class II facility permit would not.

10 The Department has undergone budget cuts with permanent loss of solid waste staff
11 positions. The remaining staff have limited ability to carry out core duties including permitting,
12 compliance inspections, compliance document review, complaint response and inspections, and
13 enforcement. Despite these losses, the Department has prioritized revising its applications in
14 response to statements that potential composting applicants were having difficulty completing
15 the forms. The Department is working towards simplifying the application process for applicants
16 with less complex operations. With minimal current staff resources and with the understanding
17 that additional resources for rulemaking or developing a training and certification program will
18 not be available in the near future given the fiscal forecast for the State, the Department is
19 attempting to maximize its efficiencies through flexibility in the current rules and revised
20 permitting forms.

21 The Department does plan to update Hawaii Administrative Rules, Chapter 11-58.1, Solid
22 Waste Management Control, that regulate composting and co-composting operations, however it
23 is not considered a high priority at this time. Although unchanged for decades, they are still
24 applicable and effective in protecting public health and the environment. The rules were written
25 broadly to provide flexibility in developing permits that allow for different types of operations
26 and the development of innovative technologies and methods in solid waste management, while
27 ensuring that basic conditions are addressed to protect the public.

1 The Department disagrees with exempting certain Class III and Class IV composting
2 facilities from requirements on the use of impermeable surfaces for composting operations and
3 leachate management infrastructure. Impermeable surfaces and leachate management for
4 composting operations may not be necessary for every composting facility, however, exempting
5 these useful tools from a class of facilities that may produce high nutrient loading and pathogenic
6 materials that could infiltrate into groundwater and drinking water sources or into surface waters,
7 could be detrimental to both public health and the environment.

8 The Department also disagrees that certain Class III and IV composting facilities, as
9 defined in the bill, be exempt from NPDES, Clean Air Branch, and Clean Water Branch
10 permitting requirements. The Department is concerned with a blanket exemption of any DOH
11 rules as their purpose is to protect human health and the environment. Although we understand
12 the need to eliminate the burden imposed by certain rules/requirements, eliminating compliance
13 with any DOH rules without a valid justification could compromise public health and welfare.
14 The Department also regulates the National Pollutant Discharge Elimination System (NPDES)
15 permit program. Composting facilities have federally regulated Standard Industrial
16 Classification codes in 40 CFR 122.26(b)(14) and are required to obtain NPDES permits for
17 industrial storm water discharges. Also, NPDES permits are required for composting facilities
18 that have point source effluent discharges to State surface waters.

19 **Offered Amendments:** None

20 Thank you for the opportunity to testify on this measure

HB-1349

Submitted on: 2/3/2021 8:32:18 AM

Testimony for EEP on 2/4/2021 9:00:00 AM

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

Comments:

Statewide composting is essential for Hawaii to become self-sustaining and a circular economy where nothing, especially foodscraps, is wasted.

HB-1349

Submitted on: 2/3/2021 8:34:18 AM

Testimony for EEP on 2/4/2021 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Jennifer Milholen	Individual	Support	No

Comments:

As stated in the preamble of this bill, there is extreme urgency to rescue the hundreds of millions of pounds of compostable material entering Hawai'i's incinerator and landfills every year. Not only do those organics cost the counties significant portions of their budgets on siting, construction, hauling, and processing, but they represent an extreme loss of potential from the power of those organics to build healthy, local soils, diminish erosion, increase local food production and nutrition, and aid in mitigating climate change through carbon sequestration. Creating streamlined, right-sized composting regulation for all scales of projects, and allowing for composting on all AG-zoned land, are essential steps in moving Hawai'i toward a more sustainable future, while still protecting public health and safety with appropriate requirements.

One of the goals of a mandated tiered permitting system would be to greatly increase the number of permitted facilities since very few currently have approved permits (or have attempted to), making the permitting and infrastructure requirements more accessible. Undocumented composting operations are common given the perceived financial and time barriers to entry. A more accessible process would hopefully increase the number of applicants and approved permits and increase the number of operations that DOH is aware of to ensure public health and safety. The current system serves DOH because far fewer applications come in, but it does not serve the interest of the many citizens, farmers, and entrepreneurs who have the interest and knowledge to divert organics from the waste stream, or the interest of the counties who pay hundreds of millions in waste management funds and fines from landfill methane.

The beneficiaries of this bill would be DOH, as well as the county waste management departments, schools, farmers and entrepreneurs. DOH has indicated that they would like to require education/certification for composting operators to ensure they understand the management strategies to ensure public health, and that such education would allow them to feel more comfortable with smaller-scale co-composting operations having less regulatory oversight. This bill requires such certification and training. Additionally, a more accessible permitting system would mean more applicants and a more accurate DOH awareness of composting operations in the state.

All of the islands' county environmental and waste management agencies have indicated that diverting organics from their waste streams will be essential in extending the life of their landfills and preventing more landfill siting and the associated environmental justice impacts. The counties need to be able to divert these organics to permitted facilities, but indicate that the current limited zoning and onerous application process is preventing viable projects from going forward. For schools, the DOE spends multiple millions of dollars to do daily dumpster hauling because of rotting food created from school meals. With right-sized permitting, schools could apply for permits to do on-campus or regional diversion of their food scraps (an estimated 60,000 lbs/day statewide), potentially reducing hauling costs by 90% (after contract renegotiations). Schools would also greatly benefit from the project-based learning associated with resource rescue, soil health, and school garden lessons.

Farmers currently have an exemption to compost what is produced on their land, but many would like to (and unofficially do) compost organics from local restaurants/grocery stores, which would require a permit. These farmers have decades of experience composting and present an important opportunity for diversion and composting potential statewide. Farmers risk citation for operating without a permit, but an accessible application process for their size of operation would create local resource recovery systems and markets due to their ability to be more public with their promotion and marketing. This is in addition to the farm operators being able to generate nutritive soil amendment made locally instead of imported (there is huge market potential and GHG offsets from sequestration here). A number of entrepreneurs across the state are operating food waste pickup/drop off and diversion services, but have to remain somewhat under the radar because they are processing the food waste without a permit. This bill would help them because there would be a clearer path to legitimate permitting, compulsory education on composting for the processors, and the ability to inspire more services to spring up. The small scale operators (farmers, pickup services, schools, and event diversion) would be spared the requirement for pouring a concrete slab or compacted gravel, which is ~\$7,000 to \$9,000 per pad since these programs would be low public health risk if they aren't processing more than the 2 cubic yard per day of organics, and following proper composting protocols.

These tier definitions are a starting point. Ultimately, the best system for meeting the needs of Hawai'i's prospective composters will come through ongoing collaboration between DOH, zoning boards, land use commissions, subject matter experts, county environmental departments, and NGOs. If the DOH has the capacity, a formal working group to refine the regulatory structure and permitting process would ensure the best result for addressing the urgency of resource rescue from our waste streams.

Mahalo for your time and considering the measures of this bill essential in advancing Hawai'i's waste reduction and sustainability goals.

Jennifer Milholen



LATE

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February 4, 2021

HEARING BEFORE THE
HOUSE COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION

TESTIMONY ON HB 1349
RELATING TO STATEWIDE COMPOSTING

Conference Room 325
9:00 AM

Aloha Chair Lowen, Vice Chair Marten, and Members of the Committee:

I am Brian Miyamoto, Executive Director of the Hawaii Farm Bureau (HFB). Organized since 1948, the HFB is comprised of 1,800 farm family members statewide and serves as Hawaii's voice of agriculture to protect, advocate and advance the social, economic, and educational interests of our diverse agricultural community.

The Hawaii Farm Bureau respectfully offers comments on HB 1349, requires DOH to establish a tiered registration and permitting system for composting facilities to encourage composting without requiring onerous regulations, *and* which will allow composting and co-composting facilities on all agricultural land, including those lands classified as class A and B (highest) productivity rating.

HFB recognizes and supports the diversion of discarded food and other useful wastes away from landfills. The benefits of this and of composting are well-known. We also appreciate the desire to make compost available to Hawaii farmers.

However, there are potential hazards and threats to agriculture and our rural communities that must also be recognized. Composting operations must be sited appropriately, designed correctly, and maintained properly. **Accordingly, HFB feels strongly that no commercial composting facility or operation should be exempt from DOH regulatory oversight, restrictions, inspection, and control.**

The following are some of our concerns and questions:

- Should large commercial composting and co-composting facilities be sited on lands classified by the land study bureau's land classification agricultural productivity rating A or B? Is this an appropriate use of these lands?
- The location of composting facilities and their proximity and **impact to nearby farms** can be extremely problematic:

- Attracts **vectors** (flies, rats, termites, etc.)
- Collection and breeding grounds for **destructive invasive species** (note the **spread via compost** of the Coconut Rhinoceros Beetle on Oahu)
- Creation of dangerous gases, and **potential for fires** caused by the heat created by microbial activity
- The types and sources of waste that will be allowed to be collected at these composting facilities – human sewage waste? dead animals? green waste from areas known to be infested with Little Fire Ants, or other threats to Hawaii's agriculture?
- Whether the compost will be properly treated prior to its sale and distribution to farmers and others to avoid the spread throughout the islands of dangerous pathogens and vectors that cause disease and economic devastation.

To address agricultural concerns and prevent disastrous consequences, we believe that the Hawaii Department of Agriculture should participate in the crafting of this legislation. We also hope that if legislation is passed, the Hawaii Department of Health will be provided with the necessary fiscal resources to carefully address these concerns, promulgate appropriate regulations, and adequately oversee all commercial composting operations.

Thank you for taking our concerns into consideration and for your continued support of Hawaii agriculture.

LATE

HB-1349

Submitted on: 2/3/2021 11:02:36 AM

Testimony for EEP on 2/4/2021 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Carissa Cabrera	Individual	Support	No

Comments:

Composting infrastructure is essential on O'ahu and this bill will help community composting movements lay a strong foundation for food waste reduction. Limiting and overarching regulations prevent small-scale composting from successful implementation. Multi-tiered system would solve this problem. I am in support of this bill.

LATE

HB-1349

Submitted on: 2/3/2021 5:49:34 PM

Testimony for EEP on 2/4/2021 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Fern Anuenue Holland	Individual	Support	No

Comments:

Strong support for this bill! Mahalo Representatives.

LATE

HB-1349

Submitted on: 2/4/2021 8:58:15 AM

Testimony for EEP on 2/4/2021 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Nicole Chatterson	Zero Waste Oahu	Support	No

Comments:

Aloha Chair Lowen and the EEP Committee,

It is critical for our composting regulations to be reformatted. We need to be able to compost food in agricultural districts.

We also need a regulatory and permitting structure that is appropriate for the various scales of food waste composting. It does not make sense to hold a small school composting project to the same standards as a large waste management facility. Nor does it make sense to hold a project on a farm to the same standard as a large waste management facility. Each method of food composting and each scale of operations has a different set of regulatory needs and should be regulated accordingly, instead of with a one size fits all approach.

While the Department of Health can technically give approval small composting projects at the discretion of the director, there is no precedent for this occurring and this process is burdensome on the time of the DOH staff.

Please help us build out an appropriately regulated, safe and vibrant composting ecosystem in Hawai'i.

Aloha,

Nicole Chatterson, Executive Director, Zero Waste O'ahu