
A BILL FOR AN ACT

RELATING TO ENVIRONMENTAL PROTECTION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that increasingly
2 polarized federal politics, unqualified appointees, and outside
3 influences have begun to impact the mission of some federal
4 agencies.

5 The legislature further finds that as a result of the new
6 leadership, the Environmental Protection Agency has begun making
7 decisions that conflict with the mission of the agency to
8 protect human health and the environment. Furthermore,
9 decisions that contradict or ignore scientific findings and
10 merits have been made, including reversing the Clean Power Plan,
11 which encourages states to reduce harmful greenhouse gas
12 emissions; reversing the Waters of the United States Rule, which
13 limits pollution in bodies of water; and ending the prosecution
14 of polluters in many cases.

15 These decisions may negatively impact states such as
16 Hawaii, which rely on the Environmental Protection Agency to



1 protect human health and the environment from dangerous
2 pollution, toxic debris, and contaminated drinking water.

3 The legislature also finds that, due to poor morale within
4 the Environmental Protection Agency, more than seven hundred
5 employees, including more than two hundred scientists and more
6 than ninety environment protection specialists, have recently
7 left that agency. Many of these employees will not be replaced
8 since the Environmental Protection Agency is expected to cut
9 three thousand two hundred positions.

10 The purpose of this Act is to protect the people and
11 environment of Hawaii by authorizing its environment-related
12 agencies to adopt rules to fill the gaps left by the negligent
13 or harmful decisions of the Environmental Protection Agency.

14 SECTION 2. Chapter 321, Hawaii Revised Statutes, is
15 amended by adding a new section to part I to be appropriately
16 designated and to read as follows:

17 "§321- Environmental protection; baseline federal
18 standards; state adoption and application. (a) As used in this
19 section, "baseline federal standards" means the authorizations,
20 policies, objectives, rules, requirements, and standards
21 pertaining to environmental protection and contained in federal



1 laws or federal regulations implementing the federal laws in
2 existence as of January 1, 2016, or January 1, 2017, whichever
3 is more stringent.

4 (b) Except as authorized by state law, a state or county
5 agency shall not amend or revise its rules pertaining to
6 environmental protection to be less stringent than the baseline
7 federal standards.

8 (c) Except as otherwise provided in state law, a state or
9 county agency may establish rules pertaining to environmental
10 protection that are more stringent than the baseline federal
11 standards."

12 SECTION 3. Chapter 342B, Hawaii Revised Statutes, is
13 amended by adding a new section to part II to be appropriately
14 designated and to read as follows:

15 "§342B- Baseline federal standards; state adoption and
16 application. (a) As used in this section, "baseline federal
17 standards" means the authorizations, policies, objectives,
18 rules, requirements, and standards pertaining to the regulation
19 of air quality and contained in federal laws or federal
20 regulations implementing the federal laws in existence as of



1 January 1, 2016, or January 1, 2017, whichever is more
2 stringent.

3 (b) If the United States Environmental Protection Agency
4 no longer implements the prevention of significant deterioration
5 program in accordance with the applicable baseline federal
6 standards, the director may establish programs and rules that
7 are at least as stringent as the applicable baseline federal
8 standards.

9 (c) Except as authorized by state law, a state or county
10 agency shall not amend or revise its rules pertaining to air
11 quality to be less stringent than the baseline federal
12 standards.

13 (d) Except as otherwise provided in state law, a state or
14 county agency may establish rules pertaining to air quality that
15 are more stringent than the baseline federal standards."

16 SECTION 4. Chapter 342D, Hawaii Revised Statutes, is
17 amended by adding a new section to part III to be appropriately
18 designated and to read as follows:

19 "§342D- Baseline federal standards; state adoption and
20 application. (a) As used in this section, "baseline federal
21 standards" means the authorizations, policies, objectives,



1 rules, requirements, and standards pertaining to the regulation
2 of water supplies and water quality contained in federal laws or
3 federal regulations implementing the federal laws in existence
4 as of January 1, 2016, or January 1, 2017, whichever is more
5 stringent.

6 (b) To ensure that water quality standards are not
7 diminished as a result of any change in the federal Clean Water
8 Act or federal rules adopted pursuant to that Act, the director
9 shall maintain and enforce all water supply and water quality
10 standards that are at least as stringent as required by the
11 applicable baseline federal standards, in addition to those
12 required by state law. Nothing in this section shall require
13 the director to apply the definition of "waters of the United
14 States" contained in title 33 Code of Federal Regulations
15 section 328.3 and title 40 Code of Federal Regulations section
16 122.2 as published on June 29, 2015 (80 FR 37053).

17 (c) To the extent that the director has not established a
18 water supply or water quality standard or requirement for which
19 a standard or requirement exists in the baseline federal
20 standards, the director may adopt a standard or requirement that
21 is at least as stringent as the baseline federal standards.



1 (d) Except as authorized by state law, a state or county
2 agency shall not amend or revise its rules pertaining to the
3 regulation of water supplies or water quality standards to be
4 less stringent than the baseline federal standards.

5 (e) Except as otherwise provided in state law, a state or
6 county agency may establish rules pertaining to the regulation
7 of water supplies or water quality standards that are more
8 stringent than the baseline federal standards."

9 SECTION 5. Section 340E-2, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "[~~§~~340E-2[~~§~~] **Drinking water standards.** (a) The
12 director shall [~~promulgate~~] adopt and enforce State Primary
13 Drinking Water Regulations and may [~~promulgate~~] adopt and
14 enforce State Secondary Drinking Water Regulations. State
15 Primary Drinking Water Regulations shall protect health to the
16 extent feasible, using technology, treatment techniques, and
17 other means which are generally available, taking cost into
18 consideration. Maximum contaminant levels covered by revised
19 National Primary Drinking Water Regulations shall be set at a
20 level at which no known or anticipated adverse effects on the
21 health of persons occur and which allows an adequate margin of



1 safety. Treatment techniques covered by revised National
2 Primary Drinking Water Regulations shall require treatment
3 necessary to prevent known or anticipated adverse effects on the
4 health of persons. The State Primary Drinking Water Regulations
5 shall be not less stringent than the National Primary Drinking
6 Water Regulations in effect at that time.

7 (b) Subject to section 340E-3, State Primary and Secondary
8 Drinking Water Regulations shall apply to each public water
9 system in the State; however, ~~[such]~~ these regulations shall not
10 apply to a public water system ~~[which-]~~ that:

11 (1) Consists only of distribution and storage facilities
12 (and ~~[which]~~ that does not have any collection and
13 treatment facilities);

14 (2) Obtains all of its water from, but is not owned or
15 operated by, a public water system to which ~~[such]~~ the
16 regulations apply;

17 (3) Does not sell water to any person; and

18 (4) Is not a carrier which conveys passengers in
19 interstate commerce.

20 (c) The director shall adopt and implement procedures for
21 the enforcement of State Primary Drinking Water Regulations,



1 including monitoring, inspection, and recordkeeping procedures,
2 that comply with regulations established by the administrator
3 pursuant to the Federal Act.

4 (d) The director may [~~promulgate~~] adopt and enforce
5 regulations relating to cross-connection and backflow prevention
6 control.

7 (e) The director shall [~~promulgate~~] adopt regulations
8 establishing an underground injection control program. [~~Such~~]
9 The program shall prohibit any underground injection [~~which~~]
10 that is not authorized by a permit issued by the director,
11 except that the director may authorize underground injection by
12 regulation. Underground injection authorized by regulation
13 shall not endanger drinking water sources. Any underground
14 injection control program shall:

15 (1) Set standards and prohibitions controlling any
16 underground injection if [~~such~~] the injection may
17 result in the presence of any contaminant in
18 underground water [~~which~~] that supplies or may be
19 expected to supply any public water system, and if the
20 presence of [~~such~~] the contaminant may result in
21 [~~such~~] the system's not complying with any national



1 primary drinking water regulation or may otherwise
2 adversely affect the health of persons.

3 (2) Require, in the case of a program [~~which~~] that
4 authorizes underground injection by permit, that the
5 applicant for the permit satisfy the director that the
6 underground injection will meet the requirements of
7 [~~item (1) of this subsection.~~] paragraph 1.

8 (3) Include inspection, monitoring, recordkeeping, and
9 reporting requirements.

10 (f) To ensure that drinking water quality standards are
11 not diminished as a result of any change in the federal Safe
12 Drinking Water Act or federal rules adopted pursuant to that
13 Act, the director shall maintain and enforce all drinking water
14 standards that are at least as stringent as required by the
15 applicable baseline federal standards, in addition to those
16 required by state law. Nothing in this section shall require
17 the director to apply the definition of "waters of the United
18 States" contained in title 33 Code of Federal Regulations
19 section 328.3 and title 40 Code of Federal Regulations section
20 122.2 as published on June 29, 2015 (80 FR 37053).



1 (g) To the extent that the director has not established a
2 drinking water standard or requirement for which a standard or
3 requirement exists in the baseline federal standards, the
4 director may adopt a standard or requirement that is at least as
5 stringent as the baseline federal standards.

6 (h) Except as authorized by state law, a state or county
7 agency shall not amend or revise its rules pertaining to the
8 regulation of drinking water to be less stringent than the
9 baseline federal standards.

10 (i) Except as otherwise provided in state law, a state or
11 county agency may establish rules pertaining to the regulation
12 of drinking water that are more stringent than the baseline
13 federal standards.

14 (j) As used in this section, "baseline federal standards"
15 means the authorizations, policies, objectives, rules,
16 requirements, and standards pertaining to the regulation of
17 drinking water and contained in federal laws or federal
18 regulations implementing the federal laws in existence as of
19 January 1, 2016, or January 1, 2017, whichever is more
20 stringent."



1 SECTION 6. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.
3 SECTION 7. This Act shall take effect on January 28, 2045.



Report Title:

Environmental Protection; Water Supplies; Air Quality; Water Quality; Drinking Water; Standards

Description:

Requires state and county agencies to adopt and maintain rules pertaining to environmental protection, air quality, water supplies, water quality, and drinking water that are as stringent as, or more stringent than, applicable baseline federal standards. (HB2470 HD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

