
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 environmental 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 and county adoption and application. (a)
19 Except as authorized by state law, a state or county agency
20 shall not amend or revise its rules pertaining to environmental



1 protection to be less stringent than the baseline federal
2 standards.

3 (b) Except as otherwise provided in state law, a state or
4 county agency may establish rules pertaining to environmental
5 protection that are more stringent than the baseline federal
6 standards.

7 (c) As used in this section, "baseline federal standards"
8 means the authorizations, policies, objectives, rules,
9 requirements, and standards pertaining to environmental
10 protection and contained in federal laws or federal regulations
11 implementing the federal laws in existence as of January 1,
12 2016, or January 1, 2017, whichever is more stringent."

13 SECTION 3. Chapter 340A, Hawaii Revised Statutes, is
14 amended by adding a new section to be appropriately designated
15 and to read as follows:

16 **"§340A- Baseline federal standards; state and county**
17 **adoption and application.** (a) Except as authorized by state
18 law, a state or county agency shall not amend or revise its
19 rules pertaining to solid waste to be less stringent than the
20 baseline federal standards.



1 (b) Except as otherwise provided in state law, a state or
2 county agency may establish rules pertaining to solid waste that
3 are more stringent than the baseline federal standards.

4 (c) As used in this section, "baseline federal standards"
5 means the authorizations, policies, objectives, rules,
6 requirements, and standards pertaining to solid waste control
7 and contained in federal laws or federal regulations
8 implementing the federal laws in existence as of January 1,
9 2016, or January 1, 2017, whichever is more stringent."

10 SECTION 4. Chapter 342B, Hawaii Revised Statutes, is
11 amended by adding a new section to part II to be appropriately
12 designated and to read as follows:

13 "§342B- Baseline federal standards; state and county
14 adoption and application. (a) If the United States
15 Environmental Protection Agency no longer implements the
16 prevention of significant deterioration program in accordance
17 with the applicable baseline federal standards, the director may
18 establish programs and rules that are at least as stringent as
19 the applicable baseline federal standards.

20 (b) Except as authorized by state law, a state or county
21 agency shall not amend or revise its rules pertaining to air



1 quality to be less stringent than the baseline federal
2 standards.

3 (c) Except as otherwise provided in state law, a state or
4 county agency may establish rules pertaining to air quality that
5 are more stringent than the baseline federal standards.

6 (d) As used in this section, "baseline federal standards"
7 means the authorizations, policies, objectives, rules,
8 requirements, and standards pertaining to the regulation of air
9 quality and contained in federal laws or federal regulations
10 implementing the federal laws in existence as of January 1,
11 2016, or January 1, 2017, whichever is more stringent."

12 SECTION 5. Chapter 342D, Hawaii Revised Statutes, is
13 amended by adding a new section to part III to be appropriately
14 designated and to read as follows:

15 "§342D- Baseline federal standards; state and county
16 adoption and application. (a) To ensure that water quality
17 standards are not diminished as a result of any change in the
18 federal Clean Water Act or federal rules adopted pursuant to
19 that Act, the director shall maintain and enforce all water
20 supply and water quality standards that are at least as
21 stringent as required by the applicable baseline federal



1 standards, in addition to those required by state law. Nothing
2 in this section shall require the director to apply the
3 definition of "waters of the United States" contained in title
4 33 Code of Federal Regulations section 328.3 and title 40 Code
5 of Federal Regulations section 122.2 as published on June 29,
6 2015 (80 FR 37053).

7 (b) To the extent that the director has not established a
8 water supply or water quality standard or requirement for which
9 a standard or requirement exists in the baseline federal
10 standards, the director may adopt a standard or requirement that
11 is at least as stringent as the baseline federal standards.

12 (c) Except as authorized by state law, a state or county
13 agency shall not amend or revise its rules pertaining to the
14 regulation of water supplies or water quality standards to be
15 less stringent than the baseline federal standards.

16 (d) Except as otherwise provided in state law, a state or
17 county agency may establish rules pertaining to the regulation
18 of water supplies or water quality standards that are more
19 stringent than the baseline federal standards.

20 (e) As used in this section, "baseline federal standards"
21 means the authorizations, policies, objectives, rules,



1 requirements, and standards pertaining to the regulation of
2 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 SECTION 6. Chapter 342H, Hawaii Revised Statutes, is
7 amended by adding a new section to part II to be appropriately
8 designated and to read as follows:

9 "§342H- Baseline federal standards; state and county
10 adoption and application. (a) Except as authorized by state
11 law, a state or county agency shall not amend or revise its
12 rules pertaining to solid waste control to be less stringent
13 than the baseline federal standards.

14 (b) Except as otherwise provided in state law, a state or
15 county agency may establish rules pertaining to solid waste
16 control that are more stringent than the baseline federal
17 standards.

18 (c) As used in this section, "baseline federal standards"
19 means the authorizations, policies, objectives, rules,
20 requirements, and standards pertaining to solid waste control
21 and contained in federal laws or federal regulations



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

3 SECTION 7. Chapter 342J, Hawaii Revised Statutes, is
4 amended by adding a new section to part III to be appropriately
5 designated and to read as follows:

6 "§342J- Baseline federal standards; state and county
7 adoption and application. (a) Except as authorized by state
8 law, a state or county agency shall not amend or revise its
9 rules pertaining to hazardous waste control to be less stringent
10 than the baseline federal standards.

11 (b) Except as otherwise provided in state law, a state or
12 county agency may establish rules pertaining to hazardous waste
13 control that are more stringent than the baseline federal
14 standards.

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



1 SECTION 8. Chapter 342L, Hawaii Revised Statutes, is
2 amended by adding a new section to part II to be appropriately
3 designated and to read as follows:

4 "§342L- Baseline federal standards; state and county
5 adoption and application. (a) Except as authorized by state
6 law, a state or county agency shall not amend or revise its
7 rules pertaining to underground storage tank regulation to be
8 less stringent than the baseline federal standards.

9 (b) Except as otherwise provided in state law, a state or
10 county agency may establish rules pertaining to underground
11 storage tank regulation that are more stringent than the
12 baseline federal standards.

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



1 SECTION 9. Chapter 342P, Hawaii Revised Statutes, is
2 amended by adding a new section to part III to be appropriately
3 designated and to read as follows:

4 "§342P- Baseline federal standards; state and county
5 adoption and application. (a) Except as authorized by state
6 law, a state or county agency shall not amend or revise its
7 rules pertaining to asbestos emission and lead hazard control to
8 be less stringent than the baseline federal standards.

9 (b) Except as otherwise provided in state law, a state or
10 county agency may establish rules pertaining to asbestos
11 emission and lead hazard control that are more stringent than
12 the baseline federal standards.

13 (c) As used in this section, "baseline federal standards"
14 means the authorizations, policies, objectives, rules,
15 requirements, and standards pertaining to asbestos emission and
16 lead hazard control and contained in federal laws or federal
17 regulations implementing the federal laws in existence as of
18 January 1, 2016, or January 1, 2017, whichever is more
19 stringent."

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



1 " ~~[+]~~ §340E-2 ~~[+]~~ Drinking water standards. (a) The
2 director shall ~~[promulgate]~~ adopt and enforce State Primary
3 Drinking Water Regulations and may ~~[promulgate]~~ adopt and
4 enforce State Secondary Drinking Water Regulations. State
5 Primary Drinking Water Regulations shall protect health to the
6 extent feasible, using technology, treatment techniques, and
7 other means which are generally available, taking cost into
8 consideration. Maximum contaminant levels covered by revised
9 National Primary Drinking Water Regulations shall be set at a
10 level at which no known or anticipated adverse effects on the
11 health of persons occur and which allows an adequate margin of
12 safety. Treatment techniques covered by revised National
13 Primary Drinking Water Regulations shall require treatment
14 necessary to prevent known or anticipated adverse effects on the
15 health of persons. The State Primary Drinking Water Regulations
16 shall be not less stringent than the National Primary Drinking
17 Water Regulations in effect at that time.

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



- 1 (1) Consists only of distribution and storage facilities
2 (and [~~which~~] that does not have any collection and
3 treatment facilities);
- 4 (2) Obtains all of its water from, but is not owned or
5 operated by, a public water system to which [~~such~~] the
6 regulations apply;
- 7 (3) Does not sell water to any person; and
- 8 (4) Is not a carrier which conveys passengers in
9 interstate commerce.
- 10 (c) The director shall adopt and implement procedures for
11 the enforcement of State Primary Drinking Water Regulations,
12 including monitoring, inspection, and recordkeeping procedures,
13 that comply with regulations established by the administrator
14 pursuant to the Federal Act.
- 15 (d) The director may [~~promulgate~~] adopt and enforce
16 regulations relating to cross-connection and backflow prevention
17 control.
- 18 (e) The director shall [~~promulgate~~] adopt regulations
19 establishing an underground injection control program. [~~Such~~]
20 The program shall prohibit any underground injection [~~which~~]
21 that is not authorized by a permit issued by the director,



1 except that the director may authorize underground injection by
2 regulation. Underground injection authorized by regulation
3 shall not endanger drinking water sources. Any underground
4 injection control program shall:

- 5 (1) Set standards and prohibitions controlling any
6 underground injection if ~~[such]~~ the injection may
7 result in the presence of any contaminant in
8 underground water ~~[which]~~ that supplies or may be
9 expected to supply any public water system, and if the
10 presence of ~~[such]~~ the contaminant may result in
11 ~~[such]~~ the system's not complying with any national
12 primary drinking water regulation or may otherwise
13 adversely affect the health of persons~~[-]~~;
- 14 (2) Require, in the case of a program ~~[which]~~ that
15 authorizes underground injection by permit, that the
16 applicant for the permit satisfy the director that the
17 underground injection will meet the requirements of
18 ~~[item (1) of this subsection.]~~ paragraph (1); and
- 19 (3) Include inspection, monitoring, recordkeeping, and
20 reporting requirements.



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

12 (g) To the extent that the director has not established a
13 drinking water standard or requirement for which a standard or
14 requirement exists in the baseline federal standards, the
15 director may adopt a standard or requirement that is at least as
16 stringent as the baseline federal standards.

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



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

5 (j) As used in this section, "baseline federal standards"
6 means the authorizations, policies, objectives, rules,
7 requirements, and standards pertaining to the regulation of
8 drinking water and contained in federal laws or federal
9 regulations implementing the federal laws in existence as of
10 January 1, 2016, or January 1, 2017, whichever is more
11 stringent."

12 SECTION 11. Statutory material to be repealed is bracketed
13 and stricken. New statutory material is underscored.

14 SECTION 12. This Act shall take effect on July 1, 2020.



Report Title:

Environmental Protection; Water Supplies; Solid Waste; Air Quality; Water Quality; Solid Waste Control; Hazardous Waste; Underground Storage Unit Regulation; Asbestos Emission and Lead Hazard Control; Drinking Water; Standards

Description:

Requires state and county agencies to adopt and maintain rules pertaining to environmental protection; water supplies; solid waste; air quality; water quality; solid waste control; hazardous waste; underground storage unit regulation; asbestos emission and lead hazard control; and drinking water that are as stringent as, or more stringent than, applicable baseline federal standards. Effective July 1, 2020. (SD1)

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

