
A BILL FOR AN ACT

RELATING TO THE CLEAN WATER ACT.

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

1 SECTION 1. The legislature finds that in *County of Maui*,
2 *Hawaii v. Hawaii Wildlife Fund*, 140 S.Ct. 1462 (2020), the
3 United States Supreme Court held that the Clean Water Act
4 requires a permit when there is a discharge from a point source
5 directly into navigable waters or when there is the functional
6 equivalent of a direct discharge, such as with a wastewater
7 plant's injection well. This case recognized the ways
8 wastewater discharge via injection wells ultimately impacts the
9 near-shore environment, including coastal ecology, coral reefs,
10 human health, and recreation.

11 The legislature further finds that it is in the public
12 interest to recognize the downstream impacts of all injection
13 wells statewide. Wastewater should be treated thoroughly,
14 disposed of properly, and treated or re-used, in order to
15 protect our scarce water resources and coastal environment.

16 The purpose of this Act is to require that all injection
17 wells in the State have a National Pollutant Discharge



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1 Elimination System permit within ten years and prohibit
2 underground injection without a permit after this date.

3 SECTION 2. Section 340E-2, Hawaii Revised Statutes, is
4 amended by amending subsection (e) to read as follows:

5 "(e) The director shall promulgate regulations
6 establishing an underground injection control program. Such
7 program shall prohibit any underground injection which is not
8 authorized by a permit issued by the director; provided that the
9 director shall not issue permits for the construction of sewage
10 wastewater injection wells unless alternative wastewater
11 disposal options are not available, feasible, or practical;
12 provided further that the director may authorize underground
13 injection by regulation. Underground injection authorized by
14 regulation shall not endanger drinking water sources. Beginning
15 January 1, 2031, underground injection shall be prohibited
16 unless authorized by a National Pollutant Discharge Elimination
17 System permit obtained from the director. Any underground
18 injection control program shall:

19 (1) Set standards and prohibitions controlling any
20 underground injection if such injection may result in
21 the presence of any contaminant in underground water



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1 which supplies or may be expected to supply any public
2 water system, and if the presence of such contaminant
3 may result in such system's not complying with any
4 national primary drinking water regulation or may
5 otherwise adversely affect the health of persons;

6 (2) Require, in the case of a program which authorizes
7 underground injection by permit, that the applicant
8 for the permit satisfy the director that the
9 underground injection will meet the requirements of
10 paragraph (1); and

11 (3) Include inspection, monitoring, recordkeeping, and
12 reporting requirements.

13 For purposes of this subsection:

14 "Injection well" means a bored, drilled, or driven shaft,
15 or a dug hole, whose depth is greater than its widest surface
16 dimension and into which subsurface disposal of fluid or fluids
17 occurs or is meant to occur by means of injection.

18 "Sewage wastewater" means any liquid wastewater that
19 includes sewage from humans or household operations, regardless
20 of whether the wastewater has been treated or whether the
21 wastewater pollutes or tends to pollute state waters."



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1 SECTION 3. New statutory material is underscored.

2 SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY:

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JAN 20 2021



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Report Title:

Department of Health; Clean Water Act; Underground Injection;
National Pollutant Discharge Elimination System Permit

Description:

Beginning 1/1/2031, prohibits underground injection unless authorized by a National Pollutant Discharge Elimination System permit obtained from the director of health.

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