

1 introduction to neighboring islands through the importation of
2 contaminated compost. Furthermore, applying compost and organic
3 matter to soil sequesters carbon from the atmosphere, forming
4 the largest land-based carbon sink, and mitigates climate change
5 by effectively reducing greenhouse gas emissions.

6 The legislature believes that food waste diversion and the
7 creation of multi-scale composting operations across the State
8 will greatly reduce the burdens on landfills, lower county waste
9 management costs, and move the State closer to achieving its
10 sustainability and resiliency goals, which include:

11 (1) The Aloha+ Challenge, which is a statewide commitment
12 to realize the United Nations' Sustainable Development
13 Goals, and which sets a goal of seventy per cent waste
14 reduction before disposal, and doubling local food
15 production by 2030;

16 (2) The Hawaii 2050 sustainability plan, which mandates
17 the State to achieve full sustainability and
18 resilience through increased food production and
19 dramatic waste reduction via recycling and
20 bioconversion strategies; and



1 (3) Increasing the generation of local compost to
2 sequester more carbon and mitigate climate change
3 pursuant to the strategy identified by the greenhouse
4 gas sequestration task force permanently established
5 by Act 15, Session Laws of Hawaii 2018.

6 The legislature also finds that the regulation of
7 co-composting in the State is under the purview of the
8 department of health's solid and hazardous waste branch.
9 Existing rules have not been updated in over twenty years.
10 Currently, a single application applies to all co-composting
11 operations regardless of size or scope. The current permitting
12 process is an onerous and unreasonable barrier to lawful
13 participation for small to midsize composting operations whose
14 operations present a much lower risk potential. Reform and
15 updating of the co-composting rules and permitting process will
16 greatly increase the number of operators diverting organics from
17 landfills and incinerators, thereby aiding the State and
18 counties in reaching their sustainability, resilience, and
19 fiscal goals.

20 Accordingly, the purpose of this Act is to encourage the
21 production of compost by:



- 1 (1) Requiring the department of health to adopt or amend
- 2 rules to establish a classification system for
- 3 composting facilities or operations for the purposes
- 4 of regulating them for health purposes; and
- 5 (2) Allowing composting and co-composting in the
- 6 agricultural district, including on lands with class A
- 7 or B soils.

PART II

9 SECTION 2. Chapter 342H, Hawaii Revised Statutes, is
10 amended by adding a new section to part II to be appropriately
11 designated and to read as follows:

12 "§342H- Rules; composting facilities and operations;
13 classification system. (a) The department shall adopt rules
14 pursuant to chapter 91 to establish a classification system for
15 composting facilities and operations for the purposes of
16 regulating those facilities or operations for health purposes,
17 including but not limited to:

- 18 (1) Preventing pollution;
- 19 (2) Preventing the spread of disease and the creation of
- 20 nuisances;
- 21 (3) Protecting public health and safety;



1 year 2026-2027 for a full-time equivalent (1.0 FTE) program
2 specialist position in the solid and hazardous waste branch to
3 focus on updating administrative rules relating to solid waste
4 pursuant to section 2 of this part.

5 The sums appropriated shall be expended by the department
6 of health for the purposes of this part.

7 PART III

8 SECTION 4. Section 205-2, Hawaii Revised Statutes, is
9 amended by amending subsection (d) to read as follows:

10 "(d) Agricultural districts shall include:

11 (1) Activities or uses as characterized by the cultivation
12 of crops, crops for bioenergy, orchards, forage, and
13 forestry;

14 (2) Farming activities or uses related to animal husbandry
15 and game and fish propagation;

16 (3) Aquaculture, which means the production of aquatic
17 plant and animal life within ponds and other bodies of
18 water;

19 (4) Wind-generated energy production for public, private,
20 and commercial use;



- 1 (5) Biofuel production, as described in
2 section 205-4.5(a)(16), for public, private, and
3 commercial use;
- 4 (6) Solar energy facilities; provided that:
- 5 (A) This paragraph shall apply only to land with soil
6 classified by the land study bureau's detailed
7 land classification as overall (master)
8 productivity rating class B, C, D, or E; and
- 9 (B) Solar energy facilities placed within land with
10 soil classified as overall productivity rating
11 class B or C shall not occupy more than ten per
12 cent of the acreage of the parcel, or twenty
13 acres of land, whichever is lesser, unless a
14 special use permit is granted pursuant to
15 section 205-6;
- 16 (7) Bona fide agricultural services and uses that support
17 the agricultural activities of the fee or leasehold
18 owner of the property and accessory to any of the
19 above activities, regardless of whether conducted on
20 the same premises as the agricultural activities to
21 which they are accessory, including farm dwellings as



- 1 defined in section 205-4.5(a)(4), employee housing,
2 farm buildings, mills, storage facilities, processing
3 facilities, photovoltaic, biogas, and other
4 small-scale renewable energy systems producing energy
5 solely for use in the agricultural activities of the
6 fee or leasehold owner of the property,
7 agricultural-energy facilities as defined in section
8 205-4.5(a)(17), vehicle and equipment storage areas,
9 and plantation community subdivisions as defined in
10 section 205-4.5(a)(12);
- 11 (8) Wind machines and wind farms;
- 12 (9) Small-scale meteorological, air quality, noise, and
13 other scientific and environmental data collection and
14 monitoring facilities occupying less than one-half
15 acre of land; provided that these facilities shall not
16 be used as or equipped for use as living quarters or
17 dwellings;
- 18 (10) Agricultural parks;
- 19 (11) Agricultural tourism conducted on a working farm, or a
20 farming operation as defined in section 165-2, for the
21 enjoyment, education, or involvement of visitors;



1 provided that the agricultural tourism activity is
2 accessory and secondary to the principal agricultural
3 use and does not interfere with surrounding farm
4 operations; and provided further that this paragraph
5 shall apply only to a county that has adopted
6 ordinances regulating agricultural tourism under
7 section 205-5;

8 (12) Agricultural tourism activities, including overnight
9 accommodations of twenty-one days or less, for any one
10 stay within a county; provided that this paragraph
11 shall apply only to a county that includes at least
12 three islands and has adopted ordinances regulating
13 agricultural tourism activities pursuant to section
14 205-5; provided further that the agricultural tourism
15 activities coexist with a bona fide agricultural
16 activity. For the purposes of this paragraph, "bona
17 fide agricultural activity" means a farming operation
18 as defined in section 165-2;

19 (13) Open area recreational facilities;

20 (14) Geothermal resources exploration and geothermal
21 resources development, as defined under section 182-1;



- 1 (15) Agricultural-based commercial operations registered in
- 2 Hawaii, including:
- 3 (A) A roadside stand that is not an enclosed
- 4 structure, owned and operated by a producer for
- 5 the display and sale of agricultural products
- 6 grown in Hawaii and value-added products that
- 7 were produced using agricultural products grown
- 8 in Hawaii;
- 9 (B) Retail activities in an enclosed structure owned
- 10 and operated by a producer for the display and
- 11 sale of agricultural products grown in Hawaii,
- 12 value-added products that were produced using
- 13 agricultural products grown in Hawaii, logo items
- 14 related to the producer's agricultural
- 15 operations, and other food items;
- 16 (C) A retail food establishment owned and operated by
- 17 a producer and permitted under chapter 11-50,
- 18 Hawaii administrative rules, that prepares and
- 19 serves food at retail using products grown in
- 20 Hawaii and value-added products that were



1 produced using agricultural products grown in
2 Hawaii;

3 (D) A farmers' market, which is an outdoor market
4 limited to producers selling agricultural
5 products grown in Hawaii and value-added products
6 that were produced using agricultural products
7 grown in Hawaii; and

8 (E) A food hub, which is a facility that may contain
9 a commercial kitchen and provides for the
10 storage, processing, distribution, and sale of
11 agricultural products grown in Hawaii and
12 value-added products that were produced using
13 agricultural products grown in Hawaii.

14 The owner of an agricultural-based commercial
15 operation shall certify, upon request of an officer or
16 agent charged with enforcement of this chapter under
17 section 205-12, that the agricultural products
18 displayed or sold by the operation meet the
19 requirements of this paragraph; [~~and~~]

20 (16) Hydroelectric facilities as described in
21 section 205-4.5(a)(23) [~~+~~]; and



1 (17) Composting and co-composting operations.

2 Agricultural districts shall not include golf courses and golf
3 driving ranges, except as provided in section 205-4.5(d).

4 Agricultural districts include areas that are not used for, or
5 that are not suited to, agricultural and ancillary activities by
6 reason of topography, soils, and other related characteristics."

7 SECTION 5. Section 205-4.5, Hawaii Revised Statutes, is
8 amended by amending subsection (a) to read as follows:

9 "(a) Within the agricultural district, all lands with soil
10 classified by the land study bureau's detailed land
11 classification as overall (master) productivity rating class A
12 or B and for solar energy facilities, class B or C, shall be
13 restricted to the following permitted uses:

14 (1) Cultivation of crops, including crops for bioenergy,
15 flowers, vegetables, foliage, fruits, forage, and
16 timber;

17 (2) Game and fish propagation;

18 (3) Raising of livestock, including poultry, bees, fish,
19 or other animal or aquatic life that are propagated
20 for economic or personal use;



- 1 (4) Farm dwellings, employee housing, farm buildings, or
2 activities or uses related to farming and animal
3 husbandry. For the purposes of this paragraph, "farm
4 dwelling" means a single-family dwelling located on
5 and accessory to a farm, including clusters of
6 single-family farm dwellings permitted within
7 agricultural parks developed by the State, or where
8 agricultural activity provides income to the family
9 occupying the dwelling;
- 10 (5) Public institutions and buildings that are necessary
11 for agricultural practices;
- 12 (6) Public and private open area types of recreational
13 uses, including day camps, picnic grounds, parks, and
14 riding stables, but not including dragstrips,
15 airports, drive-in theaters, golf courses, golf
16 driving ranges, country clubs, and overnight camps;
17 provided that overnight camps in operation before
18 January 1, 1961, may be approved by special permit;
- 19 (7) Public, private, and quasi-public utility lines and
20 roadways, transformer stations, communications
21 equipment buildings, solid waste transfer stations,



1 major water storage tanks, and appurtenant small
2 buildings such as booster pumping stations, but not
3 including offices or yards for equipment, material,
4 vehicle storage, repair or maintenance, treatment
5 plants, corporation yards, or other similar
6 structures;

7 (8) Retention, restoration, rehabilitation, or improvement
8 of buildings or sites of historic or scenic interest;

9 (9) Agricultural-based commercial operations as described
10 in section 205-2(d)(15);

11 (10) Buildings and uses, including mills, storage, and
12 processing facilities, maintenance facilities,
13 photovoltaic, biogas, and other small-scale renewable
14 energy systems producing energy solely for use in the
15 agricultural activities of the fee or leasehold owner
16 of the property, and vehicle and equipment storage
17 areas that are normally considered directly accessory
18 to the above-mentioned uses and are permitted under
19 section 205-2(d);

20 (11) Agricultural parks;



- 1 (12) Plantation community subdivisions, which as used in
2 this chapter means an established subdivision or
3 cluster of employee housing, community buildings, and
4 agricultural support buildings on land currently or
5 formerly owned, leased, or operated by a sugar or
6 pineapple plantation; provided that the existing
7 structures may be used or rehabilitated for use, and
8 new employee housing and agricultural support
9 buildings may be allowed on land within the
10 subdivision as follows:
- 11 (A) The employee housing is occupied by employees or
12 former employees of the plantation who have a
13 property interest in the land;
- 14 (B) The employee housing units not owned by their
15 occupants shall be rented or leased at affordable
16 rates for agricultural workers; or
- 17 (C) The agricultural support buildings shall be
18 rented or leased to agricultural business
19 operators or agricultural support services;
- 20 (13) Agricultural tourism conducted on a working farm, or a
21 farming operation as defined in section 165-2, for the



1 enjoyment, education, or involvement of visitors;
2 provided that the agricultural tourism activity is
3 accessory and secondary to the principal agricultural
4 use and does not interfere with surrounding farm
5 operations; provided further that this paragraph shall
6 apply only to a county that has adopted ordinances
7 regulating agricultural tourism under section 205-5;
8 (14) Agricultural tourism activities, including overnight
9 accommodations of twenty-one days or less, for any one
10 stay within a county; provided that this paragraph
11 shall apply only to a county that includes at least
12 three islands and has adopted ordinances regulating
13 agricultural tourism activities pursuant to section
14 205-5; provided further that the agricultural tourism
15 activities coexist with a bona fide agricultural
16 activity. For the purposes of this paragraph, "bona
17 fide agricultural activity" means a farming operation
18 as defined in section 165-2;
19 (15) Wind energy facilities, including the appurtenances
20 associated with the production and transmission of
21 wind generated energy; provided that the wind energy



1 facilities and appurtenances are compatible with
2 agriculture uses and cause minimal adverse impact on
3 agricultural land;

4 (16) Biofuel processing facilities, including the
5 appurtenances associated with the production and
6 refining of biofuels that is normally considered
7 directly accessory and secondary to the growing of the
8 energy feedstock; provided that biofuel processing
9 facilities and appurtenances do not adversely impact
10 agricultural land and other agricultural uses in the
11 vicinity.

12 For the purposes of this paragraph:

13 "Appurtenances" means operational infrastructure
14 of the appropriate type and scale for economic
15 commercial storage and distribution, and other similar
16 handling of feedstock, fuels, and other products of
17 biofuel processing facilities.

18 "Biofuel processing facility" means a facility
19 that produces liquid or gaseous fuels from organic
20 sources such as biomass crops, agricultural residues,
21 and oil crops, including palm, canola, soybean, and



1 waste cooking oils; grease; food wastes; and animal
2 residues and wastes that can be used to generate
3 energy;

- 4 (17) Agricultural-energy facilities, including
5 appurtenances necessary for an agricultural-energy
6 enterprise; provided that the primary activity of the
7 agricultural-energy enterprise is agricultural
8 activity. To be considered the primary activity of an
9 agricultural-energy enterprise, the total acreage
10 devoted to agricultural activity shall be no less than
11 ninety per cent of the total acreage of the
12 agricultural-energy enterprise. The
13 agricultural-energy facility shall be limited to lands
14 owned, leased, licensed, or operated by the entity
15 conducting the agricultural activity.

16 As used in this paragraph:

17 "Agricultural activity" means any activity
18 described in paragraphs (1) to (3) of this subsection.

19 "Agricultural-energy enterprise" means an
20 enterprise that integrally incorporates an



1 agricultural activity with an agricultural-energy
2 facility.

3 "Agricultural-energy facility" means a facility
4 that generates, stores, or distributes renewable
5 energy as defined in section 269-91 or renewable fuel
6 including electrical or thermal energy or liquid or
7 gaseous fuels from products of agricultural activities
8 from agricultural lands located in the State.

9 "Appurtenances" means operational infrastructure
10 of the appropriate type and scale for the economic
11 commercial generation, storage, distribution, and
12 other similar handling of energy, including equipment,
13 feedstock, fuels, and other products of
14 agricultural-energy facilities;

15 (18) Construction and operation of wireless communication
16 antennas, including small wireless facilities;
17 provided that, for the purposes of this paragraph,
18 "wireless communication antenna" means communications
19 equipment that is either freestanding or placed upon
20 or attached to an already existing structure and that
21 transmits and receives electromagnetic radio signals



1 used in the provision of all types of wireless
2 communications services; provided further that "small
3 wireless facilities" shall have the same meaning as in
4 section 206N-2; provided further that nothing in this
5 paragraph shall be construed to permit the
6 construction of any new structure that is not deemed a
7 permitted use under this subsection;

- 8 (19) Agricultural education programs conducted on a farming
9 operation as defined in section 165-2, for the
10 education and participation of the general public;
11 provided that the agricultural education programs are
12 accessory and secondary to the principal agricultural
13 use of the parcels or lots on which the agricultural
14 education programs are to occur and do not interfere
15 with surrounding farm operations. For the purposes of
16 this paragraph, "agricultural education programs"
17 means activities or events designed to promote
18 knowledge and understanding of agricultural activities
19 and practices conducted on a farming operation as
20 defined in section 165-2;



- 1 (20) Solar energy facilities that do not occupy more than
2 ten per cent of the acreage of the parcel, or twenty
3 acres of land, whichever is lesser or for which a
4 special use permit is granted pursuant to
5 section 205-6; provided that this use shall not be
6 permitted on lands with soil classified by the land
7 study bureau's detailed land classification as overall
8 (master) productivity rating class A;
- 9 (21) Solar energy facilities on lands with soil classified
10 by the land study bureau's detailed land
11 classification as overall (master) productivity rating
12 B or C for which a special use permit is granted
13 pursuant to section 205-6; provided that:
- 14 (A) The area occupied by the solar energy facilities
15 is also made available for compatible
16 agricultural activities at a lease rate that is
17 at least fifty per cent below the fair market
18 rent for comparable properties;
- 19 (B) Proof of financial security to decommission the
20 facility is provided to the satisfaction of the
21 appropriate county planning commission before the



1 date of commencement of commercial generation;

2 and

3 (C) Solar energy facilities shall be decommissioned
4 at the owner's expense according to the following
5 requirements:

6 (i) Removal of all equipment related to the
7 solar energy facility within twelve months
8 of the conclusion of operation or useful
9 life; and

10 (ii) Restoration of the disturbed earth to
11 substantially the same physical condition as
12 existed before the development of the solar
13 energy facility.

14 For the purposes of this paragraph, "agricultural
15 activities" means the activities described in
16 paragraphs (1) to (3);

17 (22) Geothermal resources exploration and geothermal
18 resources development, as defined under section 182-1;
19 [~~e~~]

20 (23) Hydroelectric facilities, including the appurtenances
21 associated with the production and transmission of



1 hydroelectric energy, subject to section 205-2;
2 provided that the hydroelectric facilities and their
3 appurtenances:

4 (A) Shall consist of a small hydropower facility as
5 defined by the United States Department of
6 Energy, including:

7 (i) Impoundment facilities using a dam to store
8 water in a reservoir;

9 (ii) A diversion or run-of-river facility that
10 channels a portion of a river through a
11 canal or channel; and

12 (iii) Pumped storage facilities that store energy
13 by pumping water uphill to a reservoir at
14 higher elevation from a reservoir at a lower
15 elevation to be released to turn a turbine
16 to generate electricity;

17 (B) Comply with the state water code, chapter 174C;

18 (C) Shall, if over five hundred kilowatts in
19 hydroelectric generating capacity, have the
20 approval of the commission on water resource
21 management, including a new instream flow



1 standard established for any new hydroelectric
 2 facility; and
 3 (D) Do not impact or impede the use of agricultural
 4 land or the availability of surface or ground
 5 water for all uses on all parcels that are served
 6 by the ground water sources or streams for which
 7 hydroelectric facilities are considered[-]; or
 8 (24) Composting and co-composting operations."

9 SECTION 6. Statutory material to be repealed is bracketed
 10 and stricken. New statutory material is underscored.

11 SECTION 7. This Act shall take effect on July 1, 2025.

12

INTRODUCED BY: *Audie K. Mahan*
 By Request

JAN 16 2025



H.B. NO. 404

Report Title:

Maui County Council Package; Statewide Composting; DOH;
Agricultural District Lands; Appropriation

Description:

Requires the Department of Health to adopt or amend rules to establish a classification system for composting facilities or operations. Allows composting and co-composting in the agricultural district, including on lands with class A or class B soils. Appropriates moneys.

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