
A BILL FOR AN ACT

RELATING TO WASTE DISPOSAL FACILITIES.

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

1 SECTION 1. The legislature finds that the search for a new
2 landfill for the city and county of Honolulu cannot be
3 prioritized over the protection of Oahu's freshwater aquifers.
4 In 2021, approximately twenty thousand gallons of jet fuel
5 leaked from the Red Hill bulk fuel storage facility and
6 contaminated the Pearl Harbor-Hickam water system that serves
7 ninety-three thousand military and civilian customers. The leak
8 also affected the Honolulu board of water supply, and the city
9 and county has shut down three wells that supply fourteen
10 million gallons of water a day to urban Honolulu. The Honolulu
11 board of water supply is in search of new wells that can supply
12 urban Honolulu, which may not be ready until 2025. To protect
13 and preserve freshwater, a new landfill cannot be built inland
14 of underground injection control lines.

15 The legislature further finds that prime agricultural land
16 should be protected, preserved, and reserved for agricultural



1 and related uses. Therefore, a new landfill should not be
2 located on those agricultural lands.

3 The legislature also finds that the city and county of
4 Honolulu is required to relocate the Waimanalo Gulch sanitary
5 landfill by 2028. The department of environmental services of
6 the city and county of Honolulu proposed six potential sites
7 upon which to relocate the landfill, and all sites were rejected
8 by the landfill advisory committee because of concerns that
9 locating a landfill above freshwater aquifers may damage the
10 State's water sources. Section 183C-4(b), Hawaii Revised
11 Statutes, prohibits waste or disposal facilities in a
12 conservation district, except in emergency circumstances where
13 it may be necessary to mitigate significant risks to public
14 health and safety. Furthermore, section 342H-52(b), Hawaii
15 Revised Statutes, prohibits the construction, modification, or
16 expansion of a waste or disposal facility within a one-half mile
17 buffer zone between the edge of the waste or waste activity and
18 the nearest residential, school, or hospital property line.

19 The purpose of this Act is to:

- 20 (1) Prohibit landfill units on land in an agricultural
21 district having soil classified by the land study



- 1 bureau's detailed land classification as overall
2 (master) productivity rating class A;
- 3 (2) Beginning July 1, 2025, narrow the existing
4 prohibition on the construction, modification, or
5 expansion of waste or disposal facilities within a
6 one-half mile buffer zone of residential, school, or
7 hospital property lines to apply specifically to
8 landfill units or components of landfill units; and
- 9 (3) Beginning July 1, 2025, prohibit the construction,
10 modification, or expansion of a landfill unit, or any
11 component of a landfill unit, inland of an underground
12 injection control line in a county with a population
13 greater than five hundred thousand, with certain
14 exemptions.

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

- 17 "(d) Agricultural districts shall include:
- 18 (1) Activities or uses as characterized by the cultivation
19 of crops, crops for bioenergy, orchards, forage, and
20 forestry;



- 1 (2) Farming activities or uses related to animal husbandry
2 and game and fish propagation;
- 3 (3) Aquaculture, which means the production of aquatic
4 plant and animal life within ponds and other bodies of
5 water;
- 6 (4) Wind-generated energy production for public, private,
7 and commercial use;
- 8 (5) Biofuel production, as described in
9 section 205-4.5(a)(16), for public, private, and
10 commercial use;
- 11 (6) Solar energy facilities; provided that:
 - 12 (A) This paragraph shall apply only to land with soil
13 classified by the land study bureau's detailed
14 land classification as overall (master)
15 productivity rating class B, C, D, or E; and
 - 16 (B) Solar energy facilities placed within land with
17 soil classified as overall productivity rating
18 class B or C shall not occupy more than ten per
19 cent of the acreage of the parcel, or twenty
20 acres of land, whichever is lesser, unless a



1 special use permit is granted pursuant to
2 section 205-6;

3 (7) Bona fide agricultural services and uses that support
4 the agricultural activities of the fee or leasehold
5 owner of the property and accessory to any of the
6 above activities, regardless of whether conducted on
7 the same premises as the agricultural activities to
8 which they are accessory, including farm dwellings as
9 defined in section 205-4.5(a) (4), employee housing,
10 farm buildings, mills, storage facilities, processing
11 facilities, photovoltaic, biogas, and other
12 small-scale renewable energy systems producing energy
13 solely for use in the agricultural activities of the
14 fee or leasehold owner of the property,
15 agricultural-energy facilities as defined in
16 section 205-4.5(a) (17), vehicle and equipment storage
17 areas, and plantation community subdivisions as
18 defined in section 205-4.5(a) (12);

19 (8) Wind machines and wind farms;

20 (9) Small-scale meteorological, air quality, noise, and
21 other scientific and environmental data collection and



1 monitoring facilities occupying less than one-half
2 acre of land; provided that these facilities shall not
3 be used as or equipped for use as living quarters or
4 dwellings;

5 (10) Agricultural parks;

6 (11) Agricultural tourism conducted on a working farm, or a
7 farming operation as defined in section 165-2, for the
8 enjoyment, education, or involvement of visitors;
9 provided that the agricultural tourism activity is
10 accessory and secondary to the principal agricultural
11 use and does not interfere with surrounding farm
12 operations; [~~and~~] provided further that this paragraph
13 shall apply only to a county that has adopted
14 ordinances regulating agricultural tourism under
15 section 205-5;

16 (12) Agricultural tourism activities, including overnight
17 accommodations of twenty-one days or less, for any one
18 stay within a county; provided that this paragraph
19 shall apply only to a county that includes at least
20 three islands and has adopted ordinances regulating
21 agricultural tourism activities pursuant to



1 section 205-5; provided further that the agricultural
2 tourism activities coexist with a bona fide
3 agricultural activity. For the purposes of this
4 paragraph, "bona fide agricultural activity" means a
5 farming operation as defined in section 165-2;

6 (13) Open area recreational facilities;

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

9 (15) Agricultural-based commercial operations registered in
10 Hawaii, including:

11 (A) A roadside stand that is not an enclosed
12 structure, owned and operated by a producer for
13 the display and sale of agricultural products
14 grown in Hawaii and value-added products that
15 were produced using agricultural products grown
16 in Hawaii;

17 (B) Retail activities in an enclosed structure owned
18 and operated by a producer for the display and
19 sale of agricultural products grown in Hawaii,
20 value-added products that were produced using
21 agricultural products grown in Hawaii, logo items



- 1 related to the producer's agricultural
2 operations, and other food items;
- 3 (C) A retail food establishment owned and operated by
4 a producer and permitted under chapter 11-50,
5 Hawaii administrative rules, that prepares and
6 serves food at retail using products grown in
7 Hawaii and value-added products that were
8 produced using agricultural products grown in
9 Hawaii;
- 10 (D) A farmers' market, which is an outdoor market
11 limited to producers selling agricultural
12 products grown in Hawaii and value-added products
13 that were produced using agricultural products
14 grown in Hawaii; and
- 15 (E) A food hub, which is a facility that may contain
16 a commercial kitchen and provides for the
17 storage, processing, distribution, and sale of
18 agricultural products grown in Hawaii and
19 value-added products that were produced using
20 agricultural products grown in Hawaii.



1 The owner of an agricultural-based commercial
2 operation shall certify, upon request of an officer or
3 agent charged with enforcement of this chapter under
4 section 205-12, that the agricultural products
5 displayed or sold by the operation meet the
6 requirements of this paragraph;

7 (16) Hydroelectric facilities as described in
8 section 205-4.5(a)(23); and

9 (17) Composting and co-composting operations; provided that
10 operations that process their own green waste and do
11 not require permits from the department of health
12 shall use the finished composting product only on the
13 operation's own premises to minimize the potential
14 spread of invasive species.

15 Agricultural districts shall not include golf courses and golf
16 driving ranges, except as provided in section 205-4.5(d). No
17 landfill unit, as defined in section 342H-52, shall be located
18 on land within the agricultural district that has soil
19 classified by the land study bureau's detailed land
20 classification as overall (master) productivity rating class A.

21 Agricultural districts include areas that are not used for, or



1 that are not suited to, agricultural and ancillary activities by
2 reason of topography, soils, and other related characteristics."

3 SECTION 3. Section 205-4.5, Hawaii Revised Statutes, is
4 amended by amending subsection (b) to read as follows:

5 "(b) Uses not expressly permitted in subsection (a),
6 including landfill units, as defined in section 342H-52, located
7 on land within the agricultural district that has soil
8 classified by the land study bureau's detailed land
9 classification as overall (master) productivity rating class A,
10 shall be prohibited, except the uses permitted as provided in
11 sections 205-6 and 205-8, and construction of single-family
12 dwellings on lots existing before June 4, 1976. Any other law
13 to the contrary notwithstanding, no subdivision of land within
14 the agricultural district with soil classified by the land study
15 bureau's detailed land classification as overall (master)
16 productivity rating class A or B shall be approved by a county
17 unless those A and B lands within the subdivision are made
18 subject to the restriction on uses as prescribed in this section
19 and to the condition that the uses shall be primarily in pursuit
20 of an agricultural activity.



1 Any deed, lease, agreement of sale, mortgage, or other
2 instrument of conveyance covering any land within the
3 agricultural subdivision shall expressly contain the restriction
4 on uses and the condition, as prescribed in this section, that
5 these restrictions and conditions shall be encumbrances running
6 with the land until [~~such time that~~] the land is reclassified to
7 a land use district other than an agricultural district.

8 If the foregoing requirement of encumbrances running with
9 the land jeopardizes the owner or lessee in obtaining mortgage
10 financing from any of the mortgage lending agencies set forth in
11 the following paragraph, and the requirement is the sole reason
12 for failure to obtain mortgage financing, then the requirement
13 of encumbrances shall, insofar as [~~such~~] the mortgage financing
14 is jeopardized, be conditionally waived by the appropriate
15 county enforcement officer; provided that the conditional waiver
16 shall become effective only in the event that the property is
17 subjected to foreclosure proceedings by the mortgage lender.

18 The mortgage lending agencies referred to in the preceding
19 paragraph are the Federal Housing Administration, Federal
20 National Mortgage Association, Department of Veterans Affairs,
21 Small Business Administration, United States Department of



1 Agriculture, Federal Land Bank of Berkeley, Federal Intermediate
2 Credit Bank of Berkeley, Berkeley Bank for Cooperatives, and any
3 other federal, state, or private mortgage lending agency
4 qualified to do business in Hawaii, and their respective
5 successors and assigns."

6 SECTION 4. Section 342H-52, Hawaii Revised Statutes, is
7 amended to read as follows:

8 **"§342H-52 Prohibitions; buffer zones.** (a) No person,
9 including any federal agency, the State, or any county, shall
10 construct, operate, modify, expand, or close a municipal solid
11 waste landfill unit, or any component of a municipal solid waste
12 landfill unit, without first obtaining a permit from the
13 director. All permits for municipal solid waste landfill units
14 shall be subject to any terms and conditions that the director
15 determines are necessary to protect human health or the
16 environment.

17 (b) ~~[No]~~ Beginning July 1, 2025, no person, including the
18 State or any county, shall construct, modify, or expand a ~~[waste~~
19 ~~or disposal facility including a municipal solid waste landfill~~
20 ~~unit, any component of a municipal solid waste landfill unit, a~~
21 ~~construction and demolition landfill unit, or any component of a~~



1 ~~construction and demolition]~~ landfill unit or component of a
2 landfill unit without first establishing a buffer zone of no
3 less than one-half mile around the [~~waste or disposal facility.~~]
4 landfill unit or component of a landfill unit. This subsection
5 shall not apply to the continued operation of an existing [~~waste~~
6 ~~or disposal facility]~~ landfill unit or component of a landfill
7 unit that is properly permitted; provided that continued
8 operation does not require physical expansion, vertical or
9 horizontal, of the [~~facility]~~ landfill unit or component of a
10 landfill unit requiring additional permitting review and a
11 permit modification.

12 ~~[For the purposes of this subsection:~~
13 ~~"Buffer zone" means the distance between the edge of waste~~
14 ~~or waste activity and the nearest residential, school, or~~
15 ~~hospital property line.~~

16 ~~"Waste or disposal facility" excludes individual, state~~
17 ~~certified, non-industrial redemption centers.]~~

18 (c) Beginning July 1, 2025, no person, including the State
19 or any county, shall construct, modify, or expand a landfill
20 unit or any component of a landfill unit inland of an
21 underground injection control line in a county with a population



1 greater than five hundred thousand. This subsection shall not
2 apply to the continued operation of an existing landfill unit or
3 any component of a landfill unit that is properly permitted;
4 provided that continued operation does not require physical
5 expansion, vertical or horizontal, of the landfill unit or
6 component of a landfill unit requiring additional permitting
7 review and a permit modification.

8 (d) For the purposes of this section:

9 "Buffer zone" means the distance between the edge of the
10 landfill unit or component of the landfill unit and the nearest
11 residential, school, or hospital property line.

12 "Landfill unit" means a municipal solid waste landfill unit
13 or a construction and demolition landfill unit.

14 "Underground injection control line" means the line
15 determined by the department under rules adopted pursuant to
16 section 340E-2."

17 SECTION 5. Statutory material to be repealed is bracketed
18 and stricken. New statutory material is underscored.

19 SECTION 6. This Act shall take effect on July 1, 3000.



Report Title:

DOH; CWRM; Waste or Disposal Facilities; Landfill Units;
Agricultural Districts; Buffer Zones; Underground Injection
Control Lines; Prohibition

Description:

Prohibits landfill units on land in an agricultural district with class A soils. Beginning 7/1/2025, narrows the prohibition on constructing, modifying, or expanding waste or disposal facilities within a one-half mile buffer zone of residential, school, or hospital property lines to apply specifically to landfill units or components of landfill units. Beginning 7/1/2025, prohibits the construction, modification, or expansion of a landfill unit, or any component of a landfill unit, inland of an underground injection control line in a county with a population greater than five hundred thousand, with certain exemptions. Effective 7/1/3000. (HD3)

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