

ACT 267

S.B. NO. 373

A Bill for an Act Relating to the Environment.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 342D-6, Hawaii Revised Statutes, is amended to read as follows:

“§342D-6 Permits; procedures for. (a) An application for any permit required under this chapter shall be in a form prescribed by the director.

(b) The department may require that applications for permits shall be accompanied by plans, specifications, and any other information that it deems necessary in order to determine whether the proposed installation, alteration, or use will be in accord with applicable rules and standards.

(c) The director shall issue a permit for any term, not exceeding five years, if the director determines that it will be in the public interest; provided that the permit may be subject to any reasonable conditions that the director may prescribe. The director may include conditions in permits or may issue separate permits for management practices for sewage sludge, whether or not [such] the practices cause water pollution. [Such] The management practices include treatment, processing, storage, transport, use, and disposal. The director, on application, shall renew a permit from time to time for a term not exceeding five years if the director determines that it will be in the public interest. The director shall not grant or deny an application for the issuance or renewal of a permit without affording the applicant and any person who commented on the proposed permit during the public comment period an opportunity for a hearing in accordance with chapter 91. A request for a hearing, a hearing,

and any judicial review of the hearing shall not stay the effect of the issuance or renewal of a permit unless specifically ordered by the director or a court.

(d) The director, on the director's own motion or the application of any person, may modify, suspend, revoke, or revoke and reissue any water pollution permit if, after affording the permittee an opportunity for a hearing in accordance with chapter 91, the director determines that:

- (1) There is a violation of any condition of the permit;
- (2) The permit was obtained by misrepresentation, or there was failure to disclose fully all relevant facts;
- (3) There is a change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge; or
- (4) It is in the public interest.

The public interest excludes any reason less stringent than the causes for permit modification, revocation, and termination, or revocation and reissuance identified in 40 Code of Federal Regulations section 122.62 or 122.64.

(e) The director, on the director's own motion or the application of any person, may modify, suspend, revoke, or revoke and reissue any sludge permit after affording the permittee an opportunity for a hearing in accordance with chapter 91, and consistent with 40 Code of Federal Regulations section 501.15(c)(2) and (3) and (d)(2).

[(e)] (f) The director shall ensure that the public receives notice of each application for a permit to control water pollution. The director may hold a public hearing before ruling on an application for a permit to control water pollution if the director determines the public hearing to be in the public interest. In determining whether a public hearing would be in the public interest, the director shall be guided by 40 Code of Federal Regulations section 124.12(a).

[(f)] (g) In determining the public interest regarding permit issuance or renewal, the director shall consider the environmental impact of the proposed action, any adverse environmental effects which cannot be avoided should the action be implemented, the alternatives to the proposed action, the relationship between local short-term uses of the environment and the maintenance and enhancement of long-term productivity, any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented, and any other factors which the director, by rule, may prescribe; provided that any determination of public interest shall promote the optimum balance between economic development and environmental quality.

[(g)] (h) No applicant for a modification or renewal of a permit shall be held in violation of this chapter during the pendency of the applicant's application so long as the applicant acts consistently with the permit previously granted, the application and all plans, specifications, and other information submitted as part thereof."

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 21, 1997.)