
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 fresh water, a new landfill cannot be built over a
14 freshwater aquifer.

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) Prohibit the construction, modification, or expansion
4 of any waste or disposal facility for solid waste or
5 hazardous waste on land that is near or above a
6 significant aquifer;

7 (3) Require that beginning July 1, 2025, the existing
8 buffer zone between waste or disposal facilities and
9 residential, school, or hospital property lines
10 applies to municipal solid waste landfill units or
11 components, construction and demolition landfill
12 units, and their components;

13 (4) Prohibit the construction, modification, or expansion
14 of a landfill unit within a no pass zone in a county
15 with a population greater than five hundred thousand,
16 with certain exemptions; and

17 (5) Prohibit the use of fly ash, bottom ash, or a
18 combination from a municipal waste combustor for
19 certain purposes and imposes requirements on the
20 disposal of these materials.



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

3 "(d) Agricultural districts shall include:

4 (1) Activities or uses as characterized by the cultivation
5 of crops, crops for bioenergy, orchards, forage, and
6 forestry;

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

9 (3) Aquaculture, which means the production of aquatic
10 plant and animal life within ponds and other bodies of
11 water;

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

14 (5) Biofuel production, as described in
15 section 205-4.5(a)(16), for public, private, and
16 commercial use;

17 (6) Solar energy facilities; provided that:

18 (A) This paragraph shall apply only to land with soil
19 classified by the land study bureau's detailed
20 land classification as overall (master)
21 productivity rating class B, C, D, or E; and



1 (B) Solar energy facilities placed within land with
2 soil classified as overall productivity rating
3 class B or C shall not occupy more than ten per
4 cent of the acreage of the parcel, or twenty
5 acres of land, whichever is lesser, unless a
6 special use permit is granted pursuant to
7 section 205-6;

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



1 areas, and plantation community subdivisions as
2 defined in section 205-4.5(a)(12);

3 (8) Wind machines and wind farms;

4 (9) Small-scale meteorological, air quality, noise, and
5 other scientific and environmental data collection and
6 monitoring facilities occupying less than one-half
7 acre of land; provided that these facilities shall not
8 be used as or equipped for use as living quarters or
9 dwellings;

10 (10) Agricultural parks;

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



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

12 (13) Open area recreational facilities;

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

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

17 (A) A roadside stand that is not an enclosed
18 structure, owned and operated by a producer for
19 the display and sale of agricultural products
20 grown in Hawaii and value-added products that



1 were produced using agricultural products grown
2 in Hawaii;

3 (B) Retail activities in an enclosed structure owned
4 and operated by a producer for the display and
5 sale of agricultural products grown in Hawaii,
6 value-added products that were produced using
7 agricultural products grown in Hawaii, logo items
8 related to the producer's agricultural
9 operations, and other food items;

10 (C) A retail food establishment owned and operated by
11 a producer and permitted under chapter 11-50,
12 Hawaii administrative rules, that prepares and
13 serves food at retail using products grown in
14 Hawaii and value-added products that were
15 produced using agricultural products grown in
16 Hawaii;

17 (D) A farmers' market, which is an outdoor market
18 limited to producers selling agricultural
19 products grown in Hawaii and value-added products
20 that were produced using agricultural products
21 grown in Hawaii; and



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

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

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

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



1 Agricultural districts shall not include golf courses and golf
2 driving ranges, except as provided in section 205-4.5(d). No
3 landfill unit, as defined in section 342H-52, shall be located
4 on land within the agricultural district that has soil
5 classified by the land study bureau's detailed land
6 classification as overall (master) productivity rating class A.
7 Agricultural districts include areas that are not used for, or
8 that are not suited to, agricultural and ancillary activities by
9 reason of topography, soils, and other related characteristics."

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

12 "(b) Uses not expressly permitted in subsection (a),
13 including landfill units, as defined in section 342H-52, located
14 on land within the agricultural district that has soil
15 classified by the land study bureau's detailed land
16 classification as overall (master) productivity rating class A,
17 shall be prohibited, except the uses permitted as provided in
18 sections 205-6 and 205-8, and construction of single-family
19 dwellings on lots existing before June 4, 1976. Any other law
20 to the contrary notwithstanding, no subdivision of land within
21 the agricultural district with soil classified by the land study



1 bureau's detailed land classification as overall (master)
2 productivity rating class A or B shall be approved by a county
3 unless those A and B lands within the subdivision are made
4 subject to the restriction on uses as prescribed in this section
5 and to the condition that the uses shall be primarily in pursuit
6 of an agricultural activity.

7 Any deed, lease, agreement of sale, mortgage, or other
8 instrument of conveyance covering any land within the
9 agricultural subdivision shall expressly contain the restriction
10 on uses and the condition, as prescribed in this section that
11 these restrictions and conditions shall be encumbrances running
12 with the land until such time that the land is reclassified to a
13 land use district other than agricultural district.

14 If the foregoing requirement of encumbrances running with
15 the land jeopardizes the owner or lessee in obtaining mortgage
16 financing from any of the mortgage lending agencies set forth in
17 the following paragraph, and the requirement is the sole reason
18 for failure to obtain mortgage financing, then the requirement
19 of encumbrances shall, insofar as such mortgage financing is
20 jeopardized, be conditionally waived by the appropriate county
21 enforcement officer; provided that the conditional waiver shall



1 become effective only in the event that the property is
2 subjected to foreclosure proceedings by the mortgage lender.

3 The mortgage lending agencies referred to in the preceding
4 paragraph are the Federal Housing Administration, Federal
5 National Mortgage Association, Department of Veterans Affairs,
6 Small Business Administration, United States Department of
7 Agriculture, Federal Land Bank of Berkeley, Federal Intermediate
8 Credit Bank of Berkeley, Berkeley Bank for Cooperatives, and any
9 other federal, state, or private mortgage lending agency
10 qualified to do business in Hawaii, and their respective
11 successors and assigns."

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

14 **"§342H-52 Prohibitions; buffer zones.** (a) No person,
15 including any federal agency, the State, or any county, shall
16 construct, operate, modify, expand, or close a municipal solid
17 waste landfill unit, or any component of a municipal solid waste
18 landfill unit, without first obtaining a permit from the
19 director. All permits for municipal solid waste landfill units
20 shall be subject to any terms and conditions that the director



1 determines are necessary to protect human health or the
2 environment.

3 (b) No person, including the State or a county, shall
4 construct, modify, or expand a waste or disposal facility,
5 including:

6 (1) A municipal solid waste landfill unit;

7 (2) Any component of a municipal solid waste landfill
8 unit;

9 (3) A construction and demolition unit; or

10 (4) Any component of a construction and demolition
11 landfill unit;

12 for solid waste or hazardous waste on land that is near or above
13 a significant aquifer, as determined by the department, in
14 consultation with the commission on water resource management.

15 ~~[(b) No]~~ (c) Beginning July 1, 2025, no person, including
16 the State or any county, shall construct, modify, or expand a
17 ~~[waste or disposal facility including a municipal solid waste~~
18 ~~landfill unit, any component of a municipal solid waste landfill~~
19 ~~unit, a construction and demolition landfill unit, or any~~
20 ~~component of a construction and demolition]~~ landfill unit or
21 component of a landfill unit without first establishing a buffer



1 zone of no less than one-half mile around the [~~waste or disposal~~
2 ~~facility.~~] landfill unit. This subsection shall not apply to
3 the continued operation of an existing [~~waste or disposal~~
4 ~~facility~~] landfill unit that is properly permitted; provided
5 that continued operation does not require physical expansion,
6 vertical or horizontal, of the [~~facility~~] landfill unit or
7 component of the landfill unit requiring additional permitting
8 review and a permit modification.

9 [~~For the purposes of this subsection:~~

10 "~~Buffer zone~~" ~~means the distance between the edge of waste~~
11 ~~or waste activity and the nearest residential, school, or~~
12 ~~hospital property line.~~

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

15 (d) Beginning July 1, 2025, no person, including the State
16 or any county, shall construct, modify, or expand a landfill
17 unit or any component of a landfill unit within a no pass zone
18 in a county with a population greater than five hundred
19 thousand. This subsection shall not apply to the continued
20 operation of an existing landfill unit that is properly
21 permitted; provided that continued operation does not require



1 physical expansion, vertical or horizontal, of the landfill unit
2 or component of a landfill unit requiring additional permitting
3 review and a permit modification.

4 (e) No person shall utilize fly ash, bottom ash, or a
5 combination of fly ash and bottom ash from a municipal waste
6 combustor, including any ash residue that remains after removal
7 of metals for recycling into new metal products, for the
8 purposes of road building, construction, or as alternative daily
9 cover material on a landfill. Fly ash, bottom ash, or a
10 combination of fly ash and bottom ash from a municipal waste
11 combustor shall be disposed of in a double-lined and duly
12 licensed municipal solid waste or hazardous waste landfill.

13 (f) For the purposes of this section:

14 "Buffer zone" means the distance between the edge of the
15 landfill unit or component of the landfill unit and the nearest
16 residential, school, or hospital property line.

17 "Hazardous waste" has the same meaning as in section 342J-
18 2.

19 "Landfill unit" means a municipal solid waste landfill unit
20 or a construction and demolition landfill unit.



1 "No pass zone" means areas, as determined by the county, in
2 which the installation of waste disposal facilities, which may
3 contaminate groundwater resources used or expected to be used
4 for domestic water supplies, shall be prohibited.

5 "Significant aquifer" means a freshwater aquifer with the
6 potential for use as a drinking water source."

7 SECTION 5. Statutory material to be repealed is bracketed
8 and stricken. New statutory material is underscored.

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



Report Title:

DOH; CWRM; Waste or Disposal Facilities; Landfill Units;
Hazardous Waste; Aquifers; Agricultural Districts; Buffer Zones;
No Pass Zone; Prohibition; Fly Ash; Bottom Ash

Description:

Prohibits landfill units on land in an agricultural district with class A soils. Prohibits the construction, modification, or expansion of any waste or disposal facility for solid waste or hazardous waste on land that is near or above a significant aquifer. Clarifies that beginning July 1, 2025, the existing buffer zone between waste or disposal facilities and residential, school, or hospital property lines applies to municipal solid waste landfill units or components, construction and demolition landfill units, and their components. Prohibits the construction, modification, or expansion of a landfill unit within a no pass zone in a county with a population greater than five hundred thousand, with certain exemptions. Prohibits the use of fly ash, bottom ash, or a combination of fly ash and bottom ash from a municipal waste combustor for certain purposes and imposes requirements on the disposal of these materials. Effective 7/1/3000. (HD2)

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