

ACT 3

H.B. NO. 2526

A Bill for an Act Relating to Used Oil.

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

SECTION 1. Section 342J-5, Hawaii Revised Statutes, is amended by amending subsections (b) and (c) to read as follows:

“(b) The director may require that applications for such permits shall be accompanied by plans, specifications, and [such other] information as [the director] deems necessary [in order] for [the director] to determine whether the proposed or existing hazardous waste management facility will be in compliance with applicable rules and standards.

(c) The director shall issue a permit for any term, not exceeding five years, if the director determines that the applicant and facility have complied with the provisions of this chapter. Each permit shall be reviewed five years after the date of issuance and shall be modified as necessary to assure that the facility and permittee continue to comply with applicable provisions of this chapter. Nothing in this subsection shall preclude the director from reviewing and modifying a permit at any time during its term. Each permit issued under this section shall contain such terms and conditions as the director determines are necessary to protect human health or the environment.

The director may modify, suspend, or revoke any 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 term or condition of the permit;
- (2) The permit was obtained by misrepresentation or failure to disclose fully all relevant facts;
- (3) There is a change in any circumstance that necessitates a modification, suspension, or revocation of the permit; or
- (4) Such is in the public interest.

Public notice shall be given of proposed decisions respecting permit issuance, reissuance, denial, revocation, suspension, substantial modification to a permit requested by a permittee, and modifications to a permit initiated by the director. The director may hold a public hearing before issuing a final decision respecting a permit issuance, reissuance, denial, revocation, suspension, request by a permittee to substantially modify a permit, and any modification to a permit initiated by the

director if the director determines that such a public hearing is in the public interest. The permit notice and public hearing requirements in this section shall not apply to used oil permits as provided for in section 342J-54.”

SECTION 2. Section 342J-54, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(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 reasonable conditions that the director may prescribe. 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 is in the public interest. The director shall not deny an application for the issuance or renewal of a permit without affording the applicant an opportunity for a hearing in accordance with chapter 91.

The director may require a public notice or hearing, or both, for permit issuances, reissuances, denial, revocation, suspension, or substantial modifications to a permit requested by a permittee, or modifications to a permit initiated by the director if the director determines that notice or hearing, or both, are in the public interest.

The director, on the director’s own motion or the application of any person, may modify, suspend, or revoke any 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 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 emission; or
- (4) The modification, suspension, or revocation is in the public interest.

In determining the public interest, the director shall consider the environmental impact of the proposed action, any adverse environmental effects of the proposed action, any adverse environmental effects which cannot be avoided if the action is 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, and 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 may by rule prescribe; provided that any determination of public interest shall promote the optimum balance between economic development and environmental quality.”

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

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

(Approved April 3, 2000.)