

**STATE
ENVIRONMENTAL LAWS AFFECTING
HAWAII AGRICULTURE**

*(See NASDA's website for
Federal Environmental Laws Affecting U.S. Agriculture)*

A Project of the

**National Association of State Departments
of Agriculture Research Foundation**

through the

**National Center for Agricultural Law
Research and Information**



Website: <http://www.nasda-hq.org/> under the Research Foundation Section

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The Project Participants

National Association of State Departments of Agriculture Research Foundation

The National Association of State Departments of Agriculture (NASDA) is a nonprofit, nonpartisan association of public officials comprised of the Commissioners, Secretaries, and Directors of the fifty State Departments of Agriculture in the fifty states and the territories of Puerto Rico, Guam, American Samoa, and the Virgin Islands. NASDA's mission is to represent the State Departments of Agriculture in the development, implementation, and communication of sound public policy and programs which support and promote the American agricultural industry while protecting consumers and the environment. The NASDA Research Foundation is a 501(c)(3) nonprofit, tax-exempt corporation for educational and scientific purposes.

National Center for Agricultural Law Research and Information

The National Center for Agricultural Law Research and Information (NCALRI) was created in 1987 under Public Law 100-202, 101 Stat. 1329-30 to address the complex legal issues that affect American agriculture. The NCALRI focuses its efforts on research, writing, publishing, development of library services, and the dissemination of information to the public. The NCALRI is located at the University of Arkansas School of Law in Fayetteville, Arkansas.

Natural Resources Conservation Service

The Natural Resources Conservation Service (NRCS), formerly known as the Soil Conservation Service (SCS), is a federal agency within the U.S. Department of Agriculture (USDA). NRCS conservationists work with private landowners and operators to help them protect their natural resources.

U.S. Environmental Protection Agency

The U.S. Environmental Protection Agency (EPA) is a federal agency with primary responsibility for implementation of most federal laws designed to protect, enhance, and conserve the nation's natural resources.

Disclaimer

This guide is designed for use by agricultural producers, farmers, ranchers, landowners, and their consultants in understanding the effect environmental laws have on agricultural operations. It is not a substitute for individual legal advice. Agricultural producers should always confer with their own attorneys, consultants, or advisors as well as federal, state, and local authorities responsible for the applicable environmental laws.

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The contents and views expressed in this guide are those of the authors and do not necessarily reflect the policies or positions of the United States Department of Agriculture (USDA) NRCS or EPA.

Although every effort has been made to ensure the accuracy of the information contained in this book, environmental statutes, regulations, and ordinances are constantly changing. In addition, the overwhelming complexity and extent of environmental law make it impossible for a single book to describe in complete detail and depth all of the environmental laws and regulations impacting agricultural operations. The following material is simply a basic primer on environmental law for agricultural producers. For these reasons, the utilization of these materials by any person constitutes an agreement to hold harmless the authors, the National Center for Agricultural Law Research and Information, the University of Arkansas, the United States Department of Agriculture, the National Association of State Departments of Agriculture Research Foundation, the Natural Resources Conservation Service, and the United States Environmental Protection Agency for any liability, claims, damages, or expenses that may be incurred by any person or organization as a result of reference to, or reliance on, the information contained in this book.

The background research and final documents were completed in February, 2003. Updates of the information contained in the guide will occur on an as needed basis and be available on the internet.

Anyone with comments concerning the guide should contact the NASDA Research Foundation at 1156 15th Street, N.W., Suite 1020, Washington, D.C. 20005, or phone (202) 296-9680.

Quick Reference Guide

Producer Note: The following chart is intended as a quick reference guide to permits which may be necessary for a particular operation. If a permit is necessary, refer to the page numbers listed referencing this document for further information and contact the agencies listed in the final column for information on applications and procedures for securing a permit for an operation. A list of agencies and contact information is also provided in Appendix A.

Regulatory Area	Type of Activity	Permit Required	Agency
Water Quality <i>pp. 1-5</i>	Livestock and aquaculture operations, depending on size	National Pollutant Discharge Elimination System (NPDES)	Hawaii (HI) Department of Health (DOH) and U.S. Environmental Protection Agency (EPA)
	Wetlands dredge and fill activity or dam, dike, or bridge building activities	Section 404 Clean Water Act (CWA) permit	U.S. Army Corps of Engineers with EPA and DOH
Groundwater <i>pp. 5-6</i>	Groundwater discharge	Permit required for injection wells	DOH and EPA
Air Quality <i>pp. 6-7</i>	Grain terminals and grain elevators, other stationary sources	Permit required	DOH and EPA
	General agricultural operations including odor, dust, or flies	No permit, but may be subject to nuisance suits	DOH
	Burning	Permit required	DOH
Solid Waste and Hazardous Waste <i>pp. 7-10</i>	Storage, treatment and/or disposal of solid waste	No permit required for disposal of most agricultural solid waste, but special requirements apply otherwise	DOH
	Storage treatment and/or disposal of hazardous waste	Permit required	DOH and EPA

Regulatory Area	Type of Activity	Permit Required	Agency
Pesticides and Chemigation <i>pp. 10-11</i>	Sale, distribution, and transport of pesticides	Registration, license	HI Department of Agriculture (DOA); EPA
	Application of pesticides	License restriction, special requirements, record keeping	DOA and EPA
	Disposal of pesticide containers	Special requirements	DOA and EPA
Wildlife Protection <i>pp. 11-12</i>	Taking of wildlife, endangered and threatened species	Permits or licenses required; some absolute prohibitions	U.S. Fish and Wildlife Service; HI Department of Land & National Resources (DLNR)

STATE ENVIRONMENTAL LAWS AFFECTING HAWAII AGRICULTURE

Producer Note: Agricultural producers are faced with many challenges in today's rapidly changing world. Changes in industrialization, computer-based technology, market dynamics, and environmental regulation are affecting producers in a number of ways. Environmental regulation is a complex area with both federal and state government involvement. Staying informed is the producer's most useful instrument for meeting the challenges of today's agriculture. This information on environmental regulation is provided to educate producers on the breadth and scope of environmental laws which may impact daily production activities.

I. WATER QUALITY

A. Hawaii Water Quality Laws and Regulations

Most states have enacted clean water legislation. While these state statutes usually contain provisions similar to those found in the parallel federal legislation, there may be significant differences. In fact, state statutes may impose requirements that are even more restrictive than the federal law. In all cases, federal Clean Water Act (CWA) requirements must be followed and enforced along with the state enacted statutes and regulations implemented by the state administrative agencies. Under the CWA, the Environmental Protection Agency (EPA) has delegated the National Pollutant Discharge Elimination System (NPDES) permit program to many states. Hawaii is one of those states that has assumed the delegated responsibility for administering the NPDES program.

Caution: Because environmental laws and regulations change frequently, agricultural producers must stay in touch with both state and federal officials in order to remain in compliance and aware of changes in the law.

Producer Note: Often the specifics of environmental laws are found in agency regulations. Additionally, regulations are likely to be amended frequently. As a result, agricultural producers must stay in touch with offices administering specific programs in order to keep up with changes.

2. *The Hawaii Water Pollution Law*

The Hawaii Water Pollution Law (WPL)¹ is the principal water quality law in the state. It incorporates portions of the federal CWA. The Hawaii Department of Health (DOH) administers the water quality law as well as the majority of other Hawaii environmental laws. Through its Environmental Management Division (EMD), the DOH administers state and federal laws pertaining to groundwater, air quality, solid waste, and hazardous waste. Through its Environmental Planning Office (EPO), DOH administers the nonpoint source pollution program.

Hawaii's state Constitution provides that:

Each person has the right to a clean and healthful environment, as defined by laws relating to environmental quality, including control of pollution and conservation, protection and enhancement of natural resources.²

The Hawaii legislature has enacted a State Environmental Policy that complements the constitutional provision. The stated purpose of the policy is to:

Encourage productive and enjoyable harmony between man and his environment, promote efforts which will prevent damage to the environment and biosphere and stimulate the health and welfare of man, and enrich the understanding of the ecological systems and natural resources important to the people of Hawaii.³

Together, Hawaii's Constitution and State Environmental Policy help guide environmental legislation.

The WPL requires DOH to adopt water quality standards for surface water bodies in the state. These standards protect beneficial uses of the water. Beneficial uses are classified into categories that include domestic supply, industrial supply, livestock watering, irrigation, wildlife, and recreation. As required by the WPL, the DOH uses the water body's water quality standard, i.e., its beneficial use category, in establishing its effluent limitation and in setting forth any conditions that may be necessary on any discharge permits issued. The effluent limitation establishes the maximum amount of pollution that may be discharged into a water body without decreasing the established water quality.

¹ Haw. Rev. Stat. Ch. 342D.

² Hawaii Constitution, art. XII, § 9.

³ Haw. Rev. Stat § 344 - 1.

3. *Hawaii Antidegradation Policy*

Hawaii law establishes a general antidegradation policy for state surface waters. Waters with quality higher than the water quality standard established may not be lowered in quality unless the change is justifiable for important social economic developments. Furthermore, any decrease in water quality may not injure or interfere with the beneficial use category that was already assigned to those waters.

4. *Hawaii General Discharge Prohibition*

Hawaii's WPL contains a general prohibition that no waste is to be discharged into any waters of the state without first being given the treatment necessary to protect the legitimate beneficial use category of such waters. In addition, all waters must be free of controllable sources of pollutants. Controllable sources of pollutants are defined as floating materials, sludge, bottom deposits, deleterious substances which are toxic or harmful to animal, plant, human or aquatic life, and soil particles resulting from erosion caused by construction, agriculture, industry, and development.

5. *Hawaii's Individual Permits under the delegated NPDES Program*

Under the delegated NPDES permit program, Hawaii monitors point source discharges into state surface waters. A point source discharge means a discharge that comes from any discernible, confined, and discrete conveyance. Point source discharges require a discharge permit from DOH.

Agricultural operations that may require NPDES or point source discharge permits include concentrated animal feeding operations (CAFOs), concentrated aquatic feeding operations (CAqFOs), and aquaculture operations depending on their size. However, some agricultural activities are exempted and do not generally require a discharge permit. These activities include for example:

- Crop cultivation, grazing, orchard production, and similar agricultural activities that may cause only nonpoint source pollution;
- Return flows from irrigated agriculture;⁴
- Discharges of dredged or fill materials that are regulated by a general permit under Section 404 of the federal CWA.

⁴ Please note that agricultural discharges including irrigation return flows and nonpoint source pollution may be regulated under other federal and state laws. (See discussion of nonpoint source pollution control infra.)

5. *Hawaii's General Permits under the delegated NPDES Program*

Some agricultural operations that discharge may be covered by a general permit. A general permit is a permit that authorizes an activity that likely involves a discharge, however, the activity is a common and necessary activity and any discharge is determined to be insignificant or benign or with little or no alternative to the discharge.

If the activity is covered by a general permit, one need not apply for an individual permit. An agricultural producer seeking to operate under a general permit must nevertheless apply to DOH for authorization. If DOH denies such authorization under a general permit, the producer must then apply for an individual permit. An agricultural producer should check with the DOH to determine whether a proposed activity requires an individual permit or if it is covered by a general permit in which case the producer would simply need DOH authorization prior to conducting the activity.

Producer Note: Agricultural producers should consult with the Department of Health (DOH) to determine if their production activities require either individual or general discharge permits.

6. *Hawaii Nonpoint Source Pollution Control*

The WPL authorizes the DOH to regulate nonpoint source pollution as well as point source pollution discharges. The Nonpoint Source Pollution Control Law (NSPCL)⁵ passed by the legislature in 1993 provides additional legal authority. Together the WPL and the NSPCL charge the DOH to adopt rules to control nonpoint source pollution and to enforce such rules through civil fines. The regulatory scheme places emphasis on the use of best management practices to control agricultural pollution as well as other types of point and nonpoint source pollution. The legislation also authorizes demonstration projects and other educational initiatives to address the problem.

Producer Note: Nonpoint sources of pollution are diffuse sources of pollution. An example is water runoff from a field. Point sources, on the other hand, enter water bodies through discrete conveyances such as pipes. The NPDES program is, with limited exceptions, restricted to regulating point sources. Other federal and state programs address nonpoint source pollution discharges. Many of these programs are voluntary and incentive based, but a few impose mandatory requirements. Agricultural producers should check with the DOH to determine what point and nonpoint source programs and requirements may apply to their production activities.

⁵ Haw. Rev. Stat. Ch 342E.

7. *Hawaii Release Reporting for Unlawful Discharges*

The WPL requires any person who causes an unlawful discharge of pollutants into state waters to report the discharge to the DOH within 24 hours of the discharge. An unlawful discharge is defined as any discharge that is not in compliance with the WPL or any agency regulations or a discharge that exceeds permit conditions or variance limitations.

II. GROUNDWATER

A. Hawaii Groundwater Laws and Regulations

Hawaii addresses groundwater pollution through the Hawaii Safe Drinking Water Law (SDWL).⁶ The EPA has also granted the DOH primary enforcement authority to administer the federal Safe Drinking Water Act (SDWA) in Hawaii. Under the two drinking water laws, the DOH administers three programs of potential interest to agricultural producers:

- Drinking water standards;
- Underground injection control; and
- Wellhead protection.

Under the first program, the DOH sets state primary drinking water standards. These standards establish specific contaminant level ceilings for pollutants and the required monitoring in public drinking water supplies.

Under the second program, called the Underground Injection Control (UCI) Program, the DOH regulates discharges into underground wells to prevent groundwater contamination of drinking water supplies.⁷ Operations that discharge into groundwater must apply to the DOH for a discharge permit. Examples of injection activities that require a discharge permit include the direct injection of fluids into wells and leaching of fluids into aquifers from containment facilities. Discharge permits impose standards that govern the location, construction, and operation of injection wells. Only Class V well injections are permitted in Hawaii. Class I, II, III, and IV injection wells are prohibited completely.

⁶ Haw. Rev. Stat. Ch. 340E.

⁷ The EPA has grouped UIC wells into five classes (Class I, II, III, IV, and V), according to the type of fluid they inject and whether the fluid will be situated above or below drinking water supplies; Class I wells receive hazardous and non-hazardous wastes below a source of drinking water, Class II wells receive brine, Class III wells receive super-heated steam, water, or other such fluids, Class IV wells receive hazardous or radioactive wastes into or above a source of drinking water, and Class V wells receive fluids that are not included in the other classes.

The third program is the wellhead protection program. This is a voluntary program through which the DOH along with county agencies delineate certain areas near potable underground drinking water supplies in order to develop plans for preventing groundwater contamination. These drinking water protection plans may include the restriction of certain types of land uses within the wellhead protection area.

1. Hawaii Coastal Zone Management

The Department of Business, Economic Development, and Tourism, Office of Planning is responsible for Coastal Zone Management in Hawaii. The Department of Land and Natural Resources is charged with the management and administration of public lands, including wildlife resources and aquatic life.

Producer Note: Agricultural producers should contact their state agriculture department or the United States Department of Agriculture (USDA) to determine the current status of the regulation and the groundwater pesticide management plan for their state.

III. AIR QUALITY

A. Hawaii Air Quality Laws and Regulations

The Hawaii Air Pollution Control Law (APCL)⁸ charges the DOH with regulating air quality in the state. The DOH adopts and enforces air quality standards, emission control requirements, and other regulations. The Hawaii clean air program follows the federal Clean Air Act (CAA). The EPA and DOH work cooperatively to enforce these requirements.

In general, stationary sources of air pollution require a permit from the DOH prior to any process being conducted that may cause air pollution or any equipment being constructed, operated, replaced, or relocated. While existing sources require only an operating permit, new sources of air pollution require both a construction permit and an operating permit. There are special requirements for hazardous and toxic air emissions.

With the exception of the fugitive dust standards and open burning discussed below, agricultural activities generally have few special air quality requirements. Most agricultural operations do not require air quality permits; however, on-farm incinerators and grain elevators may be exceptions.

Producer Note: Agricultural producers should be aware that air emissions from CAFOs may be the subject of air quality regulations in the future.

⁸ Haw. Rev. Stat. Ch. 342B.

1. *Hawaii Fugitive Dust Standards*

Hawaii has adopted an ambient air quality standard for fugitive dust. This standard is applicable to land clearing and agricultural operations. The DOH requires that fugitive dust be controlled through the use of best practical operation or treatment methods. In general, the discharge of visible fugitive dust emissions beyond the perimeter of the property where the dust originates is prohibited. However, agricultural operations are exempted from this particular rule.

2. *Hawaii Open Burning*

A permit from the DOH is required for agricultural burning. Agricultural producers must apply for the permit on a form provided by DOH. The application must contain information on the location of fields to be burned and any nearby residences, schools, and airports. Maps of the proposed burn areas must be included. The permit imposes standards and conditions under which the burning may lawfully occur. These include weather conditions when open burning is not allowed such as during periods of widespread haze or elevated levels of carbon monoxide or particulate matter. Additionally, the permit holder is required to maintain records of the actual conditions in effect at the time of the burn.

IV. SOLID WASTE AND HAZARDOUS WASTE

Producer Note: There are several laws which control the use, disposal, and cleanup of hazardous wastes. Agricultural producers who use hazardous chemicals, petroleum, or other products stored in storage tanks must be aware of requirements governing their actions.

A. *Hawaii Solid Waste and Hazardous Waste Laws and Regulations*

Producer Note: While most agricultural producers are not generators, transporters, or disposers of hazardous waste, it is important to check with state officials concerning the definitions of solid waste and hazardous waste to determine whether an operation's activities could be regulated under state solid waste or hazardous waste statutes.

1. *Hawaii Solid Waste Laws and Regulations*

The principal solid waste law in Hawaii is the Hawaii Solid Waste Management Act (SWMA)⁹ administered by the DOH. Hawaii's solid waste management laws impose requirements on wastes that do not otherwise meet the definition of hazardous waste (see discussion of hazardous waste below). The SWMA focuses the most attention on the regulation

⁹ Haw. Rev. Stat. ch. 342H.

of public and private landfills, but the SWMA also contains provisions that apply to agriculture as well.

The SWMA prohibits open dumps. Other types of solid waste facilities must obtain a permit from the DOH. The SWMA's definition of solid waste includes wastes resulting from agricultural operations but specifically excludes dissolved materials in irrigation return flows. In addition, agricultural solid waste disposal facilities for wastes from agricultural product processing are exempt from this permit requirement.

Landowners and occupants are responsible for the disposal of animal carcasses found on their land. Disposal must be by on-site burial or another method approved by the DOH.

Hawaii has special programs for lead acid batteries, used tires, and used oil. Lead acid batteries must be disposed either by returning them to the retailer or wholesaler where they were purchased or by delivering them to an approved transfer station or permitted lead smelter.

Tires must be disposed by delivering them to a tire retailer or wholesaler or to an authorized tire recycler. Hawaii law prohibits the disposal of whole, used motor vehicle tires through municipal waste facilities.

The Hawaii Used Oil Law (UOL)¹⁰ establishes a used oil recycling program and prohibits the discharge of new, used, or recycled oil into sewers, drainage systems, surface waters, and groundwater. Inadvertent discharges, normal discharges from equipment and vehicles, and discharges associated with the repair and maintenance of equipment and vehicles are not prohibited by the law if such discharges are minimized.

2. Hawaii Hazardous Waste Laws and Regulations

Wastes deemed to be hazardous are regulated to a greater extent under both Hawaii and federal law than other non-hazardous solid wastes. Hawaii has enacted the Hazardous Waste Law (HWL)¹¹ with provisions very similar to the federal Resource Conservation and Recovery Act (RCRA). However, as of March 2001, Hawaii has not yet received federal approval to administer the HWL in lieu of RCRA within the state.

The Hawaii definition of hazardous waste closely parallels follows the federal definition. Hawaii's definition states:

[Hazardous waste] means a waste or combination of wastes that, because of its quantity, concentration, or physical, chemical, or infectious characteristics, may:

¹⁰ Haw. Rev. Stat. ch. 342N.

¹¹ Haw. Rev. Stat. ch. 342J.

- (i) [C]ause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or
- (ii) [P]ose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed or otherwise managed.

Hazardous wastes are more specifically defined in regulations adopted by the DOH and by the EPA. Both agencies list specific substances determined to be hazardous.

Producer Note: Agricultural producers in Hawaii should check with the DOH to determine whether any chemicals or other substances used in their operations are listed as hazardous and whether there are additional regulatory requirements for any such substances.

Persons who generate or transport hazardous wastes are subject to extensive regulatory requirements under Hawaii law. These include record keeping requirements, storage requirements, disposal restrictions, permit requirements, emergency planning, personnel training, and equipment, container, and building standards. The degree of the hazard and the quantity of waste generated determine the extent of the regulation.

Releases of hazardous substances must be reported to the DOH within 24 hours of the release. Releases of substances considered extremely hazardous substances must be reported immediately.

Certain wastes generated by agricultural operations are specifically excluded from the definition of hazardous waste. These include wastes from the growing and harvesting of crops and the raising of animals, irrigation return flows, and point source discharges regulated under the federal CWA and the Hawaii WPL. Pesticides are not regulated under hazardous waste laws but are subject to special laws and regulations. (See separate *Pesticide* section infra).

3. *Hawaii Underground Storage Tanks*

Hawaii law imposes requirements on underground storage tanks (USTs) that parallel the federal requirements for USTs under RCRA. An UST is defined as a tank or combination of tanks used to contain regulated substances, the volume of which is located at least 10% below the ground. The volume calculation includes the associated pipes that are connected either to underground or aboveground storage tanks. Regulated substances include petroleum products as well as hazardous substances.

Farm and residential storage tanks with a capacity of 1100 gallons or less that store motor fuel for noncommercial purposes are exempt as well as septic tanks and tanks containing home heating oil for consumptive use on the premises.

The law imposes a number of requirements on owners and operators of USTs. These include:

- Reporting releases and spills from the tanks;
- Implementing leak detection systems;
- Record keeping;
- Meeting design and performance standards;
- Remediation;
- Closure specifications; and
- Financial assurance specifications.

Owners and operators of USTs must report to the DOH all releases and suspected releases of substances within 24 hours of the release. Since some requirements differ for new tanks versus existing tanks, agricultural producers should always check with the DOH when considering a new tank or a new use with USTs.

4. Hawaii Emergency Planning and Community Right-to-Know

Hawaii has enacted legislation¹² implementing requirements that parallel to those of the federal Emergency Planning and Community Right-to-Know Act (See discussion of the federal act in the corresponding federal guidebook.)

V. PESTICIDES AND CHEMIGATION

Producer Note: Use of pesticides and other farm chemicals is regulated by federal and state statutes. Most states have some form of licensing or certification requirements controlling those who use pesticides. In addition, if an agricultural producer employs agricultural workers, there are regulations which address safety concerns about pesticide use by those workers or around those workers.

¹² Haw. Rev. Stat. ch. 128E.

A. Hawaii Pesticide and Chemigation Laws and Regulations

Producer Note: Hawaii, like most states, has laws designed to control the use of pesticides. The laws are designed to closely monitor the distribution and ultimate use of these substances within the state.

1. *Hawaii Pesticides*

The Hawaii Pesticides Act (PA)¹³ requires that all pesticides distributed, sold, transported, or offered for sale within the state be licensed with the Hawaii Department of Agriculture (DOA). It is illegal to sell, distribute, or transport unlicensed pesticides. The PA requires that pesticides be used and applied in a manner consistent with their labeling. The DOA enforces pesticide labeling requirements as part of the registration process.

Pesticide containers must be stored, transported, and discarded in a manner that does not unreasonably or adversely affect the environment. Some pesticide waste and some pesticide containers are considered hazardous waste and, thus, become subject to special handling requirements.

Restricted-use pesticides must be applied by a certified commercial or private pesticide applicator. Other pesticide rules include:

- Prohibitions and restrictions on the use of certain pesticides;
- Certification requirements for pesticide applicators; and
- Record keeping requirements regarding pesticide use.

Producer Note: Agricultural producers should refer to the DOA regulations and consult with DOA representatives to determine use and disposal requirements applicable to the pesticides producers choose to use.

VI. PROTECTION OF WILDLIFE

Producer Note: Agricultural producers also have responsibilities concerning wildlife and migratory birds which may have habitat on the producer's property. Federal and state laws contain measures designed to protect or enhance wildlife or wildlife habitat.

¹³ Haw. Rev. Stat. ch. 149A.

A. Hawaii Wildlife Protection Laws and Regulations

Producer Note: Many states have additional measures which either enhance protections under federal laws or address issues peculiar to wildlife found within the state. These states also may address common problems caused by wildlife. Hawaii has laws protecting wildlife.

1. *Hawaii Wildlife Protection Laws*

Hawaii has enacted a variety of laws to protect wildlife and to regulate their harvesting in the state. These laws may affect agricultural activities. The Department of Land and Natural Resources (DLNR) administers laws regarding wildlife.

a. *Game Laws*

The DLNR administers state hunting and fishing laws.¹⁴ These include laws regarding licenses, seasons, and other requirements for the taking of game species. The term taking has been defined by the courts to include the significant environmental modification or degradation of habitat which actually injures or kills wildlife. There are special requirements for taking animals when the animals are causing damage to crops or livestock.

b. *Endangered Species*

The DLNR enforces the Conservation of Aquatic Life, Wildlife, and Land Plants Act (CALWLPA).¹⁵ This law is Hawaii's endangered species act. The CALWLPA incorporates the list of endangered and threatened species under the federal Endangered Species Act (ESA). The DLNR is authorized to add other indigenous Hawaiian species to the established list of state endangered and threatened species. The CALWSPA makes it unlawful for any person to take, possess, transport, or sell any species appearing either on the federal list or the state list.

¹⁴ Haw. Rev. Stat. tit. 12

¹⁵ Haw. Rev. Stat. ch. 195D.

VII. ENFORCEMENT OF STATE ENVIRONMENTAL LAWS

As with federal environmental laws, persons who violate the regulatory requirements of state environmental laws face substantial penalties. The specific penalties vary to some degree with each statute. However, penalties generally include both civil and criminal fines. Additional fines can be assessed for each day that a violation occurs. For severe or repeated violations, imprisonment can be imposed. State agencies may also bring proceedings, either in court or before an administrative tribunal, to enjoin an agriculture producer's activities and force compliance with the statute. In some cases, citizens may file lawsuits to enforce the requirements of the environmental laws. As with the federal statutes, state laws afford agricultural producers the right to administrative and/or judicial review of agency decisions.

Appendix A - Agencies

Producer Note: State and federal agencies are available to answer questions regarding environmental matters and a producer's compliance with environmental laws and regulations. The following is a list of agencies which should be able to answer questions or provide materials for agricultural producers.

State Agencies:

Department of Agriculture (*Central Offices*)

P. O. Box 22159
Honolulu, HI 96823-2159
(808) 973-9560
(808) 973-9613 fax

Hawaii (*District Office*)

(808) 974-4140

Kauai (*District Office*)

(808) 274-3069

Maui (*District Office*)

(808) 873-3555

<http://www.hawaii.gov/doa>

Divisions (within DOA)

Agricultural Development

(Same address as DOA above)

Agricultural Resource Management

(Same address as DOA above)

Aquaculture Development

1177 Alakea Street #400

Honolulu, HI 96813

(808) 587-0030

(808) 587-0033 fax

Animal Industry

99-941 Halawa Valley Street

Aiea, HI 96701-3246

(808) 483-7100

(808) 483-7110 fax

Plant Industry

1428 South King Street

Honolulu HI 96814

(808) 973-9401

(808) 973-9418 fax

Pesticides Branch - (808) 973-9401

Pest Control Branch - (808) 973-9538

Department of Health (*Central Offices*)

1250 Punchbowl St.

Honolulu, HI 96813

(808) 586-4400

(808) 586-4444 fax

Hawaii (*District Office*)

(808) 933-4552

Kauai (*District Office*)

(808) 241-3323

Maui (*District Office*)

(808) 243-5255

<http://www.hawaii.gov/health>

3 Administrations (within DOH)

Behavioral Health Services

(Same address as DOH above)

(808) 586-4400

(808) 586-4444 fax

Health Resources

(Same address as DOH above)

(808) 586-4433

(808) 586-4444 fax

Environmental Health

919 Ala Moana Boulevard

Honolulu, HI 96814-4920

(808) 586-4424

(808) 586-4368 fax

Divisions (within Envir. Health)

Compliance Assistance, Room 219

(808) 586-4528

(808) 586-7236 fax

Hazard Evaluation & Emerg. Response, Room 206

(808) 586-4304

(808) 586-4352 fax

Environmental Management, Room 300

(808) 586-4304

(808) 586-4352 fax

Offices (within Envir. Management)

Clean Air, Room 203

(808) 586-4200

(808) 586-4359 fax

Clean Water, Room 301

(808) 586-4309

(808) 586-4352 fax

Safe Drinking Water, Room 308

(808) 586-4258

(808) 586-4370 fax

Solid & Hazardous Waste, Room 212

(808) 586-4226

(808) 586-7509 fax

Wastewater, Room 305

(808) 586-4294

(808) 586-4370 fax

Environmental Planning, Room 312

(808) 586-4337

(808) 586-4370 fax

Department of Land & Natural Resources

1151 Punchbowl Street, Room 130

Honolulu, HI 96813

(808) 587-0405

(808) 587-0390 fax

<http://www.hawaii.gov/dlnr/>

(808) 587-692-8015 Animal Burials

(808) 587-0377 Conservation Districts

(808) 587-0077 Enforcement

(808) 587-0109 Fishing Licenses

(808) 587-0248 Flood Zones

(808) 587-0166 Forestry & Wildlife

(808) 587-0166 Hunting Seasons

(808) 587-0320 Public Information

(808) 587-0414 State Leases & Shoreline

Certification

(808) 587-0222 Water Resources

(808) 523-4131 Zoning

1 Bureau and 7 Divisions (within DLNR)

Bureau of Conveyances

(808) 587-0314

(808) 587-0136 fax

Division of Aquatic Resources

(808) 587-0100

(808) 587-0115 fax

Division of Boating and Ocean Recreation

(808) 587-1966

(808) 587-1977 fax

Division of Conservation & Resource Enforcement

(808) 587-0077

(808) 587-0080 fax

Division of Forestry and Wildlife

(808) 587-0166

(808) 587-0160 fax

Division of State Parks

(808) 587-0300

(808) 587-0360 fax

Land Division

(808) 587-0414

(808) 587-0455 fax

Public Information Office

(808) 587-0330

(808) 587-0390 fax

Environmental Quality Control & Environmental Council

220 South King St., 4th Floor

Honolulu, HI 96813

(808) 586-4185

(808) 586-4186 fax

Spill Reporting - All Emergencies

(808) 247-2191

Spill Reports (National Response Center)

(808) 424-8802

State Emergency Response Committee

(808) 586-4249

(808) 247-2191 (after hours)

Local Emergency Planning Committees

Hawaii

(808) 961-8215

(808) 935-3311 (after hours)

City and County of Honolulu

(808) 523-4121

911 (after hours)

Kauai

(808) 241-6336

(808) 822-9137 (after hours)

Maui

(808) 243-7561

911 (after hours)

Water Pollution Reports (Coast Guard)

(808) 541-2900