

The Environmental Notice

A Semi-Monthly Bulletin pursuant to Section 343-3, Hawai'i Revised Statutes

ATTENTION! PROBLEMATIC OR INCOMPLETE DOCUMENT SUBMITTALS CAN NOT BE PUBLISHED

Thank you kindly for following the process outlined in the 2012 Guide to the Implementation and Practice of the Hawai'i Environmental Policy Act. We expect that the 2013 Guide should be finalized soon for distribution to the agencies and the general public. While overall, the majority of document submittals have been satisfactory, we would like to take this salutary opportunity to call several problems to your attention.

1. **PROCESS TRACK SHIFTING:** Chapter 343, Hawai'i Revised Statutes (HRS) has two process tracks, **agency** (or 5B, from Section 343-5(b), HRS) actions and **applicant** (or 5E, from Section 343-5(e), HRS) actions. Both processes are mutually exclusive. An action that begins as an agency action draft environmental assessment cannot be followed by an applicant action final environmental assessment. Once an action is placed on a process track, it continues on that track until the process is cleared by: (1) an exemption declaration; (2) a final environmental assessment with a FONSI; or (3) an accepted final environmental impact statement. A common misconception is that because there are "approvals" being sought by the agency after the Chapter 343, HRS, process has been cleared, the action being proposed by the agency is now an applicant action. The Office has received documents that come in initially as draft environmental assessments/AFNSI with the agency letter informing OEQC that the action is a 5B document, but the document is accompanied by the incorrect publication form for 5E actions. How do we catch this? When a document is first received the Office ascertains with the agency the process track of the action. An administrative file is created and for each subsequent document received, the Office ascertains that the appropriate document has been submitted along with the appropriate publication form. **An action cannot shift process tracks** – this is akin to changing horses in midstream. Please ensure that all documents for a proposed action comply with the submittal requirements. Before submitting, please call us at (808) 586-4185 if there are any questions or problems.
2. **OEQC ENVIRONMENTAL DOCUMENT PREPARATION TOOLKIT:** The government's paperless initiative and the passage of new 2012 acts that amended Chapter 343, Hawai'i Revised Statutes, required the Office of Environmental Quality Control to modify some processes and revise the publication forms for agency and applicant action. To minimize errors and confusion, the toolkit requires that you first identify what process track your proposed action is on (i.e., is it a 5B action or a 5E action?). The forms in the appropriate toolkit will be used until the proposed action clears the Chapter 343, HRS, process. Please see new procedures and forms described on the Internet in The Environmental Assessment Preparation Toolkit. The submittal letters, forms, and environmental documents become part of the public administrative record for a proposed action. That is the reason for ensuring that appropriate forms and procedure are observed. We have published advisories on new procedures and new forms in past issues of the *Environmental Notice*. The OEQC Guide to the Implementation and Practice of the Hawaii Environmental Policy Act also provides in-depth information about the documents submittal process.
3. **WHAT IS THE CONSEQUENCE OF USING INCORRECT OR OBSOLETE PUBLICATION FORMS?** A submittal using incorrect or obsolete forms for a proposed action will be held in suspense until the correct and up-to-date forms are timely received by the Office of Environmental Quality Control.

Thank you for your attention to the details of the HEPA process. If you have any questions or problems, please do not hesitate to contact us.

The Environmental Notice informs the public of environmental assessments and other documents that are available for review and comment per HRS 343-3 and is issued on the 8th and 23rd of each month on the Office of Environmental Quality Control's website. If you would like to be notified when it is issued, send us your email address and we'll put you on our mailing list.



Neil Abercrombie, Governor · Gary Gill, Acting Director · Office of Environmental Quality Control · 235 South Beretania Street, Suite 702 · Honolulu, HI 96813

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Website: <http://hawaii.gov/health/environmental/oeqc/index.html/>

Toll Free: Kaula'i: 274-3141 ext. 64185 · Maui: 984-2400 ext. 64185 · Moloka'i/Lāna'i: 1-800-468-4644 ext. 64185 Hawai'i: 974-4000 ext. 64185

Note: If you get a message saying that the file is damaged when you click on the link, then the file is too big to open within your web browser. To view the file, download directly to your hard drive by going to File and select Save As in your web browser.

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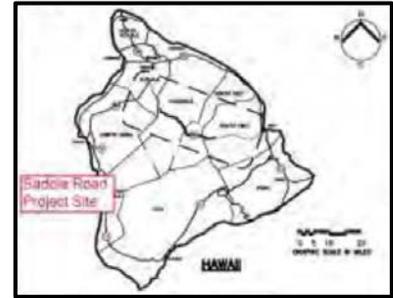
HAWAI'I (HRS 343)

1. Saddle Road Maintenance Baseyard FEA (FONSI)

Island: Hawai'i
District: Hāmākua
TMK: (3) 4-4-016: Portion of 03
Permits: Conservation District Use Permit, National Pollutant Discharge Elimination System, Construction Plan Review

Proposing/ Determination

Agency: Department of Transportation, 50 Maka'ala Street, Hilo, Hawai'i 96720. Contact: Roy Shoji, (808) 933-2755
Consultant: R.M. Towill Corporation, 2024 N. King Street, Suite 200, Honolulu, Hawai'i 96819. Contact: Chester Koga, (808) 842-1133
chesterk@rmtowill.com
Status: Finding of No Significant Impact Determination



The State Department of Transportation (HDOT) plans to construct a highways maintenance baseyard for the primary purpose of maintaining and repairing the Saddle Road. The proposed baseyard site occupies 4 acres of vacant land within a 20.5 acre area designated for the Mauna Kea State Recreation Area. The baseyard site would occupy space formerly utilized as a Nēnē breeding facility. The baseyard site and the Mauna Kea State Recreation Area are part of a larger, approximately 6,900 acre, parcel owned by the State of Hawai'i and identified by Tax Map Key (TMK) parcel (3) 4-4-016: 003. The highways maintenance baseyard is needed to address maintenance and repair of the Saddle Road which is an approximately 47 mile long roadway which is the most direct route between East and West Hawai'i. The proposed site is centrally located between the east and west ends of the road in order to provide broader reach and convenience for repair work.

Saddle Road links the historical main population centers of the island in East Hawai'i with the growing west side, where the economy is anchored by tourism. It extends from Kaumana, above Hilo, to an intersection with Mamalahoa Highway 7 miles south of Waimea. It is the only road serving the Pōhakuloa Training Area (PTA), the Mauna Kea Astronomical Observatory Complex, the Mauna Loa atmospheric observatory complex, the ranching and residential areas of Waiki'i Ranch and Kaumana City, Mauna Kea State Recreation Area and other recreational areas.

Improvements on the site will include: a) shop building with work areas, an office, and vehicle parking, b) a fuel area, c) flammable storage area, d) parking area, d) open material storage, and e) utilities. Access to the site will continue via an existing unpaved road. The site will have a perimeter fence. Estimated construction costs are \$5.83 million. Construction start is schedule for Fall 2014.

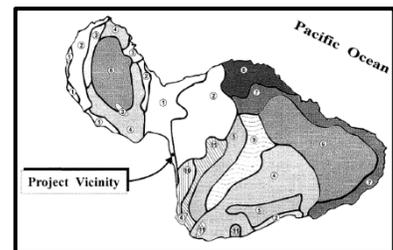
MAUI (HRS 343)

2. Downtown Kihei Project FEA (FONSI) Volume I & Volume II

Island: Maui
District: Wailuku
TMK: (2)3-9-002:030, 076, 080 and 158
Permits: Community Plan Amendment; Change in Zoning; Special Management Area Use Permit and construction permits

Proposing/ Determination

Agency: Maui Planning Commission, 250 South High Street, Wailuku, Hawai'i 96793.
Contact: William Spence, (808) 270-7735
Consultant: Munekiyo & Hiraga, 305 High Street, Wailuku, HI 96793.
Contact: Colleen Suyama, (808) 244-2015
Status: Finding of No Significant Impact Determination



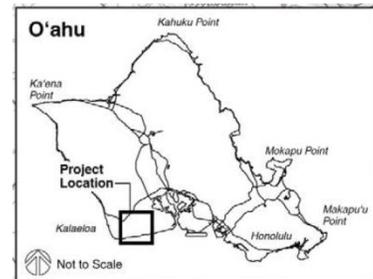
The Krausz Companies, Inc. is seeking land use entitlement approvals for the proposed Downtown Kihei project on approximately 27.44 acres located along Pi'ikea Avenue. The proposed project will provide spaces for business and medical offices, shops, a movie theater and restaurants and a 150-room, four-story select-services hotel. Approximately 257,098 sq. ft. of gross leasable area will be provided, including a 44,180 sq. ft. movie theater. Related improvements include grading, landscaping, underground utilities, drainage facilities, lighting, vehicle parking, and roadway improvements, including the reconstruction of Pi'ikea Avenue.

Land use entitlements required for the proposed project include a Kihei-Makena Community Plan Amendment (CPA) for an approximate 2.6-acre portion of Parcel 030 to Hotel and an amendment to the Planning Standards to allow a height of 60 feet on Parcel 076 to accommodate the movie theater building; a Change in Zoning for Parcels 030, 076, 080 and 158; and a Special Management Area (SMA) Use Permit for the development of Parcels 030 (por.), 076 and 158. Parcel 080, an enhanced wetland, will not be developed. The CPA and use of County lands (roadway improvements to Pi'ikea Avenue and Liloa Drive) are triggers for compliance with Chapter 343, Hawaii Revised Statutes.

NATIONAL ENVIRONMENTAL POLICY ACT

3. Kalaeloa Renewable Energy Park FEA (FONSI)

Island: O'ahu
District: 'Ewa
Proposing Agency: Department of the Navy
Consultant: Helber Hastert & Fee Planners, Pacific Guardian Center
733 Bishop Street 2590, Honolulu, HI, 96813
Status: Finding of No Significant Impact Determination



Pursuant to the Council on Environmental Quality regulations (40 CFR §1500-1508) implementing the National Environmental Policy Act of 1969 (NEPA), and the Department of the Navy (Navy) procedures for implementing NEPA (32 CFR Part 775), the Navy gives notice that an Environmental Assessment (EA) has been prepared and an Environmental Impact Statement is not required for the proposed Kalaeloa Renewable Energy Park, Kalaeloa, O'ahu, Hawai'i.

The Navy proposes to authorize its lessee, Kalaeloa Ventures, LLC (KV), to construct a renewable energy park (REP) on approximately 20 acres of land at Kalaeloa, O'ahu, Hawai'i. The REP would consist of an approximately 6-megawatt photovoltaic array and related facilities. Also, under the Proposed Action, a 0.8-mile (1.3-kilometer) overhead power line would be constructed connecting the REP to the local electrical grid. Several alternative power line corridors were analyzed, in addition to the No Action Alternative.

The EA provides an analysis and evaluates the potential impacts to the human environment resulting from the Proposed Action and alternatives. The Navy determined that the Proposed Action would have an adverse effect on historic properties at Kalaeloa including the 'Ewa Field Runway. The Navy has complied with Section 106 and 110 of the National Historic Preservation Act and has executed a Programmatic Agreement documenting how adverse effects associated with the REP will be resolved. Based on the information gathered during the preparation of this EA and the analysis presented, the Navy has determined that the Proposed Action will not significantly impact human health or the environment.

COASTAL ZONE MANAGEMENT NOTICES

FEDERAL CONSISTENCY REVIEWS

The Hawai'i Coastal Zone Management (CZM) Program has received the following federal actions to review for consistency with the CZM objectives and policies in Chapter 205A, Hawai'i Revised Statutes. This public notice is being provided in accordance with section 306(d)(14) of the National Coastal Zone Management Act of 1972, as amended. For general information about CZM federal consistency please call John Nakagawa with the Hawai'i CZM Program at 587-2878. For neighboring islands use the following toll free numbers: Lāna'i and Moloka'i: 468-4644 x72878, Kaua'i: 274-3141 x72878, Maui: 984-2400 x72878 or Hawai'i: 974-4000 x72878. For specific information or questions about an action listed below please contact the CZM staff person identified for each action. Federally mandated deadlines require that comments be received by the date specified for each CZM consistency review. Comments may be submitted by mail, electronic mail or fax, as indicated below.

Mail: Office of Planning
Department of Business, Economic Development and Tourism
P.O. Box 2359
Honolulu, Hawai'i 96804
Email: jnakagaw@dbedt.hawaii.gov
Fax: (808) 587-2899

1. *Interstate Route H-1 Rehabilitation, Middle St. to Ward Ave., Honolulu, O'ahu*

Applicant: State Department of Transportation
Contact: Mr. Ross Hironaka, 692-7575
Location: Interstate H-1, Middle St. to Ward Ave., Honolulu
Federal Action: Federal Funding
Federal Agency: Federal Highway Administration
Proposed Action: Rehabilitate Interstate Route H-1, from Middle Street to the vicinity of Ward Avenue, Honolulu. Project activities include: pavement rehabilitation; replacing highway lighting from Middle St. to Vineyard Blvd. on-ramp; restriping to create four through lanes in both directions; installing concrete glare screen on median barrier from Likelike Hwy. to Miller St.; widen Nu'uuanu Stream Bridge approximately 5 feet on downstream side; and making minor modifications to support the fourth through lane, including storm drain, grade and structural component modifications at select locations throughout the project area. The project's use of federal funds from the Federal Highway Administration is subject to CZM federal consistency review.
CZM Contact: John Nakagawa, 587-2878, jnakagaw@dbedt.hawaii.gov
Comments Due: April 22, 2013

2. *Moanakai Seawall Repair and Reconstruction, Kapa'a, Kaua'i*

Applicant: County of Kaua'i, Department of Public Works
Contact: Brian Takeda, R.M. Towill Corporation, 842-1133
Federal Action: Federal Permit
Federal Agency: U.S. Army Corps of Engineers, Honolulu District
Proposed Action: Reconstruct the existing seawall along Monakai Road, which has been damaged by erosion and poses a threat to the structural stability of the adjacent road. The proposed new revetment-seawall would be 520 feet long, consisting of a 4 feet deep revetment with a dual layer of stones, a 100 - 200 pound stone layer overlain with a layer of 1,500 - 2,000 pound armor boulders, and bounded at the crest with a concrete rubble masonry seawall. The new revetment-seawall would result in a final footprint that reduces the existing footprint of the seawall by 60% of its original size within waters of the U.S.
Location: Seaward of Monakai Road, Kapa'a, Kaua'i
TMK: (4) 4-5-2: 23
CZM Contact: John Nakagawa, 587-2878, jnakagaw@dbedt.hawaii.gov
Comments Due: April 22, 2013

Special Management Area (SMA) Minor Permits

The SMA Minor permits below have been approved (HRS 205A-30). For more information, contact the county/state Planning Department. Honolulu (768-8014); Hawai'i (East Hawai'i, 961-8288; West Hawai'i, 323-4770); Kaua'i (241-4050); Maui (270-7735); Kaka'ako or Kalaeloa Community Development District (587-2841).

Location (TMK)	Description (File No.)	Applicant/Agent
Hawai'i: North Kona (7-8-014: 050 & 097)	Consolidation of Two Lots, Removal of Existing Wall, Construction of New Wall, Landscaping and Leveling of Portion of Lot, Converting Existing Slab to Parking, New Driveway Location and Tree Removal (SMM 13-260)	Klaus D. Conventz
Maui: Lahaina (4-6-029: 002)	Replace Windows (SM2 20130028)	John E King
Maui: Lahaina (4-6-031: 034)	Replace Windows (SM2 20130029)	John & Paula Pope
Maui: Kihei (3-9-018: 022)	Restaurant – Interior Alterations (SM2 20130030)	Ricky J McGovern
Maui: Kihei (2-2-024: 021)	Electric Vehicle Recharging Station (SM2 20130031)	HNU Energy
Maui: Napili (4-3-003: 017)	Remodel Main Dwelling (SM2 20130032)	Nick Wagner
Maui: Kihei (3-9-005: 029 & 030)	Construct Two ADA Dune Walkovers (SM2 20130033)	County of Maui
O'ahu: Kapolei (9-1-014: Portion of 010)	New Containment Wall for the Acid Amine Plant at the Chevron Hawai'i Refinery (2013/SMA-9)	Chevron Products Company / Gerald Park

SHORELINE NOTICES

Shoreline Certification Applications

The shoreline certification applications above are available for review at the DLNR Offices on Kaua'i, Hawai'i, Maui, and Honolulu, 1151 Punchbowl Street, Room 220 (HRS 205A-42 and HAR 13-222-12). All comments shall be submitted in writing to the State Land Surveyor, 1151 Punchbowl Street, Room 210, Honolulu, Hawai'i 96813 and postmarked no later than 15 calendar days from the date of the public notice of the application. For more information, call Ian Hirokawa at 587-0420.

File No.	Date	Location	Applicant/Owner	TMK
OA-1524	3/18/13	Lot 12, Land Court Application 609 situate at Mokuleia, Waialua, O'ahu Address: 68-549 Crozier Drive Purpose: Request for easement	Walter P. Thompson, Inc./ Christine Fuss, Trustee	6-8-004:014
OA-1525	3/18/13	Parcel 14 filled area of Kaneohe Bay fronting Lot 90 Land Court Application 979 situate at Kahalu'u, Ko'olaupoko, O'ahu Address: 47-123 Kamehameha Highway Purpose: Request for easement	Walter P. Thompson, Inc./ Beverly Hoversland & David Knox	4-7-019:078
OA-1526	3/21/13	Parcel 11 of TMK (1) 6-8-008 situate at Waialua, O'ahu Address: Farrington Highway Purpose: Property to be sold	Sam O. Hirota, Inc./ United States of America	6-8-008:011
MA-542	3/18/13	Lot 53 of Land Court Application 1744 (Map 13) situate at Hanakao'o, Honokowai, Ka'anapali, Lahaina, Maui Address: 2605 Ka'anapali Parkway Purpose: Proposed repair and maintenance improvements	ControlPoint Surveying, Inc./ Kyo-Ya Hotels and Resorts LP	4-4-008:005

MA-543	3/19/13	Ma'alaea Kai Condominiums being a portion of Grant 3152 to Henry Cornwell being a consolidation of Lots No. 6-A, 6-B, 7-A, 7-B and a portion of Lot 8 Ma'alaea Beach Lots Subdivision situate at Ma'alaea, Waikapu, Wailuku, Maui Address: 70 Hauoli Street Purpose: N/A	Akamai Land Surveying, Inc./Ma'alaea Kai AOA, Inc.	3-8-014:021
MA-544	3/20/13	Lot 1 of Kihei Beach Subdivision being a portion of Grant 3152 to Henry Cornwell situate at Pulehu-Nui & Waikapu, Kihei, Maui Address: 191 N. Kihei Road Purpose: N/A	Akamai Land Surveying, Inc./ William Sams	3-8-013:018

Shoreline Certifications and Rejections

The shoreline notices below have been proposed for certification or rejection by DLNR (HRS 205A-42 and HAR 13-222-26). Any person or agency who wants to appeal shall file a notice of appeal in writing with DLNR no later than 20 calendar days from the date of this public notice. Send the appeal to the Board of Land and Natural Resource, 1151 Punchbowl Street, Room 220, Honolulu, Hawai'i 96813.

File No.	Proposed/Rejected	Location	Applicant/Owner	TMK
OA-1514	Proposed Shoreline Certification	Portion of Lot F "Sunset Beach Lots" as shown on File Plan 373 being a portion of Land Patent Grant 8000 to John S. Mackenzie situate at Pupukea-Paumalu, Ko'olauloa, O'ahu Address: 59-351 Ke Nui Road Purpose: Building setback line	Gil P. Bumanglag/ Patricia L. Johnson Trust	5-9-020:029
OA-1516	Proposed Shoreline Certification	Lots 1-B and 7-B Land Court Application 1089 situate at Kamananui, Waialua, Oahu Address: N/A Purpose: Building permit	Walter P. Thompson, Inc./ Shull Bonsall Family Trust	6-7-001:051 (por.)
MA-519	Proposed Shoreline Certification	Lot 71 of Land Court Application 1744 situate at Hanakao'o, Lahaina, Maui Address: 100 Nohea Kai Drive Purpose: Planning for future use of subject parcel	Warren S. Unemori Engineering, Inc./ Maui Ocean Club	4-4-013:001
MA-538	Proposed Shoreline Certification	Hololani Condominium Lot 1-A of Bechert Estate Subdivision being a portion of Lot 1 of Bechert Estate Subdivision and a portion of Grant 1166 to D. Baldwin, J.F. Pogue and S.E. Bishop situate at Kahananui, Lahaina, Maui Address: 4401 Lower Honoapiilani Rd. Purpose: Shoreline protection purposes	Valera, Inc./ Hololani AOAO	4-3-010:009
MA-539	Proposed Shoreline Certification	Lot 33 The Kuau Sunset Beach Lots (File Plan 302) situate at Kuau, Hamakuapoko, Maui Address: 61 Aleiki Place Purpose: Planning	Akamai Land Surveying, Inc./ Aleiki Place LLC	2-6-011:012
MO-160	Proposed Shoreline Certification	Lot 388 Land Court Application 632 (Map 29) situate at Kaunakakai, Molokai Address: 319 Seaside Street Purpose: Special Management Area review	Akamai Land Surveying, Inc./ Goodfellow Bros., Inc.	5-3-007:039
HA-460	Proposed Shoreline Certification	L.C. Aw. 8455-C, Ap. 2 to Kuluiki and R.P. 3864, L.C. Aw. 7210, Ap. 2 to Kini situate at Ke'eke'e 1 st and 2 nd , South Kona, Island of Hawai'i Address: N/A Purpose: Obtain County permits	Wes Thomas Associates/ The Foo 1980 Trust	8-1-004:008 & 011

HA-462	Proposed Shoreline Certification	Portion of R.P. 4475, L.C. Aw. 7713, Ap. 43 to V. Kamamalu situate at Holualoa 1 st and 2 nd , North Kona, Island of Hawaii Address: N/A Purpose: Obtain County permits	Wes Thomas Associates/ George A. Sandusky	7-6-016:012
HA-463	Proposed Shoreline Certification	Limited Common Element Land Area Appurtenant to Unit "B" of Puako Sands Eha Condominium (CPR Map No. 2556) of Lot D being a portion of L.C. Aw. 8559-B, Ap. 6 to W.C. Lunalilo situate at Lalamilo, South Kohala, Island of Hawai'i Address: N/A Purpose: Obtain County permits	Wes Thomas Associates/ RQ Shupe, Trustee of the Shupe Trust	6-9-002:026 CPR 0002
KA-365	Proposed Shoreline Certification	Lot 7 "Waipouli Beach Lots" Portion of Royal Patent 7373, Land Commission Award 8559-B, Apana 42 to William C. Lunalilo situate at Waipouli, Kawaihau, Kaua'i Address: 960 Niulani Road Purpose: Renovation to residence	Ailana Surveying & Geomatics/ Jim Molz	4-3-009:003
KA-372	Proposed Shoreline Certification	Lot 16 Wainiha Hui Land being a portion of R.P. 7194, L.C. Aw. 11216, Ap. 5 to M. Kekauonohi situate at Wainiha, Halelea, Kauai Address: 7242 Alamo'o Road Purpose: Building permit application	Peter Taylor Engineer and Land Surveyor, Inc./ Robert A. Rucker & Lee Shoon Rucker	5-8-008:037
KA-374	Proposed Shoreline Certification	Portion of Moanakai Road situate at Kapa'a, Kawaihau, Kaua'i Address: N/A Purpose: Permitting	Ryan M. Suzuki/ County of Kauai	4-5-001
OA-1497	Rejection	Lot 3 as shown on Map 4 of Land Court Application 726 situate at Punalu'u-Makai, Kane'ohe, Ko'olaupoko, O'ahu Address: 45-75 Waikalua Road Purpose: Building permits	Ryan M. Suzuki/ Waikalua Development LLC	4-5-005:059
MA-514	Rejection	Lot 10-B-1 of Land Court Application 485 (Map 6) situate at Honokowai, Lahaina, Maui Address: 110 Ka'anapali Shores Place Purpose: N/A	Akamai Land Surveying, Inc./Mahana AOA	4-4-001:099
MA-515	Rejection	Lot 4-A, Mahinahina Kai Subdivision situate at Mahinahina, Maui Address: 4007 Lower Honoapi'ilani Road Purpose: Determine shoreline setback	R.T. Tanaka Engineers, Inc./ Mahinahina Beach AOA	4-3-008:001

FEDERAL NOTICES

1. [Western Pacific Fishery Management Council; Public Meeting](#)

The U. S. National Marine Fisheries Service (NMFS) announces that the Western Pacific Fishery Management Council (Council) will hold meeting of its Pelagics Plan Team (PPT) and Archipelagic Fishery Ecosystem Plan Teams, in Honolulu, to discuss fishery issues and develop recommendations for future management. DATES: The meeting of the PPT will be held between April 23 and 24, 2013, from 8:30 a.m. to 5 p.m., and the Archipelagic Fishery Ecosystem Plan Teams will be held between April 22 and April 25, 2012, 8:30 a.m. to 5 p.m. ADDRESSES: The meetings will be held at the Council Office Conference Room, Western Pacific Fishery Management Council, 1164 Bishop St., Suite 1400, Honolulu, HI 96813; telephone: (808) 522-8220. FOR FURTHER INFORMATION CONTACT: Kitty M. Simonds, Executive Director; telephone: (808) 522-8220 (see. 20616, April 5, 2013).

2. [Proposed Endangered, Threatened, and Not Warranted Listing Determinations for Six Distinct Population Segments of Scalloped Hammerhead Sharks](#)

In response to a petition submitted by WildEarth Guardians and Friends of Animals to list the species as threatened or endangered, the National Marine Fisheries Service (NMFS), has completed a comprehensive status review under the Endangered Species Act (ESA) for the scalloped hammerhead shark (*Sphyrna lewini*). Based on the best scientific and commercial information available, including the status review report, and other information available since completion of the status review report, NMFS has determined that the species is comprised of six distinct population segments (DPSs) that qualify as species under the ESA: Northwest Atlantic and Gulf of Mexico (NW Atlantic & GOM DPS); Central and Southwest Atlantic (Central & SW Atlantic DPS); Eastern Atlantic DPS; Indo-West Pacific DPS; Central Pacific DPS; and Eastern Pacific DPS. After reviewing the best available scientific and commercial information on the DPSs, NMFS has determined that two DPSs warrant listing as endangered, the Eastern Atlantic and Eastern Pacific DPSs; two DPSs warrant listing as threatened, the Central & SW Atlantic and Indo-West Pacific DPSs; and two DPSs do not warrant listing at this time, the NW Atlantic & GOM DPS and the Central Pacific DPS. Any protective regulations determined to be necessary and advisable for the conservation of the threatened DPSs under ESA section 4(d) would be proposed in a subsequent Federal Register announcement. Should the proposed listings be finalized, NMFS would also designate critical habitat for the species, to the maximum extent prudent and determinable. NMFS solicits information to assist these listing determinations, the development of proposed protective regulations, and designation of critical habitat in the event these proposed DPSs are finally listed. DATES: Comments on this proposed rule must be received by June 4, 2013. Public hearing requests must be requested by May 20, 2013. ADDRESSES: You may submit comments on this document, identified by the code NOAA–NMFS–2011–0261 by electronic submission, mail, or fax. Click on the link in the title of this notice for more details. The proposed rule and the status review report are also available electronically on the NMFS Web site at <http://www.nmfs.noaa.gov/pr/species/fish/scallopedhammerheadshark.htm>. FOR FURTHER INFORMATION CONTACT: Maggie Miller, NMFS, Office of Protected Resources, (301) 427–8403 (see, 78 F.R. 20718, April 5, 2013).

3. [Billfish Conservation Act of 2012 Implementing Regulations](#)

The U. S. National Marine Fisheries Service (NMFS) issues this advance notice of proposed rulemaking (ANPR) to provide background information and request public comment on potential issues related to the implementation of the Billfish Conservation Act of 2012. DATES: Written comments regarding the issues in this ANPR must be received by 5 p.m., local time, on July 3, 2013. ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2013–0004, by electronic submission, mail or fax. Click on the link in the title of this notice for details. FOR FURTHER INFORMATION CONTACT: Kim Marshall, Fishery Policy Analyst, National Marine Fisheries Service, (301) 427–8556 (see, 78 F.R. 20291, April 4, 2013).

4. [Lodging of a Proposed Consent Decree with the United States District Court for the District of Hawaii in the lawsuit entitled *United States and State of Hawaii v. Marisco, Ltd.*, Civil Action No. 13–00146–LEK–RLP](#)

On March 28, 2013, the U. S. Department of Justice lodged a proposed consent decree with the United States District Court for the District of Hawaii in the lawsuit entitled *United States and State of Hawaii v. Marisco, Ltd.*, Civil Action No. 13–00146–LEK–RLP. This consent decree will resolve claims asserted by the United States and the State of Hawaii against Marisco, Ltd. for injunctive relief and civil penalties based on violations of the Clean Water Act. The complaint in this lawsuit alleges that Marisco violated the regulations that govern the discharge of pollutants at the defendant's shipyard and drydock facility at Barbers Point Harbor near Kapolei, Hawaii. The consent decree requires the defendant to perform injunctive relief and pay a civil penalty of \$710,000. The publication of this notice opens a period for public comment on the consent decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States and State of Hawaii v. Marisco, Ltd.*, D.J. Ref. No.90–5–1–1–09870. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail: To submit comments, send them to: by email - pubcommentees.enrd@usdoj.gov; by mail - Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, D.C. 20044–7611. During the public comment period, the consent decree may be examined and downloaded at this Justice Department Web site: http://www.usdoj.gov/enrd/Consent_Decrees.html. The Department of Justice will provide a paper copy of the consent decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ–ENRD, P.O. Box 7611, Washington, DC 20044–7611. Please enclose a check or money order for \$8.50 (25 cents per page reproduction cost) payable to the United States Treasury (see, 78 F.R. 20140, April 03, 2013).

5. Marine Mammal Stock Assessment Reports

As required by the Marine Mammal Protection Act (MMPA), the National Marine Fisheries Service (NMFS) has incorporated public comments into revisions of marine mammal stock assessment reports (SARs). All but ten of the 2012 reports are final and available to the public. ADDRESSES: Electronic copies of SARs are available on the Internet as regional compilations and individual reports at the following address:

<http://www.nmfs.noaa.gov/pr/sars/>. You also may send requests for copies of reports to: Chief, Marine Mammal and Sea Turtle Conservation Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910-3226, Attn: Stock Assessments. Copies of the Alaska Regional SARs may be requested from Robyn Angliss, Alaska Fisheries Science Center, 7600 Sand Point Way, BIN 15700, Seattle, WA 98115. Copies of the Atlantic Regional SARs may be requested from Gordon Waring, Northeast Fisheries Science Center, 166 Water Street, Woods Hole, MA 02543. Copies of the Pacific Regional SARs may be requested from Jim Carretta, Southwest Fisheries Science Center, NMFS, 8604 La Jolla Shores Drive, La Jolla, CA 92037-1508. FOR FURTHER INFORMATION CONTACT: Shannon Bettridge, Office of Protected Resources, 301-427-8402, Shannon.Bettridge@noaa.gov; Robyn Angliss, Alaska Fisheries Science Center, 206-526-4032, Robyn.Angliss@noaa.gov; Gordon Waring, Northeast Fisheries Science Center, 508-495-2311, Gordon.Waring@noaa.gov; or Jim Carretta, Southwest Fisheries Science Center, 858-546-7171, Jim.Carretta@noaa.gov (see, 78 F.R. 19446, April 1, 2013)

6. Moratorium on Harvest of Gold Corals

The U. S. National Marine Fisheries Service (NMFS) requests comments on a proposed rule that would extend the region-wide moratorium on the harvest of gold corals in the U.S. Pacific Islands through June 30, 2018. NMFS intends this proposed rule to prevent overfishing and to stimulate research on gold corals. DATES: Comments must be received by April 25, 2013. ADDRESSES: You may submit comments on this document, identified by the code NOAA- NMFS-2013-0002, by electronic submission, mail, or fax. Click on the link in the title of this notice for more details. FOR FURTHER INFORMATION CONTACT: Lewis Van Fossen, NMFS PIR Sustainable Fisheries, 808-541-1378 (see, 78 F.R.18302, March 26, 2013).

7. Marine Mammals; File No. 17941

The U. S. National Marine Fisheries Service (NMFS) gives notice that Brian Skerry, 285 High Street, Uxbridge, MA 01569, has applied in due form for a permit to conduct commercial or educational photography on bottlenose (*Tursiops truncatus*) and spinner (*Stenella longirostris*) dolphins. DATES: Written, telefaxed, or email comments must be received on or before April 22, 2013. ADDRESSES: These documents are available upon written request or by appointment in the following offices: Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 427-8401; fax (301) 713-0376; Pacific Islands Region, NMFS, 1601 Kapi'olani Blvd., Rm 1110, Honolulu, Hawai'i 96814-4700; phone (808) 944-2200; fax (808) 973-2941; and Southeast Region, NMFS, 263 13th Avenue South, Saint Petersburg, FL 33701; phone (727) 824-5312; fax (727) 824-5309. Written comments on this application should be submitted to the Chief, Permits and Conservation Division, at the address listed above. Comments may also be submitted by facsimile to (301) 713-0376, or by email to NMFS.Pr1Comments@noaa.gov. Please include the File No. in the subject line of the email comment. Those individuals requesting a public hearing should submit a written request to the Chief, Permits and Conservation Division at the address listed above. The request should set forth the specific reasons why a hearing on this application would be appropriate. FOR FURTHER INFORMATION CONTACT: Carrie Hubbard or Kristy Beard, (301) 427-8401 (see, 78 F.R. 17639, March 22, 2013).

GLOSSARY

Agency Actions

Any department, office, board, or commission of the state or county government which is part of the executive branch of that government per [HRS 343-2](#).

Applicant Actions

Any person who, pursuant to statute, ordinance, or rule, requests approval for a proposed action per [HRS 343-2](#).

Draft Environmental Assessment

When an Agency or Applicant proposes an action that [triggers](#) HRS 343, an Environmental Assessment shall be prepared at the earliest practicable time to determine whether an environmental impact statement shall be required per [HRS 343-5\(b\)](#), for Agency actions and [HRS 343-5\(c\)](#), for Applicant actions. For actions for which the agency anticipates a Finding of No Significant Impact (AFNSI), a Draft EA (DEA) shall be made available for public review and comment for 30 days and public notice is published in this periodic bulletin.

Final Environmental Assessment and Finding of No Significant Impact

The Agency shall respond in writing to comments on a DEA received during the review and prepare a Final EA (FEA) to determine whether an environmental impact statement shall be required. The FEA must respond to all public comments. If there are no significant impacts, then the Agency will issue a Finding of No Significant Impact (FONSI). An Environmental Impact Statement will not be required and the project may then be implemented. The public has 30 days from the notice of a FONSI in this bulletin to ask a court to require the preparation of an EIS.

Final Environmental Assessment and Environmental Impact Statement Preparation Notice

An EIS shall be required if the Agency finds that the proposed action may have a significant effect on the environment. The Agency shall file notice of such determination with OEQC, called an EIS Preparation Notice (EISPN) along with the supporting Final EA. After the notice of the FEA-EISPN is published in this bulletin, the public has 30 days to request to become a consulted party and make written comments. The public (including the Applicant) has 60 days from the notice of the EISPN in this bulletin to ask a court to not require the preparation of an EIS.

Act 172-2012, Environmental Impact Statement Preparation Notice (with no EA)

Act 172-2012, amended HRS 343, by providing for an agency to bypass the preparation of an environmental assessment for various actions that in the experience of the agency would clearly require the preparation of an EIS. Until administrative rules have been drafted, the agency must submit is

determination that an EIS is required for an action (Act 172-2012, EISPN) with a completed OEQC publication form detailing the specifics of the action to enable the public to request for a period of thirty-days, to be consulted parties in the preparation of the Draft EIS. Comments and responses must be incorporated into the subsequent Draft EIS.

Draft Environmental Impact Statement

After receiving the comments on the EISPN, the Agency or Applicant must prepare a Draft Environmental Impact Statement (DEIS). The [content requirements](#) of the DEIS shall contain an explanation of the environmental consequences of the proposed action including the direct, indirect and cumulative impacts and their mitigative measures. The public has 45 days from the first publication date in this bulletin to comment on a DEIS. The DEIS must respond to comments received during the EISPN comment period in a point-by-point manner.

Final Environmental Impact Statement

After considering all public comments filed during the DEIS stage, the Agency or Applicant must prepare a [Final EIS](#) (FEIS). The FEIS must respond in a point-by-point manner to all comments from the draft and must be included in the FEIS. See here for [style](#) concerns. For Applicant projects, the Approving Agency is authorized to accept the FEIS and must do so within 30-days or the FEIS is accepted as a matter of law. For an Agency project, the Governor or the Mayor (or their designated representative) is the Accepting Authority, and unlike applicant actions, there is no time limit on the accepting authority reviewing the FEIS. Only after the FEIS is accepted may the project be implemented.

Acceptability

If the FEIS is [accepted](#), notice of this action is published in this bulletin. The public has 60 days from the date of notice of acceptance to ask a court to vacate the acceptance of a FEIS. For Applicant actions, non-acceptance by the Approving Agency is cause for the Applicant to administratively appeal to the Environmental Council. For Agency actions, there is no such administrative appeal. In both instances, the Applicant or the proposing Agency can prepare a revised DEIS after a nonacceptance determination.

National Environmental Policy Act

The National Environmental Policy Act (NEPA) requires federal projects to prepare an EA or EIS. In many ways it is similar to Hawaii's law. Some projects require both a State and Federal EIS and the public comment procedure should be [coordinated](#). OEQC publishes NEPA notices in this bulletin to help keep the public informed of important federal actions.

Conservation District

Any use of land in the State Conservation District requires a Conservation District Use Application

(CDUA). These applications are reviewed and approved by the Board of Land and Natural Resources. Members of the public may intervene in the permit process. Notice of permit applications are published in this bulletin.

Special Management Area and Shoreline Setback Area

The Special Management Area (SMA) is along the coastline of all islands and development in this area is generally regulated by [HRS 205A](#), and county ordinance. A special subset of the SMA that is regulated by HRS 343, is the [Shoreline Setback Area](#). Most development in this area requires a Special Management Permit. This bulletin posts notice of these SMA applications to encourage public input.

Shoreline Certifications

State law requires that Hawaii shorelines be surveyed and certified when necessary to clearly establish the shoreline setback from the certified shoreline. The public may participate in the process to help assure accurate regulatory boundaries. Private land owners often petition to have their shoreline certified by the State surveyor prior to construction. This bulletin publishes notice from the Department of Land and Natural Resources of shoreline certification applicants and final certifications or rejections.

Environmental Council

The [Environmental Council](#) is a 15-member citizen board appointed by the Governor. They serve as a liaison between the Director of OEQC and the general public concerning ecology and environmental quality. The Council makes the rules that govern the Environmental Impact Statement process (HRS 343). [Agendas](#) of their regular meetings are posted on the Internet and the public is invited to attend.

Exemption Lists

Government agencies must keep a list describing the minor activities they regularly perform that are [exempt](#) from the environmental review process. These lists and any amendments shall be submitted to the Council for review and concurrence ([HAR 11-200-8\(d\)](#)). This bulletin will publish an agency's draft exemption list for public comment prior to Council decision making, as well as notice of the Council's decision on the list.

Endangered Species

This bulletin is required by [HRS 343-3\(c\)](#), to publish notice of public comment periods or public hearings for Habitat Conservation Plans (HCP), Safe Harbor Agreements (SHA), or Incidental Take Licenses (ITL) under the federal Endangered Species Act, as well as availability for public inspection of a proposed HCP or SHA, or a proposed ITL (as a part of an HCP or SHA).