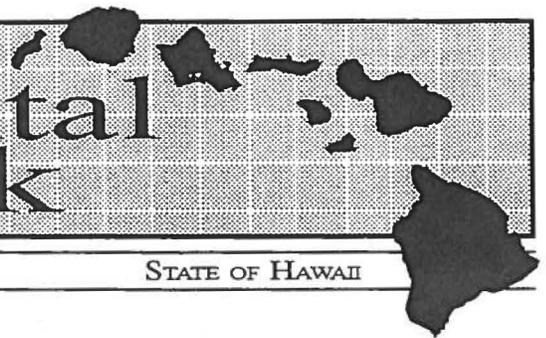


The Environmental Guidebook



OFFICE OF ENVIRONMENTAL QUALITY CONTROL

STATE OF HAWAII

A Guidebook for the Hawaii State Environmental Review Process

*April 11, 2013.
This Guide is obsolete.
Use only for historical purposes.*

This guidebook was prepared by the
Office of Environmental Quality Control
State of Hawaii

October 1997

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The OEQC staff from left to right: Jeyan Thirugnanam, Gary Gill, Nancy Heinrich, Les Segundo and Kay Kaminaka.

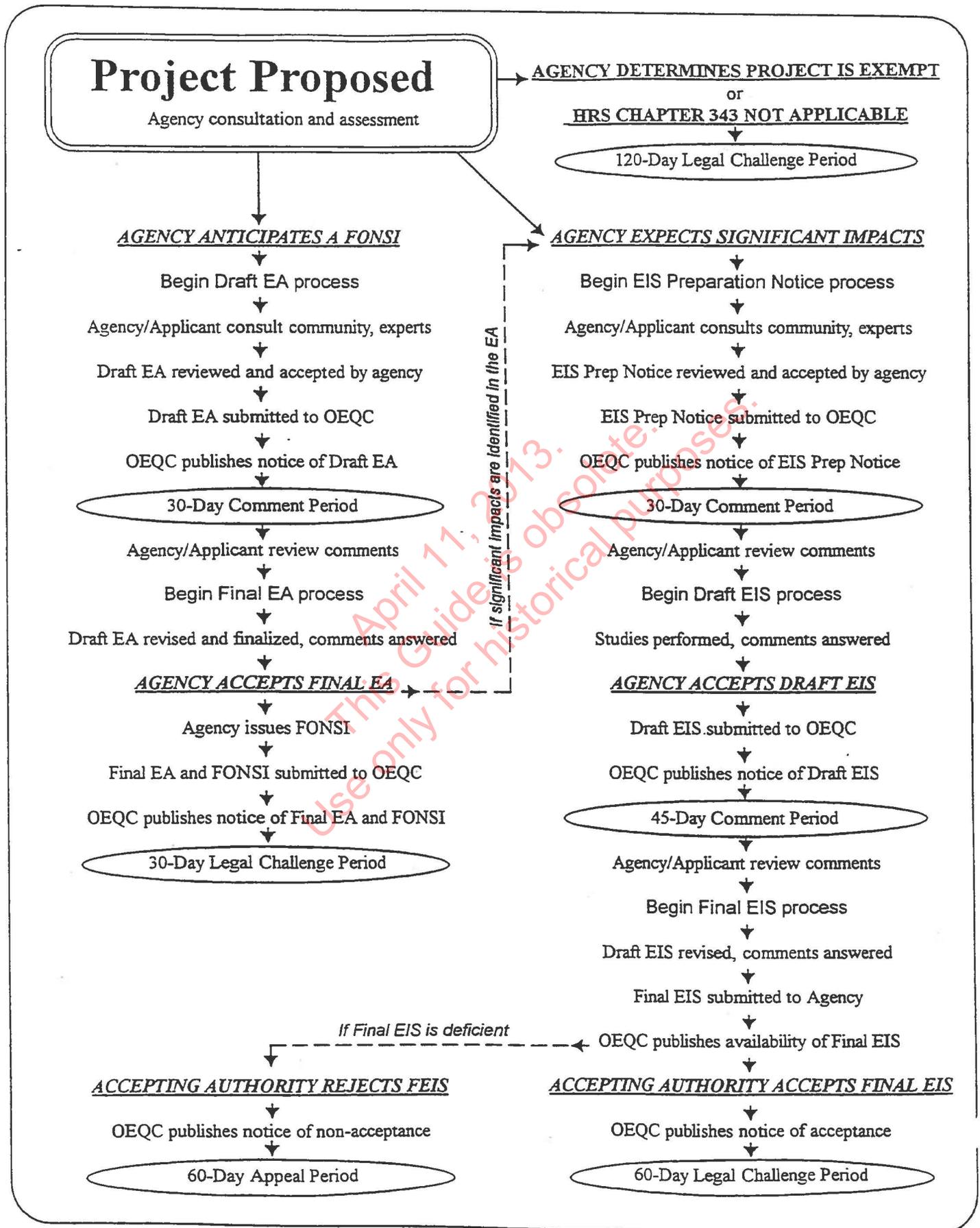
Acknowledgments

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Thanks also to the many members of the public for giving us feedback over the years and helping us learn how to explain the environmental review system in understandable terms.

The Environmental Review System

Expanded View



Preface

This guidebook is a summary of the environmental review process and how it works. Changes are made in the laws and rules from time to time, and users are advised to check periodically with OEQC for updates to the review process and the guidebook. Recent changes to the administrative rules, effective August 31st, 1996, have been incorporated into this guidebook. For a listing of recent rule changes, see Appendix B.

Hawaii's environmental review process was first enacted in 1974 to ensure that systematic consideration was given to the environmental consequences of actions proposed within our state. Its requirements are defined in Chapter 343, Hawaii Revised Statutes (HRS) and Title 11, Chapter 200, Hawaii Administrative Rules (HAR) of the Department of Health. They are often referred to as Chapter 343 or HRS 343, and 11-200, and are the focus of this guidebook. Refer to Chapter 1 for a basic description of the EIS process.

The review process offers many opportunities to prevent environmental degradation and protect human communities through increased citizen involvement and informed decision making. This guidebook was prepared by the staff of the Office of Environmental Quality Control (OEQC) with these goals in mind.

Organization of this Guidebook

Chapter 1

A brief *overview* of the environmental process.

A *flowchart* of the review process.

An explanation of terms essential to a basic understanding of the process.

Recent changes to the law and rules.

Chapter 2

Citizen involvement, a critical part of the environmental review process.

Methods of *public participation*.

Chapter 3

Triggers and Exemptions: Do you need to prepare an environmental assessment (EA) or an environmental impact statement (EIS)?

Conditions that “trigger” the requirement for an environmental disclosure and review. Exemptions to this requirement; and exceptions to the exemptions.

Chapters 4, 5, and 6

Preparing an environmental review document: Details of study content requirements, with explanations and definitions, preparation highlights, agency determinations and public challenges.

- Chapter 4 - (EA) environmental assessments
- Chapter 5 - (EISPN) environmental impact statement preparation notices
- Chapter 6 - (EIS) environmental impact statements, draft (DEIS) and final (FEIS)

Appendices

Detailed information regarding issues and topics referred to in the chapters is provided in the appendices. See the Table of Contents on the next page for a complete list of appendices.

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1. OVERVIEW

Hawaii's Environmental Review Process

Adopted in 1974 and patterned after the National Environmental Policy Act (NEPA) requirements, Hawaii's Environmental Impact Statement law (HRS 343) requires the preparation of *environmental assessments* and *environmental impact statements* for many development projects. The law requires that government give systematic consideration to the environmental, social and economic consequences of proposed development projects before granting permits that allow construction to begin. The law also assures the public the right to participate in planning projects that may affect the community. The Office of Environmental Quality Control implements this law in Hawaii.

If a proposed action is subject to the EIS law and has not been ruled exempt, the environmental review process typically begins with the development of a *draft environmental assessment* (EA). An EA is an informational document prepared by the proposing agency or the private applicant and used to evaluate the possible environmental effects of a proposed action and determine if an EIS is required. The *environmental assessment* must give a detailed description of the proposed action or project and evaluate direct, indirect and cumulative impacts. The document must consider alternatives to the proposed project and describe any measures proposed to minimize potential impacts. The public has 30 days to review and comment on a *draft environmental assessment*.

After the *draft EA* has been finalized and public comments responded to, the agency proposing or approving the action reviews the *final assessment* and determines if any "significant" environmental impacts are anticipated.

If the agency determines that the project will not have a significant environmental impact, it issues a *finding of no significant impact* (FONSI). This determination allows the project to proceed without further study. Within 30 days of the notice of this finding, the public may challenge an agency's determination by filing suit in Circuit Court.

If the agency determines that the action may have a significant impact, a more detailed *environmental impact statement* (EIS) must be prepared. The decision to prepare an EIS can be made either after reviewing an EA or at the inception of the project. An EIS *preparation notice* is then issued and undergoes a 30-day comment period to define the scope of the draft EIS. Publication of an EIS *preparation notice* initiates a 60-day period during which an aggrieved party may challenge the determination in court.

An *environmental impact statement* assesses the proposed project through research, discussion and review. It must, at a minimum, identify environmental concerns, obtain various relevant data, conduct necessary studies, receive public input, evaluate alternatives, and propose measures for minimizing adverse impacts. The EIS must be structured to disclose information in a concise manner using understandable terms.

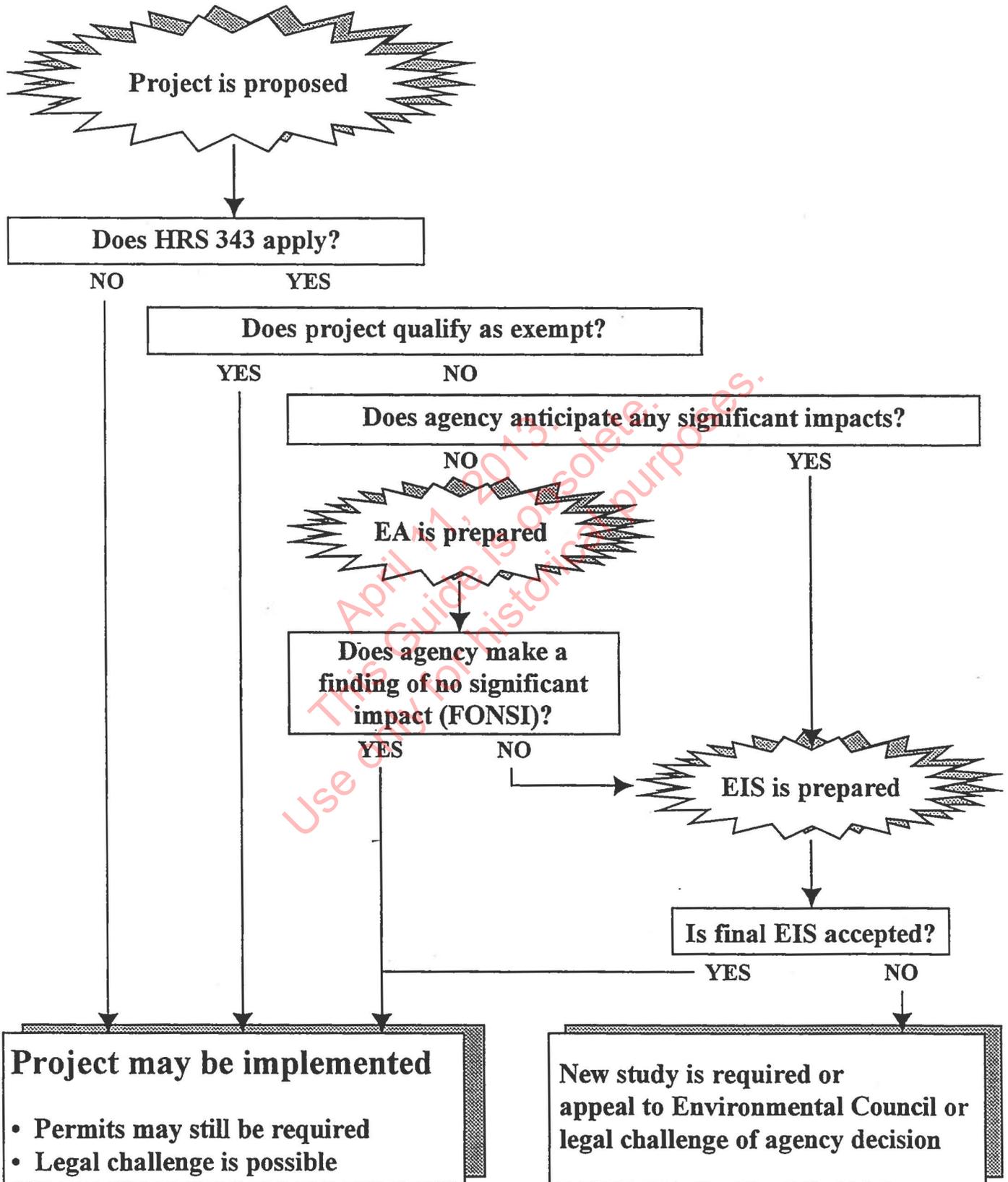
The EIS is prepared in both draft and final stages by the proposing agency or applicant. It is initially published as a *draft EIS* and subjected to a 45-day review by the public and government agencies. After public comments are responded to, the draft is revised and submitted as the *final EIS*.

The *accepting authority* must determine the acceptability of a *final EIS*. Statements for projects initiated by the state government are accepted by the governor. Statements for projects initiated by the county government are accepted by the county mayor or the mayor's designate. Statements for privately initiated projects are accepted by the permitting government agency. After a *final EIS* is accepted, the project may proceed.

The publication of a *final EIS* acceptance notice initiates a 60-day period during which an aggrieved party may challenge the determination by filing suit.

Every year in Hawaii hundreds of government and private proposals require an environmental review. Notice of these projects, studies and determinations are published twice each month by OEQC in The Environmental Notice.

Environmental Review Decision-Making Process



Recent Changes to the EIS Law

Recent changes to the EIS Rules were enacted into law August 31, 1996. They include new definitions, changes to certain exemptions, new requirements for draft EA content and distribution, and new and amended significance criteria. See Appendix B, Recent Changes to the EIS Rules for more on this topic.

Definition of Terms

This section defines terms the reader needs to know in order to understand Hawaii's environmental review process. Definitions of more terms can be found in the EIS rules in Appendix I.

Triggers

Eight types of actions constitute the "triggers" of the environmental review law. Projects that propose the use of state or county lands or funds; land in the conservation district; land in the shoreline setback area; any historic site or district; or land in Waikiki must be subject to an environmental review prior to its implementation. Also, any proposed reclassification of conservation land; amendment to a county general plan, and any new or expanded helicopter facility may trigger an environmental review.

Exemptions

Although a project may touch one of the above triggers, it does not necessarily require the preparation of an environmental review document. Certain classes of activities that are routine and minor in scope are exempt from the EA requirement. See Chapter 3 for more information on exemptions.

Applicant Actions

Applicant actions refer to those that are initiated by a private party and "trigger" an environmental review. A new resort development or residential subdivision on non-urban land are examples of applicant actions. The agency with the authority to grant approval of the project requires the applicant to prepare an environmental assessment prior to permitting its development.

Agency Actions

Agency actions are those proposed by a government agency. The agency proposing the action is responsible for preparing an environmental assessment, reviewing the document, submitting the document to OEQC for publication, and issuing a notice of determination on the need for an EIS.

Notice of Determination (FONSI and Prep Notices)

A notice of determination is issued by an agency and accompanies a final environmental assessment. The determination states that the action will either have no significant impact, (a FONSI, Finding of No Significant Impact), or *may* have a significant impact. If a FONSI is issued, the project may proceed without further study. Without a FONSI determination, an agency must issue an Environmental Impact Statement Preparation Notice stating that a full EIS will be required.

Accepting Authority/Approving Agency

A final EIS must be accepted by a government entity before a project can proceed. The accepting authority for state agency actions is the governor. For county actions, the respective county mayor or designated department director must accept the EIS. Privately initiated EIS documents must be accepted by the government agency empowered to issue permits for the project.

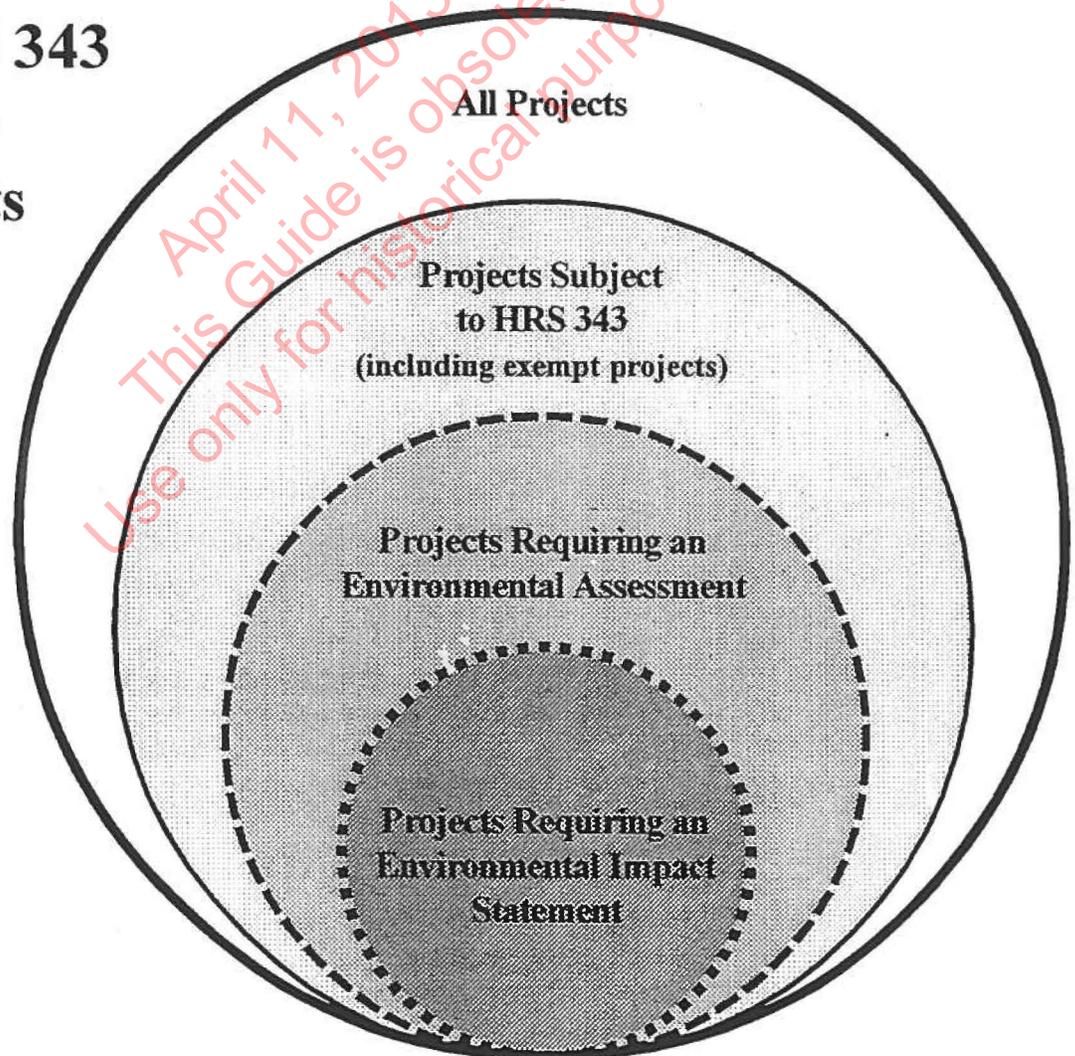
A final EA must be approved by the government agency with permitting power over the project. For agency-action environmental assessments, the proposing and approving agency are one and the same.

The Office of Environmental Quality Control may advise government agencies on the acceptability of environmental review documents but does not have the final say.

Lead Agency

If an applicant simultaneously requests approvals from two or more agencies, only one agency will act as the lead agency. One environmental assessment will meet the requirements of both agencies, and both agencies will be involved in the preparation of the assessment and its determination. If these agencies are unable to agree as to which agency should be the accepting authority, OEQC will decide the lead agency.

How HRS 343 Applies to all Projects



2. PUBLIC PARTICIPATION

Public participation is an integral part of the EIS review process. There are three public participation periods provided in which citizens review and comment on proposed projects. The first is the public comment period on draft environmental assessments. The second is the consultation period prior to the development of a draft EIS (the EIS preparation notice stage), and the third is the review period after the submittal of the draft EIS.

Because time limits for these periods are short, regularly reviewing OEQC's publication, *The Environmental Notice*, is vital if you wish to monitor a particular project, or any project that may be proposed in your neighborhood. The *Notice* can be obtained by calling OEQC at 586-4185 or by picking one up at the Office of Environmental Quality Control, 235 South Beretania Street, suite 702, Honolulu, Hawaii 96813. Call the Office to ask about receiving a free subscription to the *Notice* by mail, by fax or on the Internet.

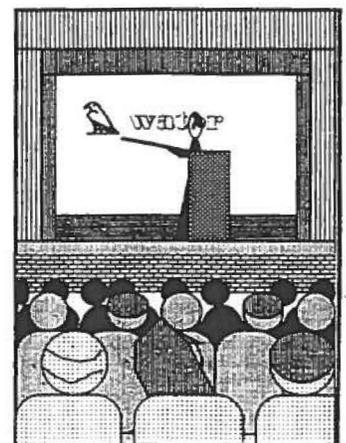
OEQC is the legal repository of all environmental review documents (draft and final EAs, draft and final EIS's). The public may request to borrow or examine any document which has been submitted to the Office. Comment letters received may also be examined.

At times, proposed projects may generate considerable public interest. Agencies or applicants may hold public meetings to exchange information with the community. These hearings are another excellent opportunity to participate and voice your concern. Public meetings are usually announced in the local newspapers. OEQC publishes notice of important public meetings whenever possible.

How You Can Participate

By becoming involved in the environmental review process, you can help to anticipate and avoid environmental problems.

- Watch the newspaper for projects coming up in your area, find out if an EIS is required.
- If an EIS is not required and you think one should be, find out why.
- Get on *The Environmental Notice* mailing list to find out about draft EAs, FONSI's, EIS preparation notices and EIS's available for review.
- Request to be a consulted party for EIS's for projects that concern you.
- Review an EA or EIS at your local library.
- Submit written comments on a draft EA or EIS



How to Review an EA or EIS

The basic purpose of an EA or EIS is to provide information to the public and decision makers on proposed actions. An EIS is not a self-serving recitation of the proposed action's benefits. It must provide complete and balanced analysis in a self-contained document capable of being understood by the reader without undue cross-reference. In reviewing an EIS, you may ask some of the following questions. Content checklists for draft and final EIS's are found in Appendix H.

- Is the project adequately described? Does the EIS enable you to fully understand what the project is all about?
- Is the surrounding environment adequately described? How does the project relate to its surroundings?
- Are all the possible impacts adequately described? Is there any particular impact that is not discussed at all, or superficially discussed? Are there any assumptions that appear unreasonable? Is there adequate information in the EIS to support conclusions?

- What new data or information can you provide on possible environmental impacts or other alternatives that may lessen impacts? Residents often know local conditions from years of personal experience. This type of input can be very useful.

In submitting written comments:

- Be as specific as possible. Ask short, simple, direct questions you would like to see answered in the final EA or final EIS.
- Itemize your comments. Rather than lumping them together in long paragraphs, list each point separately.
- Be reasonable. Offer facts to support opinions.

30-day Draft EA Comment Period (for anticipated FONSI's)

If you wish to comment on a proposed action, you must send an original copy of your comments to the accepting authority/approving agency. Also send copies of your comment letter to the applicant, the consultant and to OEQC. The agency or applicant must respond in writing to comment letters postmarked within the 30-day comment period. The agency must then prepare a final environmental assessment which includes copies of all comment letters and responses, and any necessary changes to the text or graphics of the document.

30-day EIS Preparation Notice Consultation Period

If you wish to be a consulted party on a proposed action for which an EIS will be required, you must send a written request to the proposing agency or applicant as listed in the EIS preparation notice within the 30-day comment period after its first publication in *The Environmental Notice*.

The proposing agency or applicant will then send you a copy of the preparation notice and the EA. Within the 30-day comment period you must submit any written comments regarding the effects of the proposed action. This "consulted party status" allows you to inform preparers of the EIS of major concerns that you would like fully discussed in the EIS.

Applicants and proposing agencies must respond in writing to all substantive comments received during the preparation notice stage and include both comments and responses in the draft EIS.

45-day Draft EIS Review Period

If you wish to submit comments on the draft EIS, you must write to the proposing agency or accepting authority as indicated in *The Environmental Notice* within 45 days of the first publication date. Also send copies of your comment letter to the applicant, the consultant and to OEQC. Your comments will be responded to in writing and incorporated into the final EIS.

Litigation

The final avenue of participation is through initiating legal action to challenge one of the following situations;

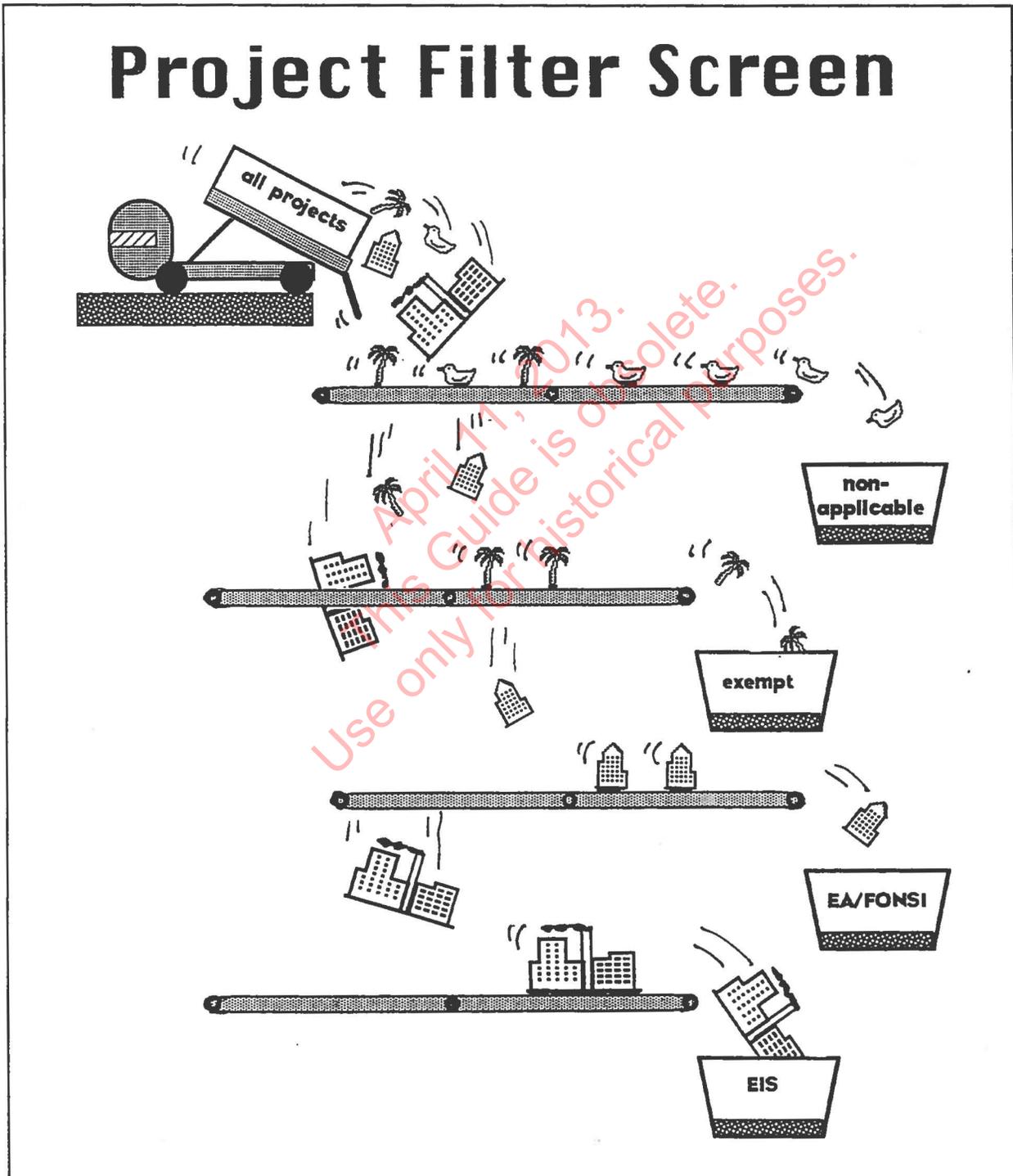
- The failure of an agency to require the preparation of an environmental assessment;
- The improper determination that an EIS is or is not required for a project;
- The improper acceptance of a final EIS.

A full discussion of legal issues and their time frames can be found in Appendix E.

3. TRIGGERS AND EXEMPTIONS

Under the state's environmental review law, all activities fall into one of four categories:

1. Those that do not require a Chapter 343 review;
2. Those that trigger Chapter 343 but are exempt;
3. Those that trigger Chapter 343 and require the preparation of an environmental assessment; and
4. Those that trigger Chapter 343 and require the preparation of an environmental impact statement.



Triggers

Every year hundreds of actions proposed by government or private applicants require the preparation of an environmental review. The environmental review is required under HRS 343 (the EIS law) for any program or project that proposes one or more of the following eight land uses or administrative acts.

1. Use of state or county lands or funds other than for feasibility studies or the purchase of raw land
2. Use of any land classified as Conservation District by state law
3. Use within the Shoreline Setback Area (usually 40 feet inland from the certified shoreline)
4. Use within any Historic Site or District as designated in the National or Hawaii Register of Historic Sites
5. Use within the Waikiki Special District as designated by the county
6. Any amendment to county general plans that would designate land as other than agriculture, conservation or preservation except comprehensive plan amendments initiated by the county
7. Reclassification of state Conservation District lands
8. Construction or modification of helicopter facilities which may affect conservation land, the shoreline area, or historic properties

Once an agency determines that an action "triggers" the EIS law, it must decide if the action is either:

- exempt from preparing a review document;
- will require an relatively brief review via an environmental assessment; or
- will require a full environmental impact statement.

Any program or project that triggers the EIS law must complete the environmental review process before final approval can be granted. The process requires that documentation disclosing environmental impacts be prepared and subjected to public review. The final environmental document must be "accepted" by an approving agency as verification that all requirements of the review process have been adequately fulfilled.

It should be noted that some private actions which may have significant environmental effects do not trigger the Chapter 343 review process. They may, however, be subject to an environmental review through other laws or permitting processes. See Appendix D, Related Environmental Review Laws.

Exemptions

Not every program or project falling within these eight categories will need to undergo an environmental review. Certain activities are deemed minor or routine by the state or county agency that has oversight. The agency can declare the activity *exempt* from environmental review. There are 10 classes of exempt action under the EIS rules.

The exempt classes of activities are as follows:

1. Operation, repairs, or maintenance of existing structures, facilities, equipment, or topographical features
2. Replacement or reconstruction of existing structures and facilities
3. Construction and location of single, new, small facilities or structures
4. Minor alterations in the conditions of land, water, or vegetation
5. Basic data collection, research and experimental management
6. Construction or placement of minor structures accessory to existing facilities
7. Interior alterations
8. Demolition of structures except historic structures
9. Zoning variances except shoreline setback variances
10. Continued administrative activities such as purchasing supplies and personnel related actions.

The agency must keep the memo declaring a project exempt on file and available for review by the public.

Examples of Exemptions

Here are some examples of actions usually declared exempt from environmental review. The exemption class is noted below in italics. See Appendix C for a complete list of exempt classes of actions.

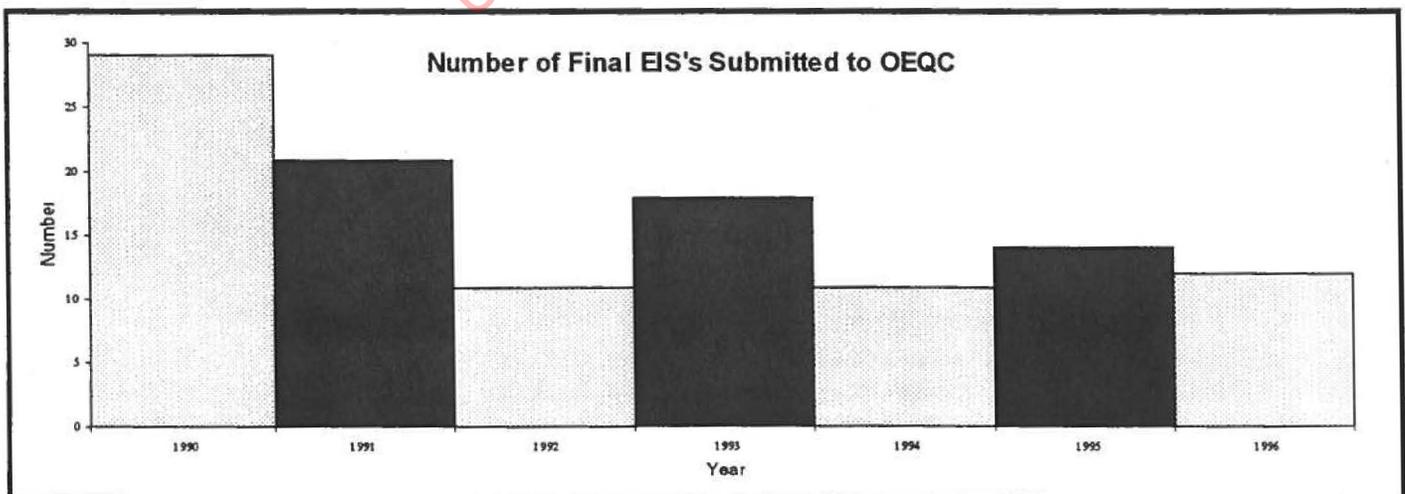
- Equipment that is on state land (a trigger) requires an overhaul; this exemption represents *negligible or no expansion or change of use*.
- Replacement of a drainage culvert, paid for by county funds (a trigger) is considered *replacement of existing structures*
- In the conservation district (a trigger) a homeowner wishes to add a porch to his home; this is a *minor accessory structure to an existing facility*.
- The extension of utility lines across government lands (a trigger) to a single family home is exempt as an *essential public utility services extension to serve structures or facilities*. The *acquisition of utility easements* is also exempt.
- A state or county agency's purchase order for five cartons of paper clips using state or county funds (a trigger) is exempt as a *continuing administrative activity*.

Exemption Lists

Each state or county agency, after consultation with other agencies having expertise or jurisdiction, is responsible for preparing a list of agency specific actions it considers exempt. This *exemption list* is submitted to the Environmental Council, which reviews and concurs with it if appropriate. After an agency has an "approved" list, it can implement any action on the list without preparing an environmental assessment. The agency must keep a record of each exemption determination on file and available for review. Agency exemption lists are kept on file with the agency and at OEQC.

Exclusions to the Exemptions

In some cases, an action that would usually be considered exempt can still require an environmental review. If an exempt action is proposed in a particularly sensitive environment, or if successive exempt actions could have a cumulative significant impact, the exempt status of the action would be invalid. Environmentally sensitive areas include flood plains, wetlands, beaches and coastal areas, erosion-prone areas, geologically hazardous land, critical habitat and estuaries. See Appendix C, Exemptions.



4. PREPARING AN ENVIRONMENTAL ASSESSMENT

Overview of the Environmental Assessment Process

An environmental assessment (EA) is a single-volume document which is prepared for a proposed action that triggers the Environmental Impact Statement process. The information and analysis within an EA is used to determine if the impacts of a proposed action are significant enough to warrant the preparation of an Environmental Impact Statement. The eight triggers (conditions) that require the preparation of an EA are summarized in Chapter 3.

Public Notification

OEQC publishes notice of draft EAs, final EAs, FONSI determinations, EIS Preparation Notices and draft and final EIS's, in every *Environmental Notice*. In addition, notices of the proposal or copies of the review document can be distributed directly to interested parties, those affected by the proposed activity and to those who specifically ask to be notified. The agency or applicant must also deposit at least one copy of the draft environmental assessment at the state library closest to the location of the proposed action.

Notice of a draft EA is published in *The Environmental Notice*. The date of this publication begins a 30-day public review period. At the end of the review period, the applicant prepares a final EA and submits it to OEQC through the approving agency along with a cover letter, bulletin publication form and four copies of the document. See the Preparing the final EA and Submission Details sections of this chapter.

Determinations and Challenges

An approving agency must submit a determination letter with the final environmental assessment either making a Finding of No Significant Impact (FONSI) or issuing an Environmental Impact Statement Preparation Notice (EISPN).

If a FONSI is declared, the applicant may proceed with the project. The publication of a FONSI also initiates a 30-day period in which the determination may be challenged in court.

If the agency determines that the action may have a significant impact, an EISPN is issued. Publication of this determination in *The Environmental Notice* initiates a 30-day consultation period to define the scope of the draft EIS and collect public comments. Publication of the determination also initiates a 60-day period in which an aggrieved party may challenge in court the agency determination that an EIS is required.

Preparing an Environmental Assessment

Pay particular attention to the items in italics, as they are often omitted or done incorrectly.

Pre-assessment Consultation

Prior to preparing your draft EA it is important to *consult with the community regarding your proposed activity* as well as agencies. Groups, individuals and organizations that have expertise in the field, have an interest or will be affected by the activity you are proposing should be consulted. Immediate neighbors or neighboring landowners must be contacted. Consultation with the local planning department is required. The local planning staff can also direct you to other necessary agency contacts.

Agency Consultation

Project proponents should make a good-faith effort to contact interested parties. Here are some examples of agency consultation.

- If your project is located in the Conservation District, you will need to contact the Department of Land and Natural Resources (DLNR) and possibly the Na Ala Hele (Trails) program of DLNR;
- If your project is in a coastal area, you will need to contact the Department of Land Utilization on Oahu or, on a neighbor island, the county planning department for a Special Management Area Permit and a Shoreline Setback Variance; the Coastal Zone Management Program of the Department of Business and Economic Development and Tourism; and the U.S. Fish and Wildlife Service. A permit from the Army Corps of Engineers may also be required;
- If your project is in an historic district or near an historic site, you will need to consult with the State Historic Preservation Division of DLNR.

Community Consultation

Consultations with community or interest groups must not be neglected. In the examples listed above, the following contacts would be appropriate:

- In Conservation zoned sites, contact The Nature Conservancy, The Outdoor Circle, the Sierra Club and Hawaii's 1000 Friends;
- In coastal areas, contact the Sierra Club and UH's Sea Grant Program;
- In historic areas, contact the Historic Hawaii Foundation.

Depending on the nature of the activity proposed, certain agency consultations are required and must be documented in the EA. For more information, see Appendix F, agency descriptions.

Putting the Environmental Assessment Together

When reading your draft EA, the average citizen should be able to understand and have a clear mental snapshot of your project. Use straightforward language. Pictures and graphics also enhance understanding. Follow OEQC's draft EA checklist found in Appendix H. The items below are numbered to correspond with the checklist.

Pay particular attention to the items in italics, as they are often omitted or done incorrectly.

In a summary section include the following:

1. Identify the applicant or proposing agency
2. Identify the approving agency, if applicable
3. Describe the anticipated determination (is a FONSI anticipated?)
4. List individuals, community groups and agencies consulted. Copies of any correspondence should be appended to your draft EA.
Other helpful information which should be listed here includes:
 - Tax map key numbers of affected properties
 - Names of property owners and lessees
 - Land use classifications; State designation, County general, community, development plans and zoning
 - Special designations: Special Management Area, shoreline setback, historic site or facility listed on a state or federal register

In the body of the text include the following:

5. Describe the action's technical, economic, social, and environmental characteristics; time frame; funding and source.
- If a facility is planned, provide floor plans and a *photo or drawing* of its final appearance.
 - Indicate anticipated start and end dates of the project.
 - Disclose the amount of any state or county funds involved, including federal or other funds administered by state or county agencies.*

6. Describe the affected environment and include appropriate maps.

If the project is located in or near a sensitive environment discuss the impacts of the project on the area as well as mitigation measures planned to prevent, lessen or counteract these impacts. Sensitive areas include flood plains, tsunami zones, beaches, streams, rivers, ocean, estuaries, anchialine ponds, fresh or coastal waters, erosion-prone areas and geologically hazardous land. *Descriptions of flora, fauna, significant habitats, historical/archaeological and cultural sites. Impacts to sensitive habitats (such as a refuge) and their mitigation measures need to be discussed.*

Maps and graphics will help the reader visualize your project. *Location and site maps are required that show the island, the area of the project and the immediate neighborhood, each with the project site indicated.* Maps should always include a title, a north arrow and a scale.

7. Identify and summarize positive as well as negative major impacts. The impacts of concern are of the proposed action on the surrounding environment and community, not the impact of the environment on the action. If certain types of impacts are not applicable, *explain why* rather than glossing over them. For example, discuss why certain impacts (such as those to threatened or endangered species or construction impacts on a nearby stream) are not present rather than not mentioning them at all.

8. Describe proposed mitigation measures, if any. It is not sufficient to state that appropriate mitigation measures will be instituted whenever necessary. The potential problems must be identified and appropriate mitigation described. If a mitigation measure is identified, the corresponding impact should also be described. Best Management Practices should be described and employed whenever possible.

For mitigation at Historic Sites, the environmental assessment must include: 1) copies of the mitigation and/or preservation plans prepared for the Department of Land and Natural Resources' State Historic Preservation Program; and 2) a copy of the approval letter for the plans from the State Historic Preservation Program.

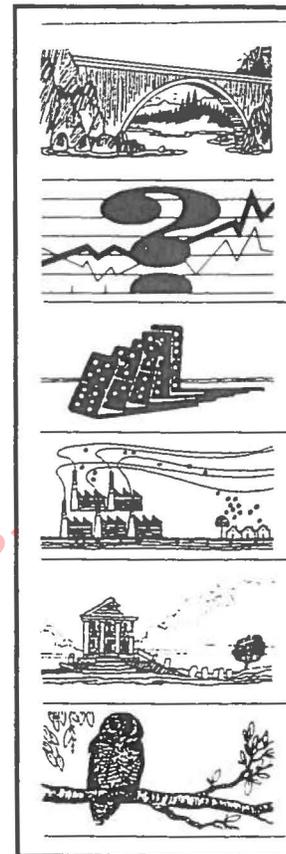
9. Consider alternative methods and modes of your project, and discuss them in the draft EA. Select the one with the least detrimental effect to the environment. Alternatives to consider include:
- Different sites: is one site less likely to infringe on an environment that needs protection, such as a wetlands or an historic district?
 - Different facility configurations: is one configuration less likely to intrude on scenic viewplanes?
 - Different implementation methods: can a rocky area be cleared by backhoe removal rather than blasting?
- Alternative analysis should include input from the community. Community members may be aware of concerns and impacts that make a particular alternative more or less desirable.

10. List the expected determination, either a Finding of No Significant Impact (FONSI) or the requirement to prepare an EIS. In anticipating a determination, the agency shall consider every phase of a proposed action, the expected primary and secondary consequences, and the cumulative as well as the short and long-term effects of the action. Include the findings and reasons supporting the determination.

Significance Criteria

In most cases, an agency determines that an action may have a significant impact on the environment if it meets any of the following criteria.

- (1) Involves an irrevocable commitment to loss or destruction of any natural or cultural resource;
- (2) Curtails the range of beneficial uses of the environment;
- (3) Conflicts with the state's long-term environmental policies or goals and guidelines as expressed in Chapter 344, HRS, and any revisions thereof and amendments thereto, court decisions, or executive orders;
- (4) Substantially affects the economic or social welfare of the community or state;
- (5) Substantially affects public health;
- (6) Involves substantial secondary impacts, such as population changes or effects on public facilities;
- (7) Involves a substantial degradation of environmental quality;
- (8) Is individually limited but cumulatively has considerable effect upon the environment or involves a commitment for larger actions;
- (9) Substantially affects a rare, threatened, or endangered species, or its habitat;
- (10) Detrimentally affects air or water quality or ambient noise levels;
- (11) Affects or is likely to suffer damage by being located in an environmentally sensitive area such as a flood plain, tsunami zone, beach, erosion-prone area, geologically hazardous land, estuary, fresh water, or coastal waters;
- (12) Substantially affects scenic vistas and viewplanes identified in county or state plans or studies; or,
- (13) Requires substantial energy consumption



The EA should discuss the project impacts in relation to each of these criteria in detail. It is not sufficient to simply state that a project does not have any significant impacts or to just restate each criteria in its negative form.

11. In the draft EA list all permits, variances and approvals required and their status.

12. Document contacts made with community groups and agencies before preparing your draft EA and include any correspondence. The law requires that a good faith attempt be made to bring to light environmental concerns prior to the formal draft EA review period.

Preparing the final EA

After public comment is received on a draft environmental assessment, the document is finalized. Any new or better information required due to public or agency comment is added to the document. New information could include changes to the text, figures, tables, maps and other ancillary parts of the study.

A final EA must be accompanied by the notice of determination and include all comment letters and responses. The notice of determination (FONSI or EISPN), issued by the approving agency, must list the following items:

- (1) Identification of applicant or proposing agency
- (2) Identification of approving agency
- (3) Brief description of proposed action
- (4) Determination

-
- (5) Reasons supporting the determination
 - (6) Name, address and phone number of contact person for further information
 - (7) For preparation notices only: List of agencies to be consulted in the preparation of the EIS.

After reviewing comments received, the document writer must discuss findings and reasons that support the determination in consideration of the significance criteria listed above. *The final EA must discuss the project impacts in relation to each of these criteria in detail. It is not sufficient to simply state that a project does not have any significant impacts or to just restate each criteria in its negative form. Evidence justifying the determination that the proposed action will or will not result in any significant environmental impact must be included.*

All comment letters received during the 30-day review period require a response addressed directly to the commenter. Copies of all comment letters and the responses to the letters must be included in the final EA. Although some applicants prefer to answer all comment letters at the end of the review period, responses may be sent at any time.

OEQC will publish notice of the determination only when all the required items are submitted for publication. See the section on Submission Details below.

Additional Guidelines

If an action is subject to more than one trigger

If an action is subject to more than one trigger, all applicable approving agencies should be involved in the preparation of the environmental assessment and in determining if an environmental impact statement is required. The Office of Environmental Quality Control is empowered to select a single lead agency to process an environmental review if the agencies involved cannot agree among themselves. This is to assure that a single document will meet the requirements of all the agencies involved in a project's approval. See also the Lead Agency section of Chapter 1.

Avoid Project Segmentation

The proposed action must be described in its entirety and cannot be broken up into component parts each of which, if taken separately, may have minimal impact on the environment. Segmenting a project in this incremental way to avoid the preparation of an environmental impact statement is against the law. If a project includes a later phase that cannot be fully described or studied today because it is likely to be implemented in the distant future, that future phase should be described in as much detail as possible in the EA. Should the future phase of such a project be proposed, a new environmental review document will be required at that time.

Submission Details

For a **draft EA**, complete the "OEQC Publication Form" which includes a brief (less than 300-word) description of the project. In addition, submit the summary on a disk using WordPerfect for DOS or Windows or by email to oeqc@pixi.com. Submit the documents to the agency processing your request. The agency will then submit to OEQC an original cover letter along with four copies of the document, the OEQC Publication Form and the disk. The letter must be on agency letterhead and signed by a responsible official. This letter will indicate the title of the project, the status of the document (draft EA) and the expected determination.

For a **final EA**, complete the "OEQC Publication Form," and submit it to the agency. The agency will submit four copies of the document along with an original cover letter to OEQC. This cover letter serves as a formal declaration stating that the document has been reviewed and that the action either may have or will not have significant impacts on the environment. This determination must be the approving agency's -- *not the consultant's* -- judgment. If no impacts are deemed significant, the agency declares a Finding of No Significant Impact (FONSI). If significant impacts are anticipated, the agency submits the final EA as an Environmental Impact Statement Preparation Notice (EISPN).

5. PREPARING AN ENVIRONMENTAL IMPACT STATEMENT PREPARATION NOTICE

Overview

An environmental impact statement preparation notice (“EISPN” or “prep notice”) must be written when it is known that an EIS will be prepared. There are two circumstances that lead to the publication of a prep notice.

First, an agency may have published an environmental assessment in anticipation of a finding of no significant impact (FONSI). Upon review of the information collected during the EA process and in consideration of public comment, an agency may determine the need for a full EIS because the project may have significant effects after all. In this case, the document that was planned to be a Final EA, with an anticipated FONSI, is instead revised and printed as an EIS Prep Notice. The public is again invited to comment on the content of the forthcoming EIS.

Second, an agency may know from the beginning that a project is likely to have a significant affect on the environment and therefore decide to go straight to the EIS preparation process.

An EIS Preparation Notice is prepared following the content criteria and format for a Final EA.

The EISPN does not give full detail of the proposal but defines the scope of analysis that will be covered in the subsequent environmental impact statement. To prepare or review an EIS preparation notice, follow the provisions of Chapter 4 of this guidebook. (See also Chapter 3 for a discussion of the eight triggers (conditions) that require the preparation of an environmental assessment.)

Public Notification

The proposing agency or applicant must distribute copies of the EISPN to appropriate agencies, citizen groups and concerned citizens. Notice of an EISPN will then be published in *The Environmental Notice* until the public comment deadline has passed. The date of the first publication begins a 30-day public review period. After the review period, the applicant prepares a draft EIS and submits it to OEQC through the accepting authority along with a cover letter and four copies of the document. See the Submission Details section of the previous chapter.

Preparing Your Document

An EIS preparation notice is prepared following the content criteria and format for a Final EA.

The EISPN does not give full details of the proposal but defines the scope of analysis that will be covered in the subsequent environmental impact statement. To prepare or review an EIS preparation notice, follow the provisions of Chapter 4 of this guidebook. Please note the following distinctions between the format of an EA for an anticipated FONSI and an EIS Preparation Notice.

- Comments received during the comment period on an EIS preparation notice must be included in the draft EIS.
- Agencies that will be consulted during the drafting of the EIS must be listed in the preparation notice.
- If impacts to the environment are anticipated but are not yet fully known at the preparation notice stage, a listing of all the studies and/or research that will be performed in the Draft EIS must be included.

6. ENVIRONMENTAL IMPACT STATEMENTS

The environmental impact statement (EIS) is a disclosure document that analyzes the effects of a proposed project or program on the environment. This in-depth study must provide mitigation measures to prevent or reduce the project's negative effects and present alternative methods, modes or designs of the proposed action.

An EIS is preceded by an EIS preparation notice that undergoes a 30-day comment period.

Next, the study is compiled and printed as a draft environmental impact statement. This draft EIS is circulated to public libraries and consulted parties and a 45-day public comment period is provided.

After comments have been received and answered, the draft EIS is finalized with updated information. The final document must be accepted by the accepting authority as complete and technically adequate before the proposed project can be implemented. At each step in this process, notice is published in OEQC's bulletin, *The Environmental Notice*.

After an EIS has been accepted, the final step in the process is a challenge period. Aggrieved parties have 60 days from notification of acceptance to challenge the acceptability of the final document in court.

The accepting authority for an EIS on proposed state actions is the governor, and for county actions, the mayor. For private applicant actions the accepting authority is a state or county agency with the power to grant discretionary permits on the project.

EIS Content Requirements

An Environmental Impact Statement must be written in plain language to allow public understanding of its content. The rules that govern the EIS process require that the statement contain at least the following elements.

- A concise summary and table of contents
- A statement of purpose for the project
- A detailed project description including maps, technical data, economic and cultural effects and historical perspective
- An analysis of alternatives to the proposed project and an explanation as to why the alternatives were rejected
- A description of the environmental setting
- A statement of the relationship of the proposed action to land use plans, policies and controls for the affected area
- A description of the probable impacts of the project including the direct, indirect and cumulative impacts, as well as impacts on both natural and human environments
- A description of the relationship between short-term uses of environmental resources and long-term productivity (sustainability analysis)
- A statement of the unavoidable environmental impacts caused by the project and a rationale for proceeding with the project in light of these impacts
- A consideration of all mitigation measures proposed to avoid, minimize, rectify, or reduce the project's adverse impacts
- A summary of unresolved issues and a discussion of how such issues will be resolved
- A listing of all agencies, organizations and individuals consulted during the preparation of the document
- Reproduction of all substantive comments received during the study process and the responses to those comments

Statement Preparation

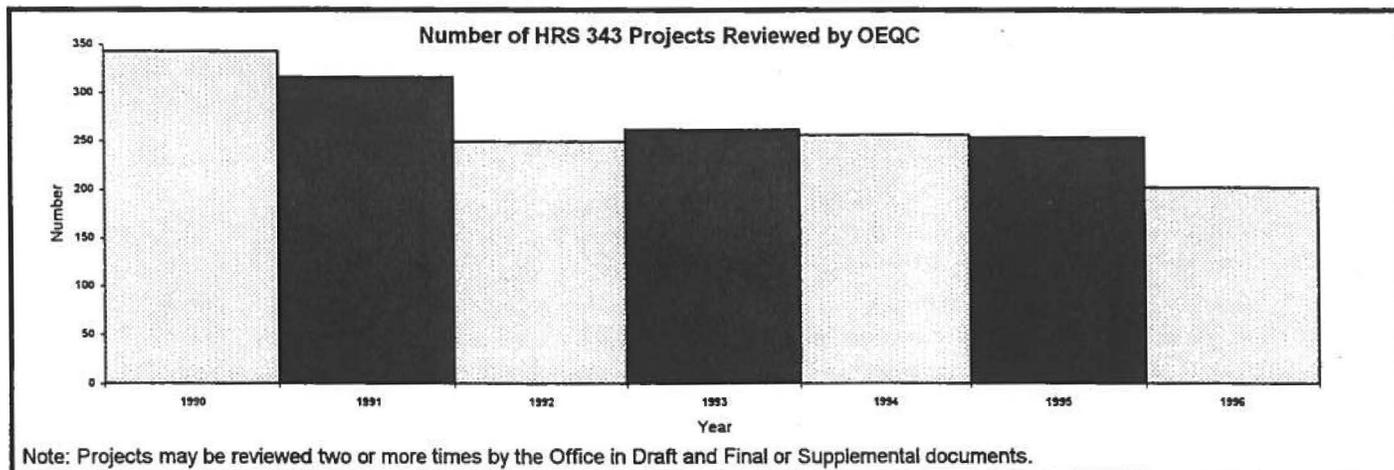
Because most authors of EIS documents are familiar with the content requirements, this chapter lists only those items which are often performed incorrectly and need special attention. The items below are referenced by the OEQC checklist numbers assigned to them. See Appendix H for this checklist.

Draft EIS:

2. Summary sheet: be sure that all items on the summary sheet checklist appear (in abbreviated form) in this section. Any omissions will have to be corrected later.
4. Project description
Use of public funds or lands:
If public funds are involved, including funds flowing through any state or county agency, they must be disclosed as to source and amount. If public lands are involved, this fact must be disclosed.
Historical perspective: Describe how the project evolved, including a brief historical perspective of its background.
5. Alternatives: After an evaluation and analysis of alternatives, the rationale must be given for the rejection of any alternatives.
6. Environmental setting
Local and regional perspective: Include in this section an historical view of the region and locality of the project site.
Rare or unique environmental resources: Besides historic and archeological resources, discuss those having cultural value (such as a heiau or sacred caves) or natural resources (such as forests, wetlands or important viewsheds).
7. Land use plans, policies, controls: in the list of necessary approvals, indicate application dates for all permits and approvals not yet processed.
8. Probable impacts: discuss direct indirect and cumulative effects of *all* projects that are geographically related to the proposed project.

Final EIS:

4. Response letters: Responses must be made directly to writers of comment letters and reproduced in the Comments/Responses section.
5. Responses to comments: Verbatim changes to the DEIS text must be included in response letters; and
6. Changes to text: Any changes to the text must be easily distinguishable. New text can be listed in italics following the original text, or printed side by side, next to the original text. Language changes in the FEIS should be identical to those listed in response letters. Commenters need not, therefore, be sent a copy of the FEIS.



APPENDICES

April 11, 2013.
This Guide is obsolete.
Use only for historical purposes.

Appendix A

ENVIRONMENTAL POLICY LAWS

A brief explanation of Hawaii's environmental review laws and rules are presented here:

A. Environmental Impact Statements, Chapter 343, Hawaii Revised Statutes

Adopted in 1974, and patterned after the National Environmental Policy Act, Chapter 343 provides the statutory basis for developing and processing environmental assessments and environmental impact statements. This "EIS Law" requires that systematic consideration be given to the environmental and social consequences (in addition to the economic consequences) of proposed state, county, or private actions. OEQC is mandated to implement the provisions of Chapter 343, HRS.

B. Environmental Impact Statement Rules, Title 11, Chapter 200, Hawaii Administrative Rules, Department of Health

The administrative rules implementing Chapter 343, HRS, are contained in Title 11, Chapter 200. Chapter 200 prescribes whom the law applies to, how it is implemented, and what the specific requirements are, in a step-by-step format. These rules provide agencies and applicants with procedures, specifications, contents and criteria relating to environmental assessments and environmental impact statements.

C. Environmental Policy Act, Chapter 344, Hawaii Revised Statutes

Also adopted in 1974, Chapter 344 established Hawaii's State Environmental Policy to encourage the conservation of its natural resources and the enhancement of its quality of life. Specific policy guidelines are set forth in the law for implementation by state and county agencies in their planning and decision making.

D. Environmental Quality Control Act, Chapter 341, Hawaii Revised Statutes

Adopted in 1970, Chapter 341 created three new entities within the structure of state government to stimulate, expand, and coordinate efforts to maintain the quality of Hawaii's environment:

1. **The Environmental Center** of the University of Hawaii functions to stimulate, expand, and coordinate education, research, and service efforts of the University relating to ecology, natural resources, and environmental quality. The Environmental Center also reviews environmental assessments and impact statements and submits comments and suggestions when appropriate during the environmental review process.

2. **The Environmental Council** is comprised of 15 members appointed by the governor and confirmed by the legislature for a term of four years. The Council is responsible for the adoption, amendment and repeal of rules under Chapter 343. The council also hears appeals from applicants who wish to challenge the nonacceptance of an EIS. The Council serves as a liaison between the director of OEQC and the general public by soliciting information, opinions, complaints and recommendations concerning ecology and environmental quality. Monitoring agency progress in meeting state environmental goals and policies and publishing an annual report, with recommendations for enhancing the quality of Hawaii's environment, are part of the Environmental Council's duties.

3. The Office of Environmental Quality Control (OEQC) serves in an advisory capacity to the Governor on all matters relating to environmental quality control and is responsible for implementing various portions of Chapter 343. Under Chapter 341, the Director of OEQC is also responsible for directing the attention of the university community and the general public to environmental and ecological issues by funding research projects and providing environmental education; proposing and encouraging legislation to preserve and protect environmental resources; recommending long-range environmental programs; and offering advice to private citizens and governmental agencies on matters relating to environmental quality control. OEQC reviews all documents pursuant to the EIS process and informs the public of proposed actions through a semimonthly publication known as *The Environmental Notice*.

4. The OEQC bulletin, *The Environmental Notice*, lists the availability of Draft Environmental Assessments, Findings of No Significant Impact, Environmental Impact Statement Preparation Notices, Draft and Final Environmental Impact Statements and notices of acceptance. As a courtesy, it also lists announcements of environmental concern from other agencies. *The Environmental Notice* is published on the 8th and the 23rd of each month and is distributed throughout the state to libraries, government agencies, interested members of the public, consultants and community groups. It is currently sent to about 1000 recipients.

The Environmental Notice is available through the U.S. mail service, via fax or e-mail and on the internet. It is provided free of charge as a public service by the State of Hawaii.



BENJAMIN J. CAYETANO
GOVERNOR
OFFICE OF ENVIRONMENTAL QUALITY CONTROL
GARY GILL
DIRECTOR

The Environmental Notice reviews the environmental impacts of projects proposed in Hawaii

Other Resources available at OEQC

- Guidebook for Hawaii's Environmental Review Process
- Environmental Impact Study Resource Library
- Environmental Education Database
- Environmental Council Annual Reports
- Rules and Policies
- "How to Plant a Native Hawaiian Garden"

OEQC
235 S. BERETANIA ST.
STATE OFFICE TOWER
SUITE 702
HONOLULU, HI 96813
Tel. (808) 586-4185
Fax. (808) 586-4186

Molokai & Lanai: 1-800-668-8644 ext. 64183
Kauai: 274-3141 ext. 64183
Maui: 954-3400 ext. 64183
Hawaii: 974-0000 ext. 64183

SEPTEMBER 8, 1997

Guide for Cultural Impacts

The Environmental Council is seeking public comment on its "Draft Guidelines for Assessing Cultural Impacts." For years, a controversy has simmered over developers' responsibility to perform a "Cultural Impact Study" prior to building a project. The recent Supreme Court "PASH" decision reaffirmed the state's duty to protect the gathering rights of native Hawaiians. In light of these events, the Environmental Council has drafted a guidance document to provide clarity on when and how to assess a project's impacts on the cultural practices of host communities.

The inclusion of this cultural impact analysis will help make environmental assessments and environmental impact statements meet the requirements of Chapter 343, HRS. The draft Guidelines for Assessing Cultural Impacts is printed on page 16. Please send comments to the Environmental Council via OEQC by October 8, 1997.

Ma'alaea Harbor Hearing

The Army Corps of Engineers and the impacts of the proposed Ma'alaea Harbor Improvements on water quality and the public interest. The hearing will be held at Kihai Elementary School, on September 24, 1997 from 7:00 to 9:00 pm in the Cafeteria.

The Corps and the State DLNR propose improvements to the Ma'alaea Harbor to improve commercial and recreational navigation for light-draft vessels.

This project was previously assessed in a Supplemental EIS accepted by the Governor in 1994. The project was put on hold when the Office of State Planning determined that it was inconsistent with the Coastal Zone Management Act.

The Corps and DLNR have agreed to redesign the project to further mitigate any adverse impacts. A new supplemental EIS is being drafted to reflect the new harbor design. The Corps is requesting public comments on the Clean Water Act permits for the project prior to finalizing supplemental EIS.

Draft EIS for 175 Mile Trail

The National Park Service seeks comments on a draft EIS for the historic 175 mile Ala Kahakai Trail which spans the coastlines of Kohala, Kona, Ka'u and Puna on the Big Island.

More than half the trail travels over public land. Most trail sections on private land are "ancient trails" and are publicly owned as defined in the Highways Act of 1892 or are subject to an easement in favor of the public. About one fifth of the length of the proposed Ala Kahakai Trail may traverse private property with no clear public claim of ownership.

According to the study, the trail would be unique in the National Trails System. No other trail touches such an abundance of cultural resources and has experienced continuous use by an indigenous culture. Please see page 10.

Maui Fence Project Change
The Division of F...

Appendix B

RECENT CHANGES TO THE EIS RULES

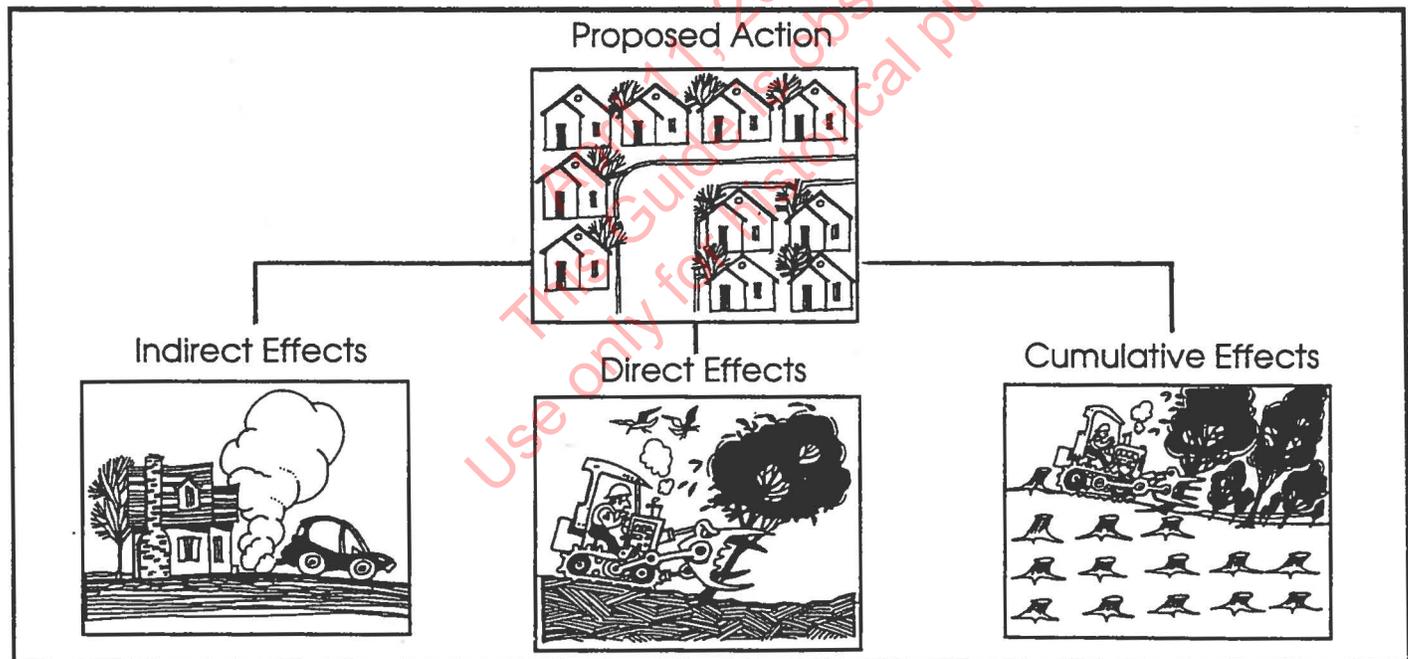
In August 1996 new rules for the environmental impact statement law were approved by the Governor. The following are highlights of the changes. Some of these provisions were already in practice prior to updating the rules.

New Definitions

“Cumulative impact” means the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time.

“Primary impact” or “primary effect,” or “direct impact” or “direct effect,” means effects which are caused by the action and occur at the same time and place.

“Secondary impact” or “secondary effect,” or “indirect impact” or “indirect effect,” means effects which are caused by the action and are later in time or farther removed in distance, but are still reasonably foreseeable. Indirect effects may include growth-inducing effects and other effects related to induced changes in the pattern of land use, population density or growth rate, and related effects on air and water and other natural systems, including ecosystems.



Clarification of the County General Plan Trigger

An environmental assessment shall be prepared for any proposed amendment to existing county general plans, however denominated, which may include but not be limited to development plans, or community plans, where the amendment would result in designations other than agriculture, conservation, or preservation. (Actions by a county initiating a comprehensive review toward effectuating either a general plan or amendment thereof may be excepted. General plan amendments requested by a private owner or developer outside of the comprehensive review process are not excepted.)

Exemptions

Agencies declaring an action exempt under this section shall obtain the advice of other outside agencies or individuals having jurisdiction or expertise as to the propriety of the exemption.

Each agency shall maintain records of actions that it has found to be exempt from the requirements for preparation of an environmental assessment in chapter 343, HRS, and each agency shall produce the records for review upon request.

Draft Environmental Assessment (DEA) Preparation

The agency or applicant shall seek, at the earliest practicable time, the advice and input of the county agency responsible for implementing the county's general plan for each county in which the proposed action is to occur, and consult with other agencies having jurisdiction or expertise as well as those citizen groups and individuals that the proposing agency reasonably believes to be affected.

DEA Distribution

The agency or applicant shall distribute the draft environmental assessment to other agencies having jurisdiction or expertise as well as citizen groups and individuals that the proposing agency reasonably believes to be affected.

The agency or applicant shall deposit one copy of the draft environmental assessment at the nearest state library in each county in which the proposed action is to occur.

EA Content

The environmental assessment must include a list of all permits and approvals (state, federal, county) required.

Notice of Determination

The notice of determination shall indicate in a concise manner:

- (1) Identification of applicant or proposing agency;
- (2) Identification of accepting authority;
- (3) Brief description of proposed action;
- (4) Determination;
- (5) Reasons supporting determination; and
- (6) Name, address, and phone number of contact person for further information.

New and Amended Significance Criteria

- #11. Affects or is likely to suffer damage by being located in an environmentally sensitive area such as a flood plain, tsunami zone, beach, erosion-prone area, geologically hazardous land, estuary, fresh water, or coastal waters.
- #12. Substantially affects scenic vistas and viewplanes identified in county or state plans or studies.
- #13. Requires substantial energy consumption.

Final EIS

The text of the final EIS that shall be written in a format that allows the reader to easily distinguish changes made to the text of the draft EIS.

Appendix C

EXEMPTIONS

Excerpted from Hawaii Administrative Rules, Title 11, Chapter 200 (Environmental Impact Statement Rules)

§11-200-8 Exempt classes of actions

Exempt classes of action.

(a) Chapter 343, HRS, states that a list of classes of actions shall be drawn up which, because they will probably have minimal or no significant effect on the environment, may be declared exempt by the proposing agency or approving agency from the preparation of an environmental assessment provided that agencies declaring an action exempt under this section shall obtain the advice of other outside agencies or individuals having jurisdiction or expertise as to the propriety of the exemption. Actions declared exempt from the preparation of an environmental assessment under this section are not exempt from complying with any other applicable statute or rule. The following list represents exempt classes of action:

- (1) Operations, repairs, or maintenance of existing structures, facilities, equipment, or topographical features, involving negligible or no expansion or change of use beyond that previously existing;
- (2) Replacement or reconstruction of existing structures and facilities where the new structure will be located generally on the same site and will have substantially the same purpose, capacity, density, height, and dimensions as the structure replaced;
- (3) Construction and location of single, new, small facilities or structures and the alteration and modification of the same and installation of new, small, equipment and facilities and the alteration and modification of same, including, but not limited to:
 - (A) Single-family residences less than 3,500 square feet not in conjunction with the building of two or more such units;
 - (B) Multi-unit structures designed for not more than four dwelling units if not in conjunction with the building of two or more such structures;
 - (C) Stores, offices, and restaurants designed for total occupant load of 20 persons or less per structure, if not in conjunction with the building of two or more such structures; and
 - (D) Water, sewage, electrical, gas, telephone, and other essential public utility services extensions to serve such structures or facilities; accessory or appurtenant structures including garages, carports, patios, swimming pools, and fences; and, acquisition of utility easements;
- (4) Minor alterations in the conditions of land, water, or vegetation;
- (5) Basic data collection, research, experimental management, and resource evaluation activities which do not result in a serious or major disturbance to an environmental resource;
- (6) Construction or placement of minor structures accessory to existing facilities;
- (7) Interior alterations involving things such as partitions, plumbing, and electrical conveyances;
- (8) Demolition of structures, except those structures located on any historic site as designated in the national register or Hawaii register as provided for in the National Historic Preservation Act of 1966, Public Law 89-665, 16 U.S.C. §470, as amended, or chapter 6E, HRS;

- (9) Zoning variances except shoreline setback variances; and
- (10) Continuing administrative activities including, but not limited to purchase of supplies and personnel-related actions.

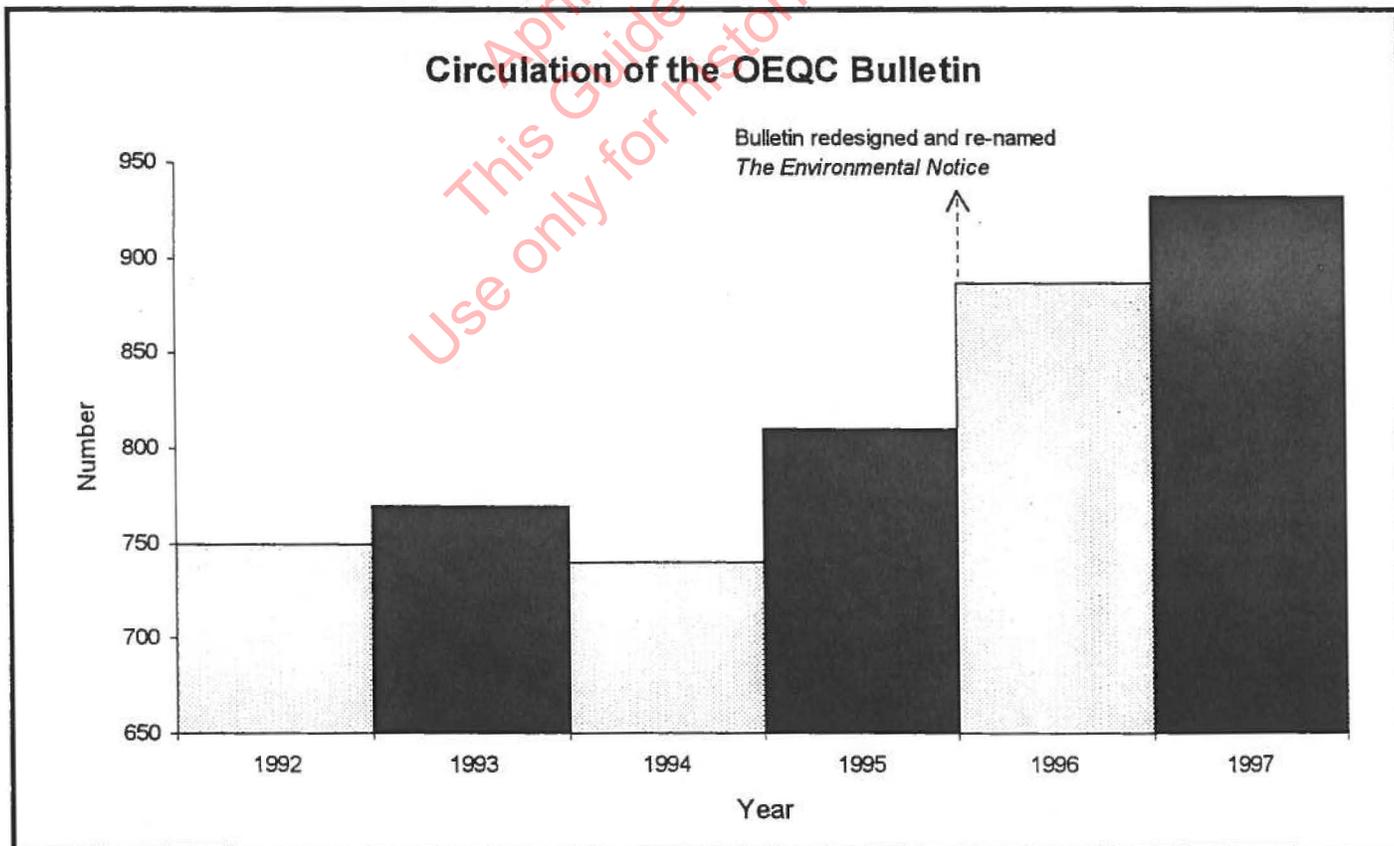
(a) All exemptions under the classes in this section are inapplicable when the cumulative impact of planned successive actions in the same place, over time, is significant, or when an action that is normally insignificant in its impact on the environment may be significant in a particularly sensitive environment.

(b) Any agency, at any time, may request that a new exemption class be added, or that an existing one be amended or deleted. The request shall be submitted to the council, in writing, and contain detailed information to support the request as set forth in section 11-201-16, Environmental Council rules.

(c) Each agency, through time and experience, shall develop its own list of specific types of actions which fall within the exempt classes, as long as these lists are consistent with both the letter and intent expressed in these exempt classes and Chapter 343, HRS. These lists and any amendments to the lists shall be submitted to the council for review and concurrence. The lists shall be reviewed periodically by the council.

(d) Each agency shall maintain records of actions which it has found to be exempt from the requirements for preparation of an environmental assessment in Chapter 343, HRS, and each agency shall produce the records for review upon request.

(e) In the event the governor declares a state of emergency, the governor may exempt any affected program or action from complying with this chapter.



Appendix D

RELATED ENVIRONMENTAL LAWS

A. National Environmental Policy Act (NEPA)

The National Environmental Policy Act (NEPA) became federal law in 1970. It is our country's basic charter for protection of the environment. It provides national policy, a framework for federal agencies to review environmental impacts prior to taking actions, and established the Council on Environmental Quality. A proposed project or action that includes the use of federal lands or funds may require preparation of a federal EIS.

When an action is subject to both NEPA and the State EIS law, the proposing applicant or agency must notify the responsible federal agency, OEQC, and any agency with an interest in the action. OEQC and state and federal agencies must cooperate to the fullest extent possible to reduce duplication of the requirements. This cooperation must include, to the fullest extent possible, joint EIS's, concurrent public review, and concurrent processing. Where there are additional federal requirements, OEQC and state agencies must cooperate in fulfilling them so that one document complies with all applicable laws.

The Final EIS must first be accepted by the governor or the mayor of the respective county, or an authorized representative; the EIS shall then be submitted to the appropriate federal agency. (See HAR §11-200-25)

B. Section 4(f) of the Federal Department of Transportation Act of 1966

Proposed roadways involving federal funding near such resources as parks, recreational areas, wildlife refuges, historic sites, historic bridges and highways, archaeological resources, school playgrounds, recreational trails and bikeways, can trigger a form of federal environmental review known as a 4(f) review. Distinct and separate from NEPA and Chapter 343, HRS, "4(f)" is short for Section 4(f) of the Department of Transportation Act of 1966. The 4(f) process involves preparation of documents which describe the proposed action, its need, the 4(f) resource, the present alternatives (including avoidance), the impacts, a discussion of mitigation measures, and a summary of coordination activities. A 4(f) review is required if a proposed roadway will "constructively use" any of the above resources.

The Honolulu Office of the Federal Highway Administration should be contacted to determine the applicability of a federal 4(f) document for any proposed roadway which involves federal funding and is situated close to any of the above areas or resources.

C. Army Corps of Engineers

Section 10 of the Rivers and Harbors Act of 1899 prohibits unauthorized construction in navigable waters of the United States without permit from the Corps of Engineers.

Section 404 of the Clean Water Act (33 USC 1344) prohibits the discharge of dredged or fill material into waters of the United States without a permit from the Corps of Engineers.

Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 prohibits transportation of dredged material for the purpose of dumping it into ocean waters without permit from the Army Corps of Engineers.

Any person, firm or agency (including federal, state and local governmental agencies) planning to do work in the waters of the United States must obtain a permit from the U. S. Army Corps of Engineers.

Waters of the United States include ocean waters; coastal and inland waters, lakes, rivers, and streams that are navigable, including adjacent wetlands; tributaries to navigable waters, including adjacent wetlands (isolated wetlands); fishponds connected to navigable waters; all other U.S. waters, such as lakes, rivers and streams that are not interstate waters of tributaries to navigable waters of the U. S. impoundments, perched wetlands and intermittent streams, where the District Engineer determines that regulation is required to protect interstate commerce and the aquatic environment.

Marshes, estuaries, swamps, inland and coastal shallows, certain unique pond systems, and other areas associated with coastal and inland U.S. waters are considered wetlands.

The following types of activities in U.S. waters and wetlands may require a permit: construction of piers, wharves, bulkheads, pilings, marinas, docks, ramps, floats, mooring buoys and like structures; construction of wires and cables over the water and pipes, cables or tunnels under the water; dredging and excavation; any obstruction or alteration of navigable waters; depositing fill and dredged material; filling of wetlands adjacent or contiguous to waters of the U.S.; construction of riprap, revetments, groins, breakwaters and levees; and transportation of dredged material for dumping into ocean waters.

D. Hawaii Coastal Zone Management (Chapter 205A, HRS)

The CZM objectives and policies are administered by the State Office of Planning, which is part of the Department of Business, Economic Development and Tourism. Chapter 205A, HRS, mandates each county to establish special management areas (SMAs), and shoreline setbacks, within which permits are required for development. The shoreline setback is generally 40 feet from the high-water line. However, under certain circumstances, the county can extend the setback or minimize it to as little as 20 feet. On the Neighbor Islands, the Planning Commission has the authority over SMA permits and shoreline setback variances. On Oahu the authority rests with the City Council. Administrative support is provided by the respective county planning departments or, on Oahu, by the Department of Land Utilization.

Section 205A-26(2)(A) provides the guidelines used to review development in the SMAs. Only those that will not have any substantial adverse environmental or ecological effects may be approved, except when these adverse effects are minimized to the extent practicable and are clearly outweighed by public health, safety, or compelling public interests.

All four counties permit an accepted EIS as part of the information needed to apply for an SMA permit. On Oahu, the city requires an environmental review following State HRS 343 procedures prior to granting an SMA permit.

E. State Department of Health Environmental Laws and Administrative Rules

The following is a brief summary of environmental laws, associated administrative rules, and related federal laws administered by the State Department of Health.

1. Environmental Response Law (HRS 128D)

This law establishes an environmental response revolving fund from which the Department of Health (DOH) may draw upon for response actions, including removal and remedial actions, when there has been a release of hazardous materials on the sea or land. It also gives the DOH authority to order responsible parties to respond to and remediate releases of hazardous materials. Funds may also be used to support county used oil recycling programs and to address concerns related to underground storage tanks and drinking water.

Rules Promulgated under This Statute: Chapter 11-451, "State Contingency Plan."

2. Department of Health (HRS 321)

This statute gives the Department of Health broad authority to adopt most of its rules, especially those dealing with public health and safety.

Rules Promulgated under This Statute:

- a. Chapter 11-5, "Environmentally-Related Illness and Injury Reporting"
- b. Chapter 11-62, "Wastewater Systems"

3. Litter Control (HRS 339)

Enables the Director of Health to establish a litter control program, by the establishment of rules, by encouraging volunteer local anti-litter campaigns, and by conducting educational programs intended to instill the anti-litter ethic. Rules Promulgated Under This Statute: Chapter 11-68, "Litter Control."

Federal Law: Solid Waste Disposal Act

4. Solid Waste (HRS 340A)

This is known as the "H-POWER" law. It set up certain requirements that enabled each county to establish resource recovery facilities.

5. Certification of Cesspool Pumping Firms and Personnel in Wastewater Plants (HRS 340B)

Establishes a board, upon whose recommendation the Director of Health certifies private cesspool pumping firms and operating personnel in wastewater treatment plants. This statute also enables rules to be promulgated for certification purposes.

Rules Promulgated under This Statute: Chapter 11-61, "Mandatory Certification of Operating Personnel in Wastewater Treatment Facilities."

Federal Law: Water Pollution Control Act

6. Safe Drinking Water (HRS 340E)

Enables the Director of Health to promulgate drinking water standards and regulations that will protect human health and welfare to the extent feasible, using technology, treatment techniques, and other means which are generally available, taking cost into consideration.

Also enables the Director of Health to establish an underground injection control program to control the injection of contaminants into an underground source of drinking water.

Rules Promulgated under This Statute:

- a. Chapter 11-19, "Emergency Plan For Safe Drinking Water."
- b. Chapter 11-20, "Rules Relating to Potable Water Systems."
- c. Chapter 11-21, "Cross-Connection and Backflow Control."
- d. Chapter 11-23, "Underground Injection Control."

Federal Law: Safe Drinking Water Act

7. Mandatory Certification of Operating Personnel in Water Treatment Plants (HRS 340F)

Sets up a classification system for all water treatment plants and a certification system for qualified individuals to operate water treatment plants. Establishes a Board of Certification which is placed, for administrative purposes, in the Department of Health (DOH).

Rules Promulgated under This Statute: Chapter 11-25, "Rules Relating to Certification of Operating Personnel in Water Treatment Plants."

Federal Law: Safe Drinking Water Act

8. Air Pollution Control (HRS 342B)

Enables the Director of Health to establish an air pollution control program to minimize the presence (in the outdoor air) of substances that may endanger human health or welfare, plant or animal life, or property throughout the state. This program includes rules, standards, and permits.

Rules Promulgated under This Statute:

- a. Chapter 11-59, "Ambient Air Quality Standards."
- b. Chapter 11-60.1, "Air Pollution Control."

Federal Law: Clean Air Act

9. HRS, Chapter 342C, Ozone Layer Protection

This statute was passed for the purpose of controlling the use of the ozone-depleting compounds, chlorofluorocarbons (CFCs) and halons. This statute bans the sale of any CFC refrigerant suitable for use in air conditioners or mobile air conditioners in containers that are smaller than 15 pounds net. The statute also bans any portable fire extinguisher that contains a halon or other ozone-depleting compound.

10. HRS, Chapter 342D, Water Pollution

Enables the Director of Health to establish a water pollution control program to prevent contamination of the physical, chemical, or biological properties of any state waters, including change in temperature, taste, color, turbidity, or odor through the use of rules, standards, and permit systems. It prohibits water pollution and requires self-reporting of violations. It also established the State Revolving Fund (SRF). This statute also enables the director to establish a wastewater control program to control the disposal and treatment of liquid wastes, including domestic sewage.

Rules Promulgated under This Statute:

- a. Chapter 11-54, "Water Quality Standards."
- b. Chapter 11-55, "Water Pollution Control."
- c. Chapter 11-62, "Wastewater Systems."
- d. Chapter 11-65, "Water Pollution Control Revolving Fund."

Federal Law: Water Pollution Control Act

11. HRS, Chapter 342E, Polluted Runoff Management and Control

Enables the Director of Health to establish a program to prevent the runoff of polluted water (nonpoint source pollution) from reaching our lakes, streams, and coastal waters, especially after heavy rains. The program covers runoff from all land, including agricultural and urban.

Federal Law:

- a. Coastal Zone Act Reauthorization Amendments.
- b. Water Pollution Control Act.

12. HRS, Chapter 342F, Noise Pollution

Enables the Director of Health to establish a statewide program to prevent "excessive noise" from both vehicular sources and stationary sources, such as agricultural equipment, construction equipment, and industrial activities. This is accomplished by the establishment of maximum permissible sound levels, statewide rules, and a permit system.

Rules Promulgated Under This Statute:

- a. Chapter 11-42, "Vehicular Noise Control For Oahu."
- b. Chapter 11-46, "Community Noise Control."

13. HRS, Chapter 342G, Integrated Solid Waste Management

Established the Office of Solid Waste Management within the DOH. Established statewide goals to reduce solid waste by 25% by January 1, 1995, and 50% by January 1, 2000, through source reduction, recycling, and bioconversion. Mandated that the state and each county prepare a solid waste management plan. Set a policy for all county and state agencies to give preference to the purchase of products made from recycled materials. Mandated the establishment of an office paper recovery program for all state and county agencies.

Federal Law: Solid Waste Disposal Act

14. HRS, Chapter 342H, Solid Waste Pollution

Enables the Director to prevent, control, and abate solid waste pollution in the state through the promulgation of rules and a permit system. The rules establish minimum standards governing the design, construction, installation, operation, and maintenance of solid waste disposal, recycling, reclamation, and transfer systems.

Rules Promulgated under Chapter 11-58.1, "Solid Waste Management Control."

Federal Law: Solid Waste Disposal Act

15. HRS, Chapter 342I, Special Wastes Recycling

Requires the recycling of used lead-acid batteries and used motor vehicle tires. It also describes the procedures to carry out this recycling.

Federal Law: Solid Waste Disposal Act

16. HRS, Chapter 342J, Hazardous Waste

Enables the Director to establish a program to manage hazardous waste, including the systematic control over the generation, collection, source separation, storage, transportation, processing, treatment, recovery, and disposal of hazardous waste.

This program gives priority to: 1) the provision of technical assistance to generators, 2) the establishment of a public education program, 3) the promotion of hazardous waste minimization, reduction, recycling, exchange, and treatment as the preferred methods of managing hazardous waste.

Rules under This Statute: Chapters 11-260 to 266, 11-268, 11-270 to 271, 11-279 to 280, "Hazardous Waste."

Federal Law: Solid Waste Disposal Act

17. HRS, Chapter 342L, Underground Storage Tanks

Enables the Director to establish a program to regulate underground storage tanks and those regulated substances (including petroleum products) that are stored in such tanks, in order to prevent the contamination of soil and groundwater from leaking tanks. This program regulates the installation and removal of underground storage tanks and the cleanup of contaminated soil and groundwater.

Rules Being Proposed under This Statute: Chapter 11-64, "Underground Storage Tanks."

Federal Law: Solid Waste Disposal Act

18. HRS, Chapter 342N, Used Oil Transport, Recycling, and Disposal

Enables the Director to establish a program to promote and regulate the transportation, recycling, and disposal of used oil through the use of rules, a permit system, and mandatory record keeping, sampling, and testing requirements.

19. HRS, Chapter 342P, Asbestos

Enables the Director to establish a program to control and prevent asbestos pollution and to regulate asbestos abatement activities by: 1) Establishing emission standards, including an indoor, nonoccupational exposure standard; 2) Establishing a model accreditation program; and 3) Establishing standards and notification requirements for the demolition and renovation of facilities containing asbestos.

Rules Being Proposed under This Statute:

- a. Chapter 11-501, "Asbestos Requirements."
- b. Chapter 11-502, "Asbestos Containing Materials in Schools."
- c. Chapter 11-503, "Fees For Asbestos Removal."
- d. Chapter 11-504, "Asbestos Abatement Certification Program."

Federal Laws:

- a. Clean Air Act
- b. Toxic Substance Control Act, Subchapter II, "Asbestos Hazard Emergency Response Act (AHERA)."
- c. Toxic Substance Control Act, Subchapter II, AHERA, Model Accreditation Plan.

F. Conservation District Use Permit

For land uses in the Conservation District a permit is required for the placement of any solid material on the land if that material remains on the land for more than 14 days or if it causes a permanent change in the land area. A permit is also required for grading, removing, harvesting, dredging, mining or extraction of any material or any natural resource on the land. A permit is required for a subdivision of the land. A permit is required for construction, reconstruction, demolition or alteration of any structure, building or facility on the land.

Permit types:

- a. Board permits (Board of Land and Natural Resources, BLNR): for major uses of the land;
- b. Departmental permits: for other more minor land uses.
(Permits a. and b. above, must be processed within 180 days from the date of acceptance of the application by the department.)
- c. Site plan approval: for small additions, alterations, certain types of research and other ancillary uses.

G. Land Use Law (HRS 205)

This law is administered by the Land Use Commission, which is a part of the Department of Business, Economic Development and Tourism. This law places all lands in the state into four districts: Urban, Agricultural, Rural, and Conservation. The commission processes petitions for district boundary changes over 15 acres for non-Conservation districts. All changes to the Conservation District boundaries must be approved by the commission.

The Land Use Commission also processes special permits within the Agricultural and Rural Districts for areas greater than 15 acres, and district boundary interpretations. In its district boundary amendment process, the commission considers whether the proposed boundary change conforms to the Hawaii State Plan, commission district standards and various areas of state concern.

H. Other Laws related to Land and Water Use

HRS 174C The state Commission on Water Resource Management (the water commission governs the withdrawal of ground water in designated parts of Hawaii as well as alterations to streams.

HRS 6E The Historic Preservation Division of DLNR reviews any project that may affect a historic property. Any development that effects a structure more than 50 years old or listed on the Hawaii State Register of Historic Places must receive the division's concurrence. The division also controls the handling of burial sites.

HRS 195D The state endangered species law controls human interaction with threatened or endangered plant and animal species.

Appendix E

LITIGATION/TIME LIMITATIONS

For the purpose of bringing judicial action under the EIS law, a person or agency is determined by the courts to be an “aggrieved party.” This may be an applicant, an affected agency, the Environmental Council, or persons who provided written comments during the consultation or review periods of the environmental review process.

If, as an “aggrieved party,” you wish to challenge a determination made during the environmental review process, you must do so by filing suit in Circuit Court within specific time limitations.

If you wish to litigate, you may consider the resources of public interest law firms, environmental groups with legal resources and private lawyers acting *pro bono publico* (for the public good).

As an aggrieved party, you can initiate judicial proceedings to challenge any of the following actions in the environmental review process:

1. Lack of Assessment

If a proposed action applicable to the EIS law is undertaken or initiated without an environmental assessment or a formal determination on the requirement of an EIS, an aggrieved party has 120 days from the time the action was initiated to file suit in Circuit Court.

2. Finding of No Significant Impact (FONSI)

If an agency determines that an EIS is not required, an aggrieved party has 30 days from the date of publication of the FONSI in the OEQC Bulletin to file suit in Circuit Court.

3. EIS Preparation Notices

If an agency decides that an EIS is required, an aggrieved party has 60 days from the date of publication of the EIS Preparation Notice in the OEQC Bulletin to file suit in Circuit Court.

4. Acceptance of EIS

If an aggrieved party wishes to challenge the acceptance of an EIS, it has 60 days from the date of publication of the Notice of Acceptance in the OEQC Bulletin to file suit in Circuit Court.



Appendix F

AGENCY DESCRIPTIONS

This appendix lists federal, state and county agencies that may be consulted during the preparation of an environmental review document.

Federal Agencies

U.S. Army Corps of Engineers

A Department of the Army permit from the U.S. Army Corps of Engineers, Honolulu Engineer District, may be required for structures, work, or any discharge of dredged or fill material in U.S. waters, and the transportation of dredged material by vessel for purposes of dumping in ocean waters. These waters include, among others, ocean waters; coastal and inland waters, lakes, rivers, and streams that are navigable waters of the United States, including adjacent wetlands, tributaries and fishponds connected to navigable waters; and all other waters where the District Engineer determines that regulation is required to protect interstate commerce and the aquatic environment. Marshes, estuaries, swamps, inland and coastal shallows, certain unique pond systems, and other areas associated with coastal and inland U.S. waters are considered wetlands.

U. S. Coast Guard, Shore Maintenance Detachment

The Coast Guard is the primary federal agency responsible for marine environmental protection on navigable waters of the United States, the contiguous zone and the high seas. Its overall objective is to maintain or improve the quality of the marine environment and to respond to environmental contaminants in the coastal area. In addition to the Coast Guard's well-known search-and-rescue mission, district vessels and aircraft also provide a wide range of services including the enforcement of the Fisheries Conservation and Management Act which establishes controlled fishing areas within 200 miles of U.S. shores. In the Pacific Basin, Coast Guard vessels and aircraft not only patrol the waters around the Hawaiian Islands, but also Guam, Northern Mariana Islands, American Samoa, and other U.S. territories in the Pacific. Two high-endurance cutters also patrol the rich fishing grounds off the coast of Alaska. The Coast Guard is also the leading federal agency charged with the prevention of oil pollution of our waters. If an oil spill should occur, the Coast Guard coordinates cleanup efforts.

U.S. Environmental Protection Agency (EPA)

The Environmental Protection Agency's mission is to protect human health and the environment. The agency implements federal laws designed to protect the environment and is responsible for the administration of 10 comprehensive environmental protection laws: the Clean Air Act, the Clean Water Act, the Safe Drinking Water Act, the Comprehensive Environmental Response, Compensation, and Liability Act, the Resource Conservation and Recovery Act, the Federal Insecticide, Fungicide, and Rodenticide Act, the Toxic Substances Control Act, the Marine Protection, Research, and Sanctuaries Act, the Uranium Mill Tailings Radiation Control Act, and the Asbestos Hazard Emergency Response Act. The EPA also registers pesticides and regulates their use; sets tolerance levels for pesticides in food; sets environmental radiation protection standards; and sets standards for drinking water. EPA's priority programs include proper disposal of hazardous waste and toxic substances (e.g., asbestos and polychlorinated biphenyls); underground petroleum and chemical storage tanks; and the Title III program (Emergency Planning and Community Right-To-Know) which requires the state and local governments to develop plans to respond to chemical spills and emergencies.

The U.S. EPA Pacific Islands Contact Office (PICO) in Honolulu provides information on all EPA program areas. The information includes laws, regulations, guidance, technical manuals and other documents. The office maintains a library of EPA documents for loan along with other general materials. The office also serves as a point of contact with the Region 9 San Francisco office.

U.S. Department of Housing and Urban Development (HUD)

HUD performs environmental assessments on HUD-assisted housing projects and subdivisions and reviews Environmental Impact Statements initiated under the National Environmental Policy Act (NEPA) or Chapter 343, Hawaii Revised Statutes, when requested. HUD also monitors Community Development Block Grant grantees for their compliance with the National Environmental Policy Act, HUD standards, and other federal authorities.

U.S. Department of Agriculture, Natural Resources Conservation Service

The Natural Resources Conservation Service (NRCS) develops and carries out a national soil and water conservation program through more than 2,925 local conservation districts with more than 2.3 million cooperating landowners and operators. With the help of its cooperators, SCS inventories and assesses soil, water, and plant resources, and plans and applies conservation practices to reduce soil erosion as well as maintain the land's productivity.

U.S. Department of the Interior, U.S. Fish and Wildlife Service, Ecological Services

The Service is responsible for the administration of the Endangered Species Act and activities covered under the Land and Water Resources Development Planning Program. These include: listing of endangered species; preparation of endangered species recovery plans; informal/formal consultation under Section 7 of the Endangered Species Act; review of federal, state, and local permits and license applications, environmental assessments and impact statements, general plans and land use amendments, clearinghouse reviews, geothermal, OTEC, and hydropower proposals, water quality certification, federal agency consistency certification reviews under Coastal Zone Management, protection of wetland habitats under the Farm Bill, environmental contaminant review of all projects, specific contaminant investigations, and Natural Resource Damage Assessments; providing technical assistance to government agencies regarding fish and wildlife resource study methods and design (including Instream Flow Incremental Methodology).

U.S. Geological Survey, Biological Resources Division, Pacific Island Ecosystems Research Center

PIERC provides objective research, baseline information, and technical assistance relating to conservation of indigenous biological resources occurring within the cultural, sociological, political and environmental environs of all lands and islands under U.S. jurisdiction in the Pacific Basin. PIERC research results in the development of management and recovery strategies aimed at conserving biota and island ecosystems. Hawaii is the major research area because it is known as the "endangered species capital" of the U. S., home to 26% (267) of endemic plant species and 75% (30) of endemic bird species on the endangered list. New research has begun on invertebrate and aquatic species.

State Agencies

Department of Land and Natural Resources, Land Division

Planning Branch

The Department of Land and Natural Resources is responsible for all conservation-zoned lands in the state. The Planning Branch administers the Conservation District Use Application (CDUA) process, coordinates environmental reviews, and assists in the development of natural resources management programs on behalf of the Department.

Engineering Division

This division administers the state's programs in water resource management, mineral resources assessment, flood prevention and control, and water development.

Land Management Division

This division is directly responsible for state-owned lands that are not set aside for use by other government agencies and makes these lands available to the public through fee sales, leases, licenses, grants of easement, rights-of-entry, month-to-month tenancies or as open space areas. The division also maintains a comprehensive inventory of all state-owned lands, serves as an office of record and maintains a central repository of all government documents dating back to the Great Mahele of 1848.

Department of Land and Natural Resources, Aquatic Resources Division

The division provides for pelagic, reef, and inshore aquatic resources protection and enhancement programs. Its functions include conducting underwater surveys to manage areas designated as sanctuaries or for fisheries management, informing the public about aquatic resources protection, management and enhancement programs, investigating fish kills in coordination with the Department of Health, and coordinating and disseminating information relative to aquatic resources concerns.

Department of Land and Natural Resources, Forestry & Wildlife Division

This division is responsible for wild-land recreational programs on forest reserves, public hunting areas, wildlife sanctuaries; commercial forestry on state lands; endangered species protection and management; and providing informational materials on natural resources.

Department of Transportation, Statewide Transportation Planning Office (STPO)

The STPO is responsible for establishing a comprehensive, multi-modal statewide transportation planning process; for developing a balanced, multi-modal statewide transportation plan; and for providing technical assistance to the counties in fulfilling their component roles in the process.

The STP Office coordinates intergovernmental, and intra- and inter-departmental activities related to transportation planning. This includes securing the necessary endorsements and approvals, integrating established plans and parameters, and establishing the ground work for the implementation of the transportation plan. The latter involves intergovernmental agreements on systems and jurisdictional designation; recommending conditions of land use development for exactions and to reserve required rights-of-way; and providing the necessary technical support and data and transition the project from conceptual planning to project development.

Environmental Center (University of Hawaii)

The Environmental Center was established at the University of Hawaii in 1970 by the legislature under the State Environmental Quality Control Act (Hawaii Revised Statutes, Chapter 341). The environmental education function of the center includes advising the University's Liberal Studies Program on appropriate curricula for students seeking BA's in Liberal Studies with environmental emphases or an Environmental Studies Certificate, as well as counseling students in these programs. The center also assists in placing students in environmental internships. The research functions of the center include the organization and coordination of multi-disciplinary environmental research projects, and the management of environmental research projects by the center staff in areas of their special competence. The

service functions of the center include the reviews of environmental impact statements, applications for various environmental pollution management permits, proposed environmental legislation and regulations, and various state and federal plans which may have environmental implications for the State of Hawaii. In all of its review and research activities, the center relies on the expertise of various members of the university system for guidance.

Department of Health, Environmental Planning Office

The Environmental Planning Office provides short- and long-term planning services for all programs under the Environmental Health Administration, maintains environmental plans, land use, environmental education, and public information programs for the Department, and functions as a point of contact for the Department of Health.

Hawaii Community Development Authority

HCDA is empowered with comprehensive planning, development, and financing authority to implement a range of programs to revitalize Kakaako. HCDA addresses the range of issues and concerns associated with the redevelopment of a major community which traditionally has been the responsibility of multiple agencies.

It has adopted the Kakaako Community Development District Plan, which regulates both public and private development activities in the revitalization of Kakaako.

Department of Business, Economic Development and Tourism

Land Use Commission

The Land Use Commission is a quasi-judicial body appointed by the Governor to carry out the provisions of the state land use law which places all lands in the state into four districts: Urban, Agricultural, Rural, and Conservation. The commission's primary functions are to process petitions for district boundary changes over 15 acres. For changes to the Conservation District, however, the commission processes petitions for any size area. It also processes special permits within the Agricultural and Rural Districts for areas greater than 15 acres, and district boundary interpretations.

In its district boundary amendment process, the Commission is required by law (Chapter 205, HRS) to consider whether the proposed boundary change conforms to the Hawaii State Plan, the Commission district standards and various areas of state concern.

Office of Planning

a. Coastal Zone Management Program

Coastal Zone Management (CZM) is concerned with creating a balance between environmental and economic concerns. The CZM objectives and policies are binding on all state and county agencies. The CZM program, therefore, studies coastal issues, develops and improves coastal regulatory programs, and monitors state and county agencies' actions to assure consistency and compliance. The program also administers the federal consistency review whenever federal actions can impact the State's coastal zone. A permit information service is provided to help interested people better understand the regulatory systems applicable to land and water uses. For those involved in projects requiring numerous multi-government permits, a consolidated application process is also offered.

b. Land Use Division

The Land Use Division is responsible for implementing the land use policies of the State of Hawaii.

State Historic Preservation Division (Department of Land and Natural Resources)

The State Historic Preservation Division is charged with the implementation of the National Historic Preservation Act of 1966, as amended, and Chapter 6E, Hawaii Revised Statutes. It reviews proposed development and land use projects for any effects they might have on historic properties. It maintains a statewide inventory of properties of historical, architectural or cultural importance and coordinates the Burial Sites Program and Historic Preserves Program. Any unearthing of human remains must be reported to this office.

County Agencies

Department of Land Utilization, City & County of Honolulu

Department of Land Utilization (DLU) processes a wide range of land-use permits and applications including: zoning changes, conditional use permits, shoreline management permits, subdivision applications, variances, state special use permits, planned development and cluster applications, site plan review and special district applications. The department conducts environmental assessments of project proposals which require DLU permits, and administers the Coastal Zone Management Program for the City and County of Honolulu. It advises the Planning Commission and the City Council as required.

Planning Department, City & County of Honolulu

The Planning Department is responsible for preparing and revising the General Plan and Development Plans of the City and County of Honolulu. The General Plan sets forth the objectives and policies for long-range development of the City and County of Honolulu. The Development Plans, covering eight geographical sub-regions, are relatively detailed, parcel-specific schemes for implementing the development objectives and policies of the General Plan. In response to 1992 City Charter amendments to change the Development Plans from relatively detailed schemes to more conceptual plans, the Planning Department began a comprehensive revision program of the Development Plans in 1993. When completed and adopted by the City Council, the Development Plans will be self-contained conceptual plans offering a long-term vision with land-use guidelines and policies on how this vision can be achieved.

Maui Planning Department and Planning Commission

The Maui Planning Department is responsible for virtually all county land-use related permits. This includes the review and processing of General Plan and zoning land-use changes as well as variances, use, and zoning permits. Shoreline setback variances, Special Management Area permits and subdivisions are also its responsibilities.

Kauai Planning Department and Planning Commission

The Kauai Planning Department is responsible for most county land-use related permits involving subdivision, variances, use, zoning, shoreline setback variances, special management area permits. General Plan and zoning changes are processed through the Planning Department and Planning Commission as the recommending bodies with the County Council as the final decision-making authority.

Hawaii Planning Department and Planning Commission

The Planning Department provides technical advice to the mayor, Planning Commission and County Council on all planning and related matters. It serves the public by enforcing the state Land Use Law, administering and enforcing the subdivision and zoning codes of the county, enforcing the shoreline setback variance and special management area requirements, and handling amendments to the county General Plan.

Appendix G

GUIDANCE DOCUMENTS

The Office of Environmental Quality Control has published a number of "guidance documents" and "protocols" to clarify various issues relating to the environmental review process. This guidance is neither law nor rule. It is policy. OEQC recommends that these standards be adopted by the writers and accepters of environmental studies. These standards will help assure the completeness and consistency of environmental review documents. They will help project proponents and community reviewers understand the expected level of disclosure and methodology of study on various issues. The guidance documents are updated periodically and new documents may be added to from time to time. Below is a list of guidance documents on file or under development at OEQC. Copies are available at the office.

Shoreline Hardening Policy

The building of seawalls has accelerated the loss of sandy beaches throughout the islands. This policy document describes the beach loss problem and includes a 10-point content protocol for any environmental review of a proposed shoreline hardening project.

Biological Surveys for Native Species

This protocol document describes the content requirements and study methodologies for biological surveys, impact analysis and proposed mitigation measures for proposed projects that may affect rare or endangered species.

Water Well Development

The development of new water wells can affect aquifers and nearby stream flows. This guidance document describes the content and format for information contained in a well development study.

Cultural Impacts

These *Guidelines for Assessing Cultural Impacts* describe the content and study method for preparing ethnographic and cultural studies. These studies may be required as part of an environmental review of a project that could affect traditional or cultural practices.

Guide to State Permits and Approvals

This guide offers a handy road map to the various government permits that are required by particular projects.

Streambank Protection

This article, reprinted from *Urban Land* magazine, describes successful methods of restoring stream banks the natural way to avoid traditional concrete-lined stream channels.

"Green Architecture Checklist"

A building materials and techniques checklist to assist in designing environmentally sensitive structures.

Appendix H

FORMS

This appendix contains forms which you will need for preparing or submitting a Chapter 343 document:

CHECKLISTS:

- Draft and final EA content checklist
- EIS Preparation Notice content checklist
- Draft and final EIS content checklist
- Submission process instruction checklist for Draft & Final EIS

COVER LETTERS:

- OEQC publication form
- Draft and Final EA sample cover letters
- Draft EIS sample cover letter to OEQC
- Draft EIS sample cover letter to participants
- Final EIS sample cover letter to OEQC
- Final EIS sample cover letter to participants

DISTRIBUTION LISTS:

- Mailing lists of agencies & community groups
- Public libraries distribution list
- Draft & final EIS distribution chart

April 11, 2013.
This Guide is obsolete.
Use only for historical purposes.