Ms. Mary Alice Evans, Director  
Office of Planning and Sustainable Development  
c/o Environmental Review Program  
235 South Beretania Street, 6th Floor  
Honolulu, Hawaii 96813

SUBJECT: Environmental Impact Statement Preparation Notice for Sanctuary Designation Overlay at Papahānaumokuākea Marine National Monument

Dear Ms. Evans:

The Department of Land and Natural Resources (DLNR) requests the Environmental Impact Statement Preparation Notice (EISPN) for the initiation of a national marine sanctuary designation overlay at Papahānaumokuākea Marine National Monument be published in the November 23, 2021 issue of the Environmental Review Program’s (ERP’s) periodic bulletin, The Environmental Notice.

The proposed action is the initiation of the national marine sanctuary designation process, as directed by Congress, for contiguous marine portions of the Papahānaumokuākea Marine National Monument located in the Northwest Hawaiian Islands. The project site falls under the Conservation Land Use District, (Resource and Protective Subzones), has no applicable Tax Map Keys, and is located within the Honolulu judicial district. Under the provisions of Act 172 (SLH 2012) and pursuant to Hawaii Revised Statutes § 343-5(e) and Hawaii Administrative Rules (HAR) § 11-200.1-14(d)(2), DLNR is authorized to conduct an environmental impact statement (EIS) level analysis in cooperation with the Office of Hawaiian Affairs (OHA), the National Oceanic and Atmospheric Association (NOAA) Office of National Marine Sanctuaries (ONMS), and the US Fish and Wildlife service (FWS), in accordance with the 2017 Memorandum of Agreement (MOA) between the Co-Trustees for Promoting Coordinated Management of the Papahānaumokuākea Marine National Monument and Expansion. A single, joint EIS will be prepared to comply with both the Hawai‘i Environmental Impact Statement Laws and the National Environmental Policy Act (NEPA) as allowed under HAR § 11-200.1-31.

The required publication forms and files, including the completed ERP publication form and an electronic copy of the EISPN, have been provided via the ERP online submission platform. As required by HAR § 11-200.1-5(e)(4)(B), paper copies of the EISPN have been submitted to the Hawai‘i State Library (Hawai‘i Document Center) on O‘ahu, and the Princeville Public Library on Kaua‘i.

Pursuant to HAR § 11-200.1-23(c), publication of the EISPN in The Environmental Notice initiates a public comment period for parties to provide comments regarding potential effects of the proposed action. As this is will be a joint state/federal EIS, to better align the HRS Chapter 343 and NEPA scoping periods...
and to allow the public more time to participate in the scoping process, DLNR would like to request an extension of the comment period beyond 30 days, but not to exceed 60 days from the publication date. A concurrent federal Notice of Intent was submitted by NOAA ONMS and FWS and published in the Federal Register, available at https://www.federalregister.gov/.

Should you have any questions about the EISPN, you may contact Dr. Ryan Okano, Program Manager, Ecosystem Protection, at ryan.ly.okano@hawaii.gov.

Sincerely,

SUZANNE D. CASE  
Chairperson  
Board of Land and Natural Resources

Copy: Governor David Ige

Enclosures:  (1) Completed ERP Publication form  
(2) Summary description of action in electronic format
From: webmaster@hawaii.gov
To: DBEDT OPSD Environmental Review Program
Subject: New online submission for The Environmental Notice
Date: Wednesday, December 1, 2021 7:47:03 AM

<table>
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<tr>
<th>Action Name</th>
<th>National Marine Sanctuary Designation Overlay at Papahānaumokuākea Marine National Monument</th>
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<tbody>
<tr>
<td>Type of Document/Determination</td>
<td>Environmental impact statement preparation notice (EISPN)</td>
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| HRS §343-5(a) Trigger(s) | (1) Propose the use of state or county lands or the use of state or county funds  
(2) Propose any use within any land classified as a conservation district  
(3) Propose any use within a shoreline area  
(4) Propose any use within any historic site as designated in the National Register or Hawaiʻi Register |
| Judicial district | Honolulu, Oʻahu |
| Tax Map Key(s) (TMK(s)) | N/A |
| Action type | Agency |
| Other required permits and approvals | Federal, State, and local permits, authorizations or consultations may be required for the Proposed Action, including consultation under the Endangered Species Act, 16 U.S.C. 1531 et seq., Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1801 et seq., National Historic Preservation Act, 54 U.S.C. 300101 et seq., Hawaiʻi Historic Preservation Review, HRS Chapter 6E-8 and HAR Chapter 13-275, consistency review under the Coastal Zone Management Act, 16 U.S.C. 1451 et seq., and Hawaiʻi Coastal Zone Management Act, Hawaiʻi Conservation District, HRS Chapter 183C and HAR Chapter 13-5, and possibly reviews under other laws and regulations determined to be applicable to the proposed action. To the fullest extent possible, NOAA and the state of Hawaiʻi will prepare the DEIS concurrently with, and integrated with, analyses required by other federal environmental review requirements, and the DEIS will list all federal permits, licenses, and other authorizations that must be obtained in implementing the proposed action. |
| Proposing/determining agency | Department of Land and Natural Resources |
| Agency contact name | Ryan Okano |
| Agency contact email (for info about the action) | Ryan.ly.okano@hawaii.gov |
| Email address or URL for receiving comments | https://www.regulations.gov/document/NOAA-NOS-2021-0114-0001 |
| Agency contact phone |  |
**Agency address**

Kalanikoumo Building  
1151 Punchbowl St.  
Honolulu, Hawaii 96813  
United States  
[Map It](#)

**Public Scoping Meeting information**

Wednesday, December 8, 2021, 6 p.m. HST; Saturday, December 11, 2021, 12 p.m. HST; Tuesday, December 14, 2021, 6 p.m. HST; Thursday, December 16, 2021, 3 p.m. HST Virtual (visit https://sanctuaries.noaa.gov/papahanaumokuakea/) to register

**Accepting authority**

Governor of Hawaii

**Accepting authority contact name**

David Ige

**Accepting authority contact email or URL**

https://governor.hawaii.gov/contact-us/contact-the-governor/

**Accepting authority contact phone**

(808) 586-0034

**Accepting authority address**

Executive Chambers  
State Capitol  
Honolulu, HI 96813  
United States  
[Map It](#)

**Was this submittal prepared by a consultant?**

No

**Action summary**

The State of Hawai‘i Department of Land and Natural Resources (DLNR) in coordination with the Office of Hawaiian Affairs (OHA), the U.S. Fish and Wildlife Service (USFWS) and the National Oceanic and Atmospheric Administration (NOAA) Office of National Marine Sanctuaries (ONMS) are to begin scoping and preparation of an Environmental Impact Statement for a national marine sanctuary designation overlay at Papahānaumokuākea Marine National Monument as directed by the U.S. Congress.

**Attached documents (signed agency letter & EA/EIS)**

- EISPN_Sanctuary-Designation-final-for-publication-in-12-8-21-TEN.pdf
- Letter-of-Determination_PMNM-Sanctuary-Overlay-signed.pdf

**Action location map**

- pmnm-map-sanctuary-designation-new-0152.zip

**Authorized individual**

Kendra Babcock
<table>
<thead>
<tr>
<th>Authorization</th>
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<tbody>
<tr>
<td>– The above named authorized individual hereby certifies that he/she has the authority to make this submission.</td>
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ENVIRONMENTAL IMPACT STATEMENT PREPARATION NOTICE

Notice of Preparation to Conduct Scoping and to Prepare an Environmental Impact Statement for a National Marine Sanctuary Designation Overlay at Papahānaumokuākea Marine National Monument

Photo by: James Watt/NOAA Office of National Marine Sanctuaries, 2002

Prepared by
State of Hawai‘i Department of Land and Natural Resources
1151 Punchbowl St.
Honolulu, HI 96813

November 2021
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INTRODUCTION

1.1 Project Summary

Type of Document: Environmental Impact Statement Preparation Notice (EISPN)

Project Name: National Marine Sanctuary Designation Overlay at Papahānaumokuākea Marine National Monument

Proposing Agency: Department of Land and Natural Resources
State of Hawai‘i
1151 Punchbowl St
Honolulu, HI 96813
Contact: Ryan Okano (808.753.0476)
Email: ryan.ly.okano@hawaii.gov

Accepting Authority: Governor David Ige

Location: Papahānaumokuākea Marine National Monument (Monument)

State Land Use District: Conservation (Resource and Protective Subzones)

Proposed Action: The State of Hawai‘i Department of Land and Natural Resources (DLNR) and Office of Hawaiian Affairs (OHA), in coordination with the U.S. Fish and Wildlife Service (USFWS) and the National Oceanic and Atmospheric Administration (NOAA), to begin the process of designating contiguous marine portions of the Monument as a national marine sanctuary (sanctuary) as directed by the U.S. Congress.

EIS Triggers:
- Use of state lands (Hawaii Revised Statutes (“HRS”) section 343-5(a)(1))
- Use of any land classified as Conservation District by the state land use commission under HRS chapter 205 (HRS section 343-5(a)(2))
- Use of land in the shoreline area (HRS section 343-5(a)(3))
- Use of historic site or district (HRS section 343-5(a)(4))

1.2 Project Background and Affected Environment

a. Papahānaumokuākea Marine National Monument

Papahānaumokuākea is considered a revered area, from which Native Hawaiians believe all life springs, and to which spirits return to after death. The longest recorded traditional Hawaiian chant, the Kumulipo (source of deep darkness), is the history of how all life forms came and
evolved from Papahānaumokuākea, beginning with the coral polyp as the building block for all life. Throughout the expanse of the Monument, there are many *wahi pana* (places of great cultural significance and practice) where Native Hawaiian cultural practitioners of today reconnect with their ancestors and gods.

Papahānaumokuākea Marine National Monument is one of the largest protected areas in the world. The original Papahānaumokuākea Marine National Monument, was established under the Antiquities Act through the Presidential Proclamation 8031 of June 15, 2006, as amended by Proclamation 8112 of February 28, 2007, to protect and preserve the marine area of the Northwestern Hawaiian Islands and the historic and scientific objects therein. The Monument included approximately 139,793 square miles of emergent and submerged lands. Federal regulations for the Monument were implemented on August 29, 2006 (71 F.R. 51134, 50 C.F.R. Part 404) which codify the scope and purpose, boundaries, prohibitions, and activities necessary for managing the Monument. In December of 2006, due to the various agencies involved with management, Hawai‘i Governor Lingle, the Secretary of the Interior as represented by FWS, and the Secretary of Commerce as represented by NOAA, signed a Memorandum of Agreement (MOA) which established that all three parties (DLNR, NOAA and FWS) would serve as Co-Trustees and co-managers of the Monument.

In 2016, Presidential Proclamation 9478 of August 26, 2016, expanded the Monument. This expanded area includes the waters and submerged lands to the extent of the seaward limit of the United States Exclusive Economic Zone (U.S. EEZ) west of 163 degrees west longitude and covers an additional 442,781 square miles. The same proclamation mandates the creation of a joint management plan by all co-managing agencies. Proclamation 9478 also directs the Secretary of Commerce to consider initiating the process to designate the Monument expansion area and the Monument seaward of the Hawaiian Islands National Wildlife Refuge and Midway Atoll National Wildlife Refuge and Battle of Midway National Memorial as a national marine sanctuary to supplement and complement existing governmental authorities. In 2017, a new Memorandum of Agreement was created which provided for the inclusion of the Office of Hawaiian Affairs (OHA) as a fourth Co-Trustee and partner in the Monument management process to assure the perpetuation of Hawaiian cultural resources in the Monument, including the customary and traditional rights and practices of Native Hawaiians exercised for subsistence, cultural, and religious purposes under the Hawai‘i Constitution, article XII, section 7. It was signed by the Hawai‘i Governor Ige, the Secretaries of Interior and Commerce, and the OHA Chair. The Co-Trustees will work together in a coordinated fashion to cooperatively manage areas where joint or adjacent jurisdiction exists, while continuing to honor the policies and statutory mandates of the various management agencies.
Figure 1- Map of the Hawaiian Archipelago and Papahānaumokuākea Marine National Monument including both the original and extended boundaries. Marine portions of the Monument may potentially be considered for inclusion in a national marine sanctuary. From papahanaumokuakea.gov.
1.3 Proposed Action

DLNR in cooperation with OHA, FWS and lead agency NOAA, are proposing to initiate the action of initiating the process to designate contiguous marine portions of the Monument as a national marine sanctuary (hereby referred to as ‘sanctuary’).

Background

In December of 2020, Congress directed NOAA to initiate the process to designate the Monument as a national marine sanctuary under the National Marine Sanctuaries Act (NMSA; 16 U.S.C. 1431 et seq). The NMSA authorizes the Secretary of Commerce, through NOAA, to designate and protect as national marine sanctuaries: areas of the marine environment that are of special national significance due to their conservation, recreational, ecological, historical, scientific, cultural, archeological, educational, or esthetic qualities. Management of national marine sanctuaries has been delegated by the Secretary of Commerce to NOAA's Office of National Marine Sanctuaries (ONMS). The primary objective of the NMSA is to protect the sanctuary system’s biological and cultural resources, such as coral reefs, marine animals, archaeological sites, historic structures, and historic shipwrecks.

Based on the process delineated in section 304 of the NMSA, NOAA will consider marine areas within both the original Monument boundary and the Monument expansion area for designation as a national marine sanctuary. The proposed sanctuary designation area would not include terrestrial areas of the Monument. The current regulations and restrictions for the Monument, including prohibited activities articulated in Presidential Proclamations 8031, 8112 and 9478 and Executive Order 13178, will provide a baseline for the sanctuary proposal. As part of the sanctuary designation process, NOAA will develop draft designation documents, in consultation with the Monument Co-Trustees, including proposed sanctuary regulations and terms of designation. As a result, designating the Monument as a national marine sanctuary would allow the NMSA to reinforce the existing interagency management regulations (50 C.F.R. 404 et seq.).

It is important to note that the proposed action cannot, and will not, weaken the current protections or authorities in place within the Monument, whether marine or terrestrial, nor does it change or supersede any of the existing state and federal jurisdictions, regulations, or management structures of the Monument, as provided by the executive order and proclamations. Any regulations for a proposed sanctuary would be separate from, but supplementary and complementary to, existing Monument regulations and prohibitions in the establishing executive order and proclamations.

1.4 Purpose and Need

The Proposed Action involves the use of state-owned lands, which pursuant to HRS section 343-5(a)(1), requires the preparation of an environmental assessment or EIS. HRS section 343-5(3) enacted by Act 172 (S.L.H. 2012), allows an applicant or agency to prepare an EIS directly, instead of first preparing an environmental assessment (EA) if the accepting authority determines, through previous experience or best judgement, that an EIS is likely to be required.
The preparation of an EIS in this case, begins with the preparation of an EIS Preparation Notice (EISPN) and is often referred to as an “Act 172 EISPN”.

The purpose of the Proposed Action is to:

- develop objectives and actions that ensure lasting protections consistent with the existing Monument proclamations and regulations;
- safeguard natural and cultural values of the marine environment of Papahānaumokuākea Marine National Monument;
- strengthen the existing interagency management regulations (50 C.F.R. 404 et seq.);
- authorize NOAA to assess civil penalties for violations of sanctuary regulations or permits and to enforce provisions of the NMSA;
- prohibit destruction or loss of sanctuary resources and provide natural resource damage assessment authorities for loss of or injury to any sanctuary resource;
- require interagency consultation for any Federal agency actions that are likely to cause the loss of or injury to sanctuary resources;
- enhance the joint permitting system for activities in the Monument expansion area;
- augment existing authorities under the Antiquities Act, Presidential Proclamations 8031, 8112 and 9478, Executive Order 13178, and 50 C.F.R. 404 to provide additional regulatory and non-regulatory tools for management and protection of Monument resources.

The need of the sanctuary designation is to fulfill the purposes and policies outlined in Section 301(b) of the NMSA, 16 U.S.C. 1431(b), including to identify and designate areas of the marine environment which are of special national significance as national marine sanctuaries, provide authority to NOAA for comprehensive and coordinated conservation and management of these marine areas, and to protect the resources of these areas. Additionally, the need of the designation is to implement the provision of Presidential Proclamation 9478 that directs NOAA to consider initiating the sanctuary designation process.

1.5 NEPA/HEPA Process

Due to the 2017 MOA and the co-managed nature of Papahānaumokuākea, government actions to this area require compliance with federal law as well as State of Hawaiʻi law. The National Environmental Policy Act (NEPA) (42 United States Code [U.S.C.] Section 4321 et seq.) directs federal agencies to examine the potential impacts of proposed actions on the human environment. NEPA requirements ensure that environmental information is available to public officials and citizens for review before decisions are made and before actions are taken. Hawaiʻi has its own Environmental Impact Statement statutes and implementing rules, codified in Hawaii Revised Statutes (“HRS”) chapter 343 and Hawaii Administrative Rules (HAR) chapter 11-200.1. Collectively, the respective Hawaiʻi statutes and rules are implement the Hawaiʻi Environmental Policy Act (HEPA). Like NEPA, the purpose of HEPA is to ensure environmental concerns are given appropriate consideration in decision making, along with socioeconomic and technical considerations. According to HRS section 343-5(f), “whenever an action is subject to both NEPA and the requirements of this chapter, the agencies shall cooperate
with federal agencies to the fullest extent possible to reduce duplication between federal and state requirements. Such cooperation, to the fullest extent possible, shall include joint EIS with concurrent public review and processing at both levels of government. Where federal law has environmental impact statement requirements in addition to but not in conflict with this chapter, the office and agencies shall cooperate in fulfilling these requirements so that one document shall comply with all applicable laws.” As such, a single Draft EIS (DEIS) will be completed, compliant with both NEPA and HEPA regulations to facilitate concurrent public review and processing at the federal and state levels of government.

The first step in the state process, according to HRS chapter 343, is publication of an EIS Preparation Notice (EISPN) to alert the public of an agency’s intent to prepare an EIS and initiate the public scoping process. The parallel in the federal NEPA process is the publication of a Notice of Intent (NOI) in the Federal Register. (The NOI for this proposed action was submitted by NOAA ONMS and published in the Federal Register, available at https://www.federalregister.gov/).

HEPA requires an EISPN to alert the public of an agency’s intention to prepare an EIS. NEPA requires that “to the fullest extent possible, agencies shall prepare draft environmental impact statements concurrently and integrated with environmental impact analyses and related surveys and studies required by all other federal environmental review laws and Executive Orders” (40 C.F.R. Part 1502.24[a]). The information from these two notices provides decision makers with a comprehensive overview of the regulatory issues associated with the Proposed Action, which is documented in the joint EIS.

Public involvement is in the forefront of both the NEPA and HEPA processes which include solicitation of public scoping meetings and hearings as well as invitation for public comment at meetings, and comments on the DEIS and its analysis. HEPA allows Draft and Final federal EIS documents to be submitted in compliance with HRS Chapter 343, provided that the federal EIS satisfies the content requirements identified in HEPA, including addressing potential cultural resources impacts (HAR Section 11-200.1-31 (4) and (5)).

1.6 Lead and Cooperating Agency Roles for the EIS

NOAA will serve as the lead agency for the NEPA process for this Proposed Action, and FWS, DLNR, and OHA shall serve as cooperating agencies. The State of Hawai‘i DLNR will serve as the lead agency for the HEPA process and the fulfilment of any requirements for state compliance with the Proposed Action, in consultation with OHA. It is important to reiterate that DLNR, OHA, NOAA and FWS are all Co-Trustees of Pūhopū, and their role in the environmental review process does not change, weaken, or determine their management authority or role as a Co-Trustee at Pūhopū.

Together, the agencies will prepare a single EIS that evaluates all decisions to be made, for the purposes of both NEPA and HEPA compliance. Each agency will prepare a separate Record of Decision, as appropriate.
1.7 Process for Undertaking the Proposed Actions and Environmental Review

1. **Public Scoping Process**— Information collection and characterization, including the consideration of public comments received during scoping;

2. **Preparation of Draft Documents**— Preparation and release of draft sanctuary designation documents including a draft Environmental Impact Statement (DEIS) prepared pursuant to NEPA, and a notice of proposed rulemaking to define proposed sanctuary boundaries and regulations. Draft documents would be used to initiate consultations with Federal, state, or local agencies, the Office of Hawaiian Affairs, Native Hawaiian organizations, and other interested parties, as appropriate;

3. **Public Comment**— Through public meetings and in writing, allow for public review and comment on the DEIS, and notice of proposed rulemaking;

4. **Preparation of Final Documents**— Preparation and release of a final environmental impact statement (FEIS), final joint management plan, and a final rule and regulations, including a response to public comments.

5. The sanctuary designation and regulations would take effect after the end of a review period of forty-five days of a continuous session of Congress. During this same period, should the designation include state waters, the Governor of the state will have the opportunity to concurrently review the terms of designation, including boundaries within state waters.

1.8 Required permits and approvals

Federal, State, and local permits, authorizations or consultations may be required for the Proposed Action, including consultation under the Endangered Species Act, 16 U.S.C. 1531 et seq., Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1801 et seq., National Historic Preservation Act, 54 U.S.C. 300101 et seq., Hawai‘i Historic Preservation Review, HRS Chapter 6E, specifically sections 6E-8 and 6E-42, and HAR Chapter 13-275; consistency review under the Coastal Zone Management Act, 16 U.S.C. 1451 et seq., and Hawai‘i Coastal Zone Management Act, HRS Chapter 205A, Hawai‘i Conservation District laws, HRS chapter 183C and HAR chapter 13-5, and possibly reviews under other laws and regulations determined to be applicable to the proposed action. To the fullest extent possible, NOAA and the State of Hawai‘i will prepare the DEIS concurrently with, and integrated with, analyses required by other federal environmental review requirements, and the DEIS will list all federal permits, licenses, and other authorizations that must be obtained in implementing the proposed action.

1.9 Schedule for the Decision-Making Process

The DEIS and draft sanctuary designation documents are anticipated to be available to the public in January 2023. The Final EIS (FEIS) is expected to be available to the public in June 2024. Records of Decision and the final rule will be completed no sooner than 30 days after the FEIS is made available to the public, in accordance with 40 C.F.R. 1506.11.
POTENTIAL IMPACTS AND ALTERNATIVES

2.1 Identification and Summary of Potential Impacts

The DEIS will identify and describe the potential effects of the Proposed Action, and reasonable alternatives, on the human environment. Potential impacts may include, but are not limited to, impacts on the Monument’s natural marine resources, including habitats, plants, sea turtles, marine mammals, and special status species; the Monument’s cultural and historic resources; and human uses and socioeconomics of the Monument, including research, recreation, education, cultural practices, and fishing. Based on a preliminary evaluation of the resources listed above, DLNR expect potential impacts would include continued or enhanced protection of the Monument’s natural, cultural and historic marine resources; improved planning and coordination of research, monitoring, and management actions; reduced negative anthropogenic impacts and disturbance to marine ecosystems; increased restoration of native habitat and species populations, particularly those under protected status; reduced threats and stressors to the Monument’s marine resources; and minimal disturbance during research or restoration actions.

2.2 Alternatives considered

The DEIS will consider alternatives to the Proposed Action and describe potential effects on the surrounding environment. The DEIS will evaluate a reasonable range of action alternatives that could include different options for sanctuary regulations and potential boundaries. The DEIS will also consider a No Action Alternative, wherein the Co-Trustees would not begin the national marine sanctuary designation process.

The results of this scoping process will assist in formulating alternatives for the DEIS and any additional proposed regulations for the area, as well as assist in determining how to move forward with the sanctuary designation process. Reasonable alternatives that are identified during the scoping period will be evaluated in the DEIS.

DETERMINATION AND RATIONALE

Under HRS section 343-5, the Proposed Action triggers environmental review under HRS chapter 343 because it involves the use of state lands (HRS section 343-5(a)(1)), lands classified as in the Conservation District by the State Land Use Commission under HRS chapter 205 (HRS section 343-5(a)(2)), use of land in a shoreline area (HRS section 343-5(a)(3)) and lands classified as historic sites or districts (HRS section 343-5(a)(4)).

Often, the environmental review process begins with the preparation of a draft environmental assessment (EA) which can conclude in one of two ways: If the approving authority determines that a proposed action is not likely to have a significant effect on the environment, it issues a “finding of no significant impact” (FONSI) and directs the applicant to file the FONSI and a final EA with the Office of Environmental Quality Control (now the Office of Planning and Sustainable Development). However, if the approving authority determines that a proposed action may have a significant effect on the environment (or if an EIS is required for a coinciding
federal NEPA process), the proposing agency is instructed to prepare an EISPN and complete the environmental review process through the preparation and processing of an EIS. However, as a result of Act 172 which was passed by the Hawai‘i State Legislature in 2012, the approving authority may authorize a proposing agency to proceed directly to the preparation of an EISPN where the agency determines, through its judgment and experience, that an EIS is likely to be required (HRS section 343-5(3)(e)). Similarly, HAR section 11-200.1-14(d) permits an approving authority to authorize the proposing agency to proceed directly to the preparation of an EISPN where the agency determines, through its judgment and experience, that an EIS is likely to be required.

The preparation of an EIS for a national marine sanctuary is a federal requirement under the National Marine Sanctuaries Act. Pursuant to HRS section 343-5(h), the state shall cooperate with federal agencies to the fullest extent possible where federal law has environmental impact statement requirements. As such, due to the co-managed nature of Papahānaumokuākea, an EIS is also required by the state of Hawaii for this Proposed Action and will be completely jointly with the federal co-managing agencies. For more information on the joint EIS and joint NEPA/HEPA process, see section 1.5 (above).

AGENCIES AND PARTIES TO BE CONSULTED

Under HAR section 11-200.1-23(b), a proposing agency must consult with the respective county planning department(s) and other agencies or individuals that might have jurisdiction or expertise with respect to the proposed action. Further, articles IX and XII of the Hawai‘i Constitution, other state laws, and the courts of the state require government agencies to promote and preserve cultural beliefs, practices, and resources of native Hawaiians and other ethnic groups. HRS chapter 343 also requires environmental assessment of cultural resources, in determining the significance of a proposed project. The types of cultural resources subject to assessment may include traditional cultural properties or other types of historic sites, both man-made and natural, including submerged cultural resources, which support such cultural practices and beliefs. State consultation for the joint EIS will be collaborative with the federal agencies and section 106 of the National Historic Preservation Act (NHPA) process which requires consultation of similar parties. The processes required by NEPA and section 106 of the NHPA will satisfy the requirements of HAR section 11-200.1-23. However, DLNR and OHA maintain the ability to consult with parties separately from the federal process if desired.

Some of the parties that may have consultative roles in accordance with HAR section 11-200.1-23, HRS chapter 343 and NHPA, are the state historic preservation officer, Native Hawaiian organizations, representatives of local government, and additional consulting parties. Certain individuals and organizations may also participate as consulting parties due to the nature of their legal or economic relation to the undertaking or affected properties, or their concern with the undertaking’s effects on historic properties. The agencies also seek public input on potential effects on historic properties in the area of potential effects (contiguous marine portions of the Monument) and accommodate this input through the NEPA/HEPA scoping process. Consulting party participation will be solicited via letters of invitation. A complete list of parties consulted by both federal and state agencies will be included in the DEIS.
PUBLIC SCOPING PROCESS

The public scoping process, in accordance with HAR section 11-200.1-23, provides for public and agency input through outreach and public comment periods. Scoping serves as an opportunity to gain input from the community, agencies and other stakeholders regarding the issues and resources they would like to see addressed and analyzed throughout the EIS process. Publication of this EISPN in OEQC’s (see above) The Environmental Bulletin initiates a 30-day public review and comment period, within which agencies, groups and individuals have an opportunity to make written comments regarding potential environmental effects from the Proposed Action. The lead and cooperating agencies will respond to all substantive comments (defined as those pertaining to the scope of the EIS), and responses will be included in the DEIS. Information collected during the scoping process will be incorporated into the DEIS to help to identify important issues and provide guidance. HAR section 11-200.1-23 also requires a public scoping meeting to be held during the 30-day EISPN comment period. However, as this is will be a joint state/federal EIS, to better align the HRS chapter 343 (HEPA) and NEPA scoping periods, and to allow the public more time to participate in the scoping process, DLNR will be requesting an extension of the comment period beyond 30 days, but not to exceed 60 days from the publication date.

Due to the continued COVID-19 pandemic, all public scoping meetings will be virtual. Webinar registration details and additional information about how to participate in these public scoping meetings is available at https://sanctuaries.noaa.gov/papahanaumokuakea/.

Meetings will be at the following dates and times:

- Monday, December 8, 2021 at 6:00 PM HST
- Thursday, December 11, 2021 at 12:00 PM (Noon) HST
- Tuesday, December 14, 2021 at 6:00 PM HST
- Thursday, December 16, 2021 at 3:00 PM HST

Comments may be submitted by January 31, 2022. You may submit comments on this notice by any of the following methods:

- Federal eRulemaking Portal: Go to https://www.regulations.gov and enter NOAA-NOS-2021-0114 in the Search box. Click on the “Comment” icon, complete the required fields, and enter or attach your comments.

- Mail: Send any hard copy public comments by mail to:
  Ryan Okano
  Division of Aquatic Resources
  1151 Punchbowl St. Room 330
  Honolulu, HI 96813
• Public Scoping Meetings: Provide oral comments during virtual public scoping meetings, as described above. Webinar registration details and additional information about how to participate in these public scoping meetings is available at www.papahanaumokuakea.gov.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered. All comments received are a part of the public record and will generally be posted for public viewing on https://www.regulations.gov without change. All personal identifying information (for example: name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the commenter will be publicly accessible. Anonymous comments will be accepted (enter “N/A” in the required fields if you wish to remain anonymous).

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