



# STATE ENVIRONMENTAL COUNCIL

DEPARTMENT OF HEALTH, STATE OF HAWAII  
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Chairperson  
Puananionaona Thoene

Vice Chair  
Mary Begier

Members  
Roy Abe  
Stephanie Dunbar-Co  
Scott Glenn (*Ex Officio*)  
Maka'ala Ka'aumoana  
P. Ka'anohi Kaleikini  
I. Robin Kaye  
Theresita Kinnaman  
Robert Parsons  
Charles Prentiss  
Ron Terry  
Michael Tulang  
N. Mahina Tuteur

January 8, 2019 Meeting Minutes  
Approved on March 12, 2019

Meeting held on  
Tuesday, January 8, 2019, 1:00 PM - 3:30 PM  
Capitol #1 Building  
Room 410, Executive Office of Aging  
250 South Hotel Street, Honolulu, Hawai'i 96813

## Members Present (11)

Puananionaona Thoene (Chair), Mary Begier (Vice Chair), Roy Abe, Scott Glenn (*ex officio*), Robin Kaye, Maka'ala Ka'aumoana, Theresita Kinnaman, Robert Parsons (arrived at 1:10 PM), Charles Prentiss, Michael Tulang, Mahina Tuteur

## Members Absent (3)

Stephanie Dunbar-Co, P. Ka'anohi Kaleikini, Ronald Terry

Environmental Council Deputy Attorney General (AG)  
Edward Bohlen

Office of Environmental Quality Control (OEQC) Staff  
Laura McIntyre, Planner

Public  
Dylan Armstrong (AECOM), Emily Gaskin (UH Law School)

Note: **Bolded** items indicate text from the agenda

## 1. **Call to order, roll call and quorum, introductions**

Chair Thoene called the meeting to order at 1:07 PM. All present introduced themselves.

## 2. **Review and approval of prior meeting minutes**

### a. **Approve the meeting minutes for the December 18, 2018 meeting.**

- Meeting minutes from December 18, 2018, were not ready for review.

## 3. **Update on the final proposed rules, including progress towards presenting them to the Small Business Regulatory Review Board in January 2019**

- Director Glenn is scheduled to submit the rules and small business impact statement to the Small Business Regulatory Review Board (SBRRB) Director on Friday for next week's (Thursday, January 17, 2019) meeting. The Legislative Reference Bureau (LRB) reviewed the rules and Director Glenn reported that he received edits back this morning. He noted that the review was mostly about formatting, questions on acronyms, some word choices, but no substantive suggestions. If the Deputy Attorney General signs off on all of the LRB edits, Director Glenn plans to finalize the new version of the rules as 2.0. Version 2.0 is planned for release this Friday as an attachment to the SBRRB agenda.

- Member Ka'auomoana asked if Council members could attend the SBRRB meeting. The Deputy AG Bohlen noted that while the Council Chair is authorized to speak on behalf of the Council, members are welcome to attend as members of the public.
- There is no update as to when rules would be sent to the Governor since the rules need first to be reviewed by the SBRRB.

**4. Exemption Committee:**

**a. Review and concur with the Hawai'i County Department of Environmental Management exemption list.**

- Committee Chair Prentiss noted that the Exemption Committee had some questions about the list, which Member Terry conveyed to the agency. Member Terry reported that after their conversation, the agency determined that no changes to the list were necessary. The Council previously approved publishing the list for the 30-day comment period. No comments were received on this list.
- Committee Chair Prentiss reported that the committee vetted the list as submitted with no changes and recommended that the Council concur with the list.

MOTION: Committee Chair Prentiss moved that the Council concur with the Hawai'i County Department of Environmental Management (DEM) list. The Council approved the motion to concur (10-0-1) (Member Tuteur absent).

- Committee Chair Prentiss noted that the date of the concurrence for this list is today's date. OEQC staff will follow-up with the agency to make needed changes and publish notice of the same in the periodic bulletin with a link to the respective PDF file on the SharePoint website.

**b. Discussion of agency exemption lists and concurrence procedures.**

- Committee Chair Prentiss reported that the committee would discuss how to handle updating lists with respect to the new rules at the next committee meeting.
- Agency exemption lists are available on the OEQC SharePoint site. Director Glenn clarified that there are two columns – one for the date of concurrence and one for when the Council last reviewed the list (and the Council finds that no further action is required at the time).
- Agency lists for Maui, O'ahu, and Kaua'i all need to be reviewed.

**5. Legislative Committee:**

**a. Discussion of topics raised in oral and written comments to the final proposed rules that may be more relevant to Chapter 343, Hawai'i Revised Statutes.**

- Committee Chair Kaye informed the Council that both he and Director Glenn planned to meet with Representative Lowen and Senator Gabbard on Wednesday, January 9, 2019, to recommend that the Legislature not amend Chapter 343, HRS, while the rules are still being finalized. He noted that a discussion of the proposed rules and comments received should suffice to highlight important issues including:
  - Triggers (for example, renewable energy production)
  - Definitions
  - Applicants and agencies – independence in that process
- Member Ka'auomoana suggested that the Committee Chair and Director brief the Senators on how oral comments are being addressed. She further suggested that they discuss/clarify:

- Document shelf life, and the Green Sheet as used by the City and County of Honolulu evaluating accepted EISs that are yet to be implemented.
- The opportunity for the public to provide comments in Hawaiian.
- Director Glenn noted that Ms. Emily Gaskin of the William S. Richardson School of Law is assisting the OEQC in preparing draft guidance for the new rules. Ms. Gaskin noted that in preparation for her role, she has reviewed past OEQC guidance documents and the national and out-of-state guidance documents, including those that were reference by the Council during the rulemaking process. She noted that if the Council so desired, she can have more to present at the next Council meeting. Director Glenn suggested that Ms. Gaskin could look at exemption lists and work with the Exemption Committee.

## **6. Draft Environmental Council 2018 Annual Report**

### **a. Review and approve draft document distributed electronically to the Council members on Monday, January 7, 2019**

- Committee Chair Parsons updated the Council on the previous Annual Report Committee meeting. He noted that he was unable to attend the December meeting so discussion was deferred.
- The Council held extensive discussion on whether the report meets the purpose of the statute and which Council member essays, if any, that the Council would like to include in the final report.
  - Member Kaye recommended edits for multiple sections including highlighting the extensive outreach the Council undertook, the use of CiviComment for online commenting, making the Genuine Progress Indicator section less academic and more aimed at the regular reader, and that all of the essays that Council members prepared should be included.
  - Member Abe wanted to include his article on cesspools as it showed another perspective. The purpose of the annual report is to monitor progress of government agencies on environmental policies and that more investigation is warranted on the potential cesspool ban and millions of dollars the Department of Health plans to spend.
  - Deputy AG Bohlen raised concerns that the essays go beyond the purpose of the statute. He raised concerns about the cesspool article in presenting the scope of the policy discussion in a balanced way and how it characterized the Department of Health. It is up to the Council to decide whether to include material that goes beyond the statute, however he recommended to not publish either essay.
  - Member Ka'auomoana wanted to include her essay to give readers a sense of the "rain bomb" aftereffects on Hanalei from a perspective of someone on the ground. However, she also expressed willingness to not include the essay as it did not expressly address the statutory purpose of the report.
  - Councilmembers considered whether these articles addressed the progress of government agencies on environmental policies versus expressing individual perspectives. The level of controversy within the Council may be a sign that inclusion of the cesspool and Hanalei essays might not be appropriate at this time. The authors could use the essays in other venues such as publishing in Civil Beat or submitting to the Cesspool Task Force.
  - The Council considered whether the disclaimer that articles did not reflect the position of the Council but solely that of the author was a sufficient approach.

Council member opinion varied from a sense that the disclaimer was sufficient to a sense that inclusion could be seen as an implicit endorsement.

MOTION 1: Member Kaye moved, and Committee Chair Parsons seconded, that the Council approve the draft annual report, to include articles concerning cesspools, Hanalei, and to add an update on the Toxoplasmosis forum.

- Motion 1 failed with 7 ayes (Abe, Begier, Kaye, Parsons, Prentiss, Tulang, Tuteur) and 4 nays (Glenn, Ka'auomoana, Kinnaman, Thoene).

MOTION 2: Member Prentiss moved, and Member Kinnaman seconded, that the Council approve the draft report absent the cesspools and Hanalei articles, but to include more detail on the number of comments received on various draft rules and more about the Toxoplasmosis forum.

- Motion 2 passed with 8 ayes (Begier, Glenn, Ka'auomoana, Kinnaman, Prentiss, Thoene, Tulang, Tuteur) and 3 nays (Abe, Kaye, Parsons).

- 7. Approve the motion authorizing the OEQC Director to act on the Council's behalf regarding obtaining finalizing and submitting the annual report to the Governor and the Legislature. Anticipated activities include:**
  - a. Finalizing data presented in the report;**
  - b. Obtaining review and finalizing subject matter sections with section authors;**
  - c. Producing the digital and hard copy versions of the report;**
  - d. Distributing the report to the Governor, Legislature, and others as identified by the Council during the meeting; and**
  - e. Other administrative tasks as may be necessary.**

The Council noted that the OEQC Director did this last year to deliver the report and this motion is largely similar.

MOTION 3: Vice-Chair Begier moved, and Member Tulang seconded, that the Council authorize the Director of the OEQC to finalize the annual report as described in Motion 2. The motion passed unanimously (11-0-0).

Vice-Chair Begier and Members Kinnaman and Kaaumoana left at 2:44 P.M. Quorum was maintained with eight members present.

## **8. Adjournment**

- The next meeting was tentatively scheduled for Tuesday, February 12, 2019, in the same room (Executive Office of Aging) with the Information and Outreach Committee meeting at 10 AM, Legislative Committee meeting at 11:00 AM. and the Exemptions Committee meeting at noon.
- Chairperson Thoene adjourned the meeting at 3:04 PM.