



STATE ENVIRONMENTAL COUNCIL

DEPARTMENT OF HEALTH, STATE OF HAWAII
235 South Beretania Street, Suite 702, Honolulu, HI 96813

Phone: (808) 586-4185
Email: oeqchawaii@doh.hawaii.gov

David Y. Ige
Governor

Chairperson
Puananionaona Thoene

Vice Chair
Mary Begier

Members
Roy Abe
Stephanie Dunbar-Co
Maka'ala Ka'auomoana
I. Robin Kaye
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Ron Terry
Michael Tulang
N. Mahina Tuteur

February 4, 2020, Meeting Minutes
Draft for Review on March 3, 2020
Exemption Committee Meeting
State of Hawai'i, Environmental Council

Meeting Held on Tuesday, February 4, 2020, 12:00 PM - 1:00 PM
No. 1 Capitol Center Building, Executive Office on Aging
Room 410, 250 South Hotel Street, Honolulu, HI 96813

Members Present (3): Ron Terry (Chairperson); Puananionaona Thoene; Maka'ala Ka'auomoana; Michael Tulang (present from 12:50 to 1:00 PM)

Public Present: None.

Staff Present: Bill Cooper, Deputy Attorney General

Note: Text in bold indicates the original text of the agenda

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

With a quorum of three members, Chairperson Terry convened the meeting at 12:04 PM. All present introduced themselves.

2. **Review and approval of PRIOR meeting minutes.**

Minutes of December 3, 2019 were reviewed and several minor changes and one major change were noted. Chair Terry was asked to revise the minutes and provide again for March meeting.

3. **Distribution lists submitted to Exempt. Comm. Chair or Director for review and presentation to Exemption Committee.**

a. **Kaua'i Department of Water**

Chair Terry had several questions on whether some of the *de minimis* items (which we note was spelled *de minimus* on the list) were generally appropriate: Category 1 (4: floodlights); Category 2 (1a: garages; 1g: stream gauging stations). All members also had questions on whether some of the Part 2 items truly merited a full exemption notice (e.g., veg. maintenance, water service connections, window modifications).

Also, the changes as formatted were not easy to read and understand. We will request that they use a larger font, use indents to demarcate the three hierarchies in the list. It is important that it be clear and legible so that the public may effectively review it.

As there was no representative of the Kaua'i DOW present to discuss these issues, Chair Terry will reach out to the agency later this week and discuss our concerns and ask whether they would reconsider some of the items and possibly prepare a revised list for EC review.

4. Continued discussion of process for expedited exemption list review, including potential reduction in 30-day comment period

A process developed by Chair Terry and outlined in the December 3, 2019 draft minutes was discussed by the committee:

- a) Agency divides list into Part 1 and Part 2 and makes any other changes it considers appropriate, and designates a representative to the EC.
- b) Agency provides draft list to OEQC, who assigns initial review and coordination to either the Director or the Exemption Committee Chair (D/EEC).
- c) D/EEC reviews draft list, provides feedback to Agency rep.
- d) Agency amends list if it deems it appropriate, provides it back to D/EEC. Exemption Committee Chair will place it on agenda for Committee action and will also request the EC Chair to place it on EC agenda for publication consideration. This process provides the draft list and notice of meeting to the EC and the public.
- e) Exemption Committee reviews draft list in meeting, with Agency rep if Agency so chooses. Exemption Committee may recommend substantive further changes; if so, Agency may choose to amend list and then resume process at Step b. If no changes, or if recommended changes are not substantive, Exemption Committee may choose to advance list to Council for consideration to publish in OEQC notice with comments attn: to OEQC requested within a certain period of days (15? 20? 30?).
- f) Council will be asked to vote to publish draft list. If vote is YES, move to Step g. If no, agency may choose to go back to Step b, or may choose to forego the public review process and use the list without concurrence.
- g) OEQC will provide comments to the Agency rep and to the Exemption Committee.
- h) At the next Council meeting, Exemption Committee will meet, with Agency rep if Agency so chooses, to discuss comments, which will be included with the list in the agenda.
- i) Exemption Committee may recommend further changes; if so, Agency may choose to amend list and then resume process at Step b. If no changes, Exemption Committee and Agency may choose to advance list to Council for consideration of concurrence.
- j) If the Council concurs, the list will be published on the OEQC website as a concurred list.
- k) If no concurrence, Agency may choose to restart process, or may choose to use the list without concurrence.

The committee reviewed and approved of the process. Concerning the comment period, it was proposed by Chair Terry that in order to provide timely review of the reformatted agency lists, the comment period be reduced to 15 days. There is no statutory or rules requirement for a comment period of any sort. The lists are an order of magnitude less lengthy and complex than an EA, and 30 days to review does not seem necessary. We normally receive very few comments on the lists. The committee voted unanimously to recommend to the Council that the comment period be 15 days. It was noted that asking for Council endorsement of this would provide important notice to the full Council.

5. Next meeting date and agenda.

The next meeting is planned for March 3, 2020. We expect to have public comments on the DLNR list, possibly a revised Kauai DOW list on the agenda, and perhaps other agency lists on the agenda. There are currently no other items for the agenda.

6. Adjournment.

Chair Terry adjourned the meeting at 12:53 PM