



The Environmental Notice

October 23, 2019

David Y. Ige, Governor

The Environmental Notice provides public notice for projects undergoing environmental review in Hawai'i as mandated under Section 343-3, Hawai'i Revised Statutes, the Environmental Impact Statement Law. Along with publishing Environmental Assessments and Environmental Impact Statements for projects in Hawai'i, *The Environmental Notice* also includes other items related to the shoreline, coastal zone, and federal activities.



Puna, at the eastern-most side of the island of Hawai'i, catches the first glimpse of a new sunrise in Hawai'i nei

Photo credit: [Thomas Tunsch](#)

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ANNOUNCEMENTS


- OEQC has prepared a new unofficial compilation of the various Statutes, Rules and Session Laws that are related to the environmental review process in Hawai'i established pursuant to HRS Chapter 343 (sometimes referred to as HEPA, to distinguish it from the federal process known as NEPA). It is available on our website [here](#).
- In addition, please click [here](#) to access a draft flowchart of the HEPA environmental review process that includes references to the new administrative rules for each step. Be aware that it has been formatted to fit on an 11 x 17 page.

STATEWIDE MAP OF NEW HRS CHAPTER 343 DOCUMENTS & DETERMINATIONS




HAWAII

Barry Family SFR at Kea'au--Draft EA (AFNSI)

HRS §343-5(a) Trigger	(7) Propose any reclassification of any land classified as a conservation district	
District(s)	Puna	
TMK(s)	(3) 1-5-059:059	
Permit(s)	State Land Use District Boundary Amendment	
Approving Agency	Land Use Commission, State of Hawai'i Scott Derrickson, (808) 587-3921, scott.a.derrickson@hawaii.gov P.O. Box 2359, Honolulu, HI 96804-2359	
Applicant	Kevin M. Barry and Monica S. Barry, Trustees of the Barry Family Trust Dated November 15, 2006 Kevin M. Barry and Monica S. Barry, (619) 851-0297; (858) 442-9180, kmbarry82@gmail.com P.O. Box 247, Kea'au, HI 96749	
Consultant	Carlsmith Ball LLP; 1001 Bishop St., Suite 2100, Honolulu, HI 96813 Derek B. Simon, Esq., (808) 523-2589, dsimon@carlsmith.com	
Status	Statutory 30-day public review and comment period starts. Comments are due by November 22, 2019. Please send comments to the approving agency and copy the applicant and the consultant.	

The Applicants have petitioned the Land Use Commission of the State of Hawai'i for a State Land Use (SLU) District Boundary Amendment (DBA) to reclassify approximately 0.51 acres of land located within the Hawaiian Paradise Park subdivision on the shoreline in Kea'au, Puna, County and State of Hawai'i, from State Land Use Conservation District to the SLU Agricultural District. The Applicants are pursuing the DBA to allow for the construction of a modest dwelling and associated agricultural uses that the Applicants will use as their primary personal residence (Project). The Project is proposed to also include a two-car garage, a lanai on the makai side of the home facing the Pacific Ocean, a courtyard on the mauka side of the home fronting Paradise Ala Kai Drive, a small swimming pool, infrastructure (i.e., private water well, including an underground water storage tank, or private catchment system, underground individual wastewater system, and photovoltaic solar system), and appropriate landscaping.

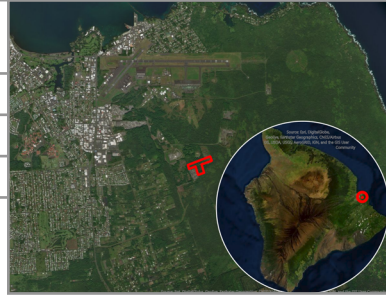
Grossbard/Bourzat SFR at Keonepoko--Final EA (FONSI)

HRS §343-5(a) Trigger	(2) Propose any use within any land classified as a conservation district	
District(s)	Puna	
TMK(s)	(3) 1-5-009:053	
Permit(s)	Various (see document)	
Approving Agency	Department of Land and Natural Resources, State of Hawai'i Lauren Yasaka, Planner, (808) 587-0386, lauren.e.yasaka@hawaii.gov 1151 Punchbowl St., Room 131, Honolulu, HI 96813	
Applicant	Françoise Bourzat and Aharon Grossbard C/O James Leonard, 56 Laukono St., Hilo, HI 96720, (808) 896-3459, jmleonard@mac.com	
Consultant	Geometrician Associates; P.O. Box 396, Hilo, HI 96721 Ron Terry, (808) 987-5239, rterry@hawaii.rr.com	
Status	Finding of No Significant Impact (FONSI) determination.	

The applicants plan a 1-story, 2,560-square foot (sf), 3-bedroom, 2-bath residence on their 6.91-acre property near Hawaiian Beaches. Also included are electric lines, an IWS, a water well and tank, an improved driveway, and an 858-sf utility shed. They will landscape with primarily native or Polynesian species and a small fruit tree orchard. All improvements would be on previously disturbed land. Landclearing over less than an acre would generate short-term impacts to noise, air and water quality, and scenery, mitigated by BMPs. A botanical survey found no threatened or endangered plant species in use areas. A coastal strip of native vegetation includes the endangered grass *Ischaemum byrone*. The owners will remove non-native trees here for both native vegetation protection and sight lines, but all native plants will be preserved. Impacts to islandwide-ranging endangered Hawaiian hoary bats and Hawaiian hawks will be avoided through vegetation removal timing. An archaeological survey found no sites and a cultural impact assessment determined that no cultural sites or practices would be affected. The residence would be not be visible from Government Beach Road. The wide shoreline setback and placement amid native vegetation would keep the home only subtly visible from the sea. The shoreline supports fishing and gathering and the applicants understand the public's right to traverse and utilize this area.

HAWAII (CONTINUED)

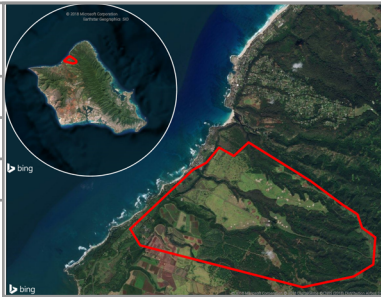
Yamada and Sons Rock Quarry--Draft EA (AFNSI)

HRS §343-5(a) Trigger	(1) Propose the use of state or county lands or the use of state or county funds	
District(s)	South Hilo	
TMK(s)	(3) 2-1-013:002	
Permit(s)	License to Quarry on State Land	
Approving Agency	Department of Land and Natural Resources, State of Hawai'i Candace Martin, (808) 974-6203, Candace.m.martin@hawaii.gov P.O. Box 621, Honolulu, HI 96809	
Applicant	Yamada and Sons; 733 Kanoielehua Ave., Hilo, HI 96720 Harry Yada, (808) 640-7813, yadah001@hawaii.rr.com	
Consultant	Geometrician Associates; P.O. Box 396, Hilo, HI 96721 Ron Terry, (808) 987-5239, rterry@hawaii.rr.com	
Status	Statutory 30-day public review and comment period starts. Comments are due by November 22, 2019. Please send comments to the approving agency and copy the applicant and the consultant.	

Yamada and Sons seeks a license to develop a 37.882 acres of State land as a rock quarry. The site is near existing quarries and is covered mostly with large invasive trees that grew after surface disturbance from work in the 1960s. The quarry would allow manufacture of base course and components of hot mix asphalt and concrete necessary for the a wide variety of public and private projects. Rock would be excavated with heavy equipment, with some drilling and blasting. Rock would be stockpiled onsite or trucked off-site to Yamada and Sons' quarry baseyard on Railroad Avenue for crushing/processing and sale. About 25,000 tons of material would be extracted per month, with the excavation reaching a maximum depth of about 80 feet and a lifetime of 20 to 30 years. No archaeological sites, cultural practices, sensitive waters, or rare species would be affected.

O'AHU

Kawailoa Wind Farm--(Acceptance of Final Supplemental EIS)

HRS §343-5(a) Trigger	(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	
District(s)	Waialua	
TMK(s)	(1) 6-1-006:001, 6-1-007:001, and 6-2-011:001	
Permit(s)	Amendment to State Incidental Take License	
Approving Agency	Department of Land and Natural Resources, State of Hawai'i Jim Cogswell, (808) 587-4187, james.m.cogswell@hawaii.gov Division of Forestry and Wildlife, 1151 Punchbowl St., Room 325, Honolulu, HI 96813	
Applicant	Kawailoa Wind, LLC; 1166 Avenue of the Americas, 9th Floor, New York, NY 10036 Brita Woeck, (206) 949-5228, BRIWO@orsted.com	
Consultant	Tetra Tech, Inc.; 737 Bishop St., Suite 2340, Honolulu, HI 96813 Lisa Kettley, lisa.kettley@tetratech.com	
Status	The approving agency accepted the Final SEIS on September 27, 2019	

The Kawailoa Wind Project operates a 30-turbine, 69-megawatt wind energy generation facility on agricultural lands located approximately five miles northeast of Hale'iwa, O'ahu. An EIS for the Project was accepted by the State's Department of Business, Economic Development, and Tourism in July 2011. The Project was constructed in 2012 and has been in operation since that time. The Project operates under an approved Habitat Conservation Plan (HCP) and Incidental Take License (ITL) issued by the Department of Land and Natural Resources, pursuant to HRS Chapter 195D. The HCP and ITL provide coverage for incidental take of State listed wildlife species, including the endangered Hawaiian hoary bat (*Lasiurus cinereus semotus*). Post-construction mortality monitoring data indicate that the wind turbines are causing a greater number of endangered Hawaiian hoary bat fatalities than anticipated in the approved HCP and authorized under the ITL. Additionally, Kawailoa Wind is requesting to add take authorization for the endangered Hawaiian petrel (*Pterodroma sandwichensis*). Accordingly, Kawailoa Wind, LLC is seeking approval of a major amendment to the HCP as part of the request to add the Hawaiian petrel, and increase the amount of incidental Hawaiian hoary bat take, authorized under the ITL. Given the increase in estimated take of the Hawaiian hoary bat and the unanticipated take of the Hawaiian petrel, and the resulting increase in intensity of impacts, an SEIS was required.

PREVIOUSLY PUBLISHED DOCUMENTS OPEN FOR COMMENT

Status: Public review and comment period for these projects began previously. Please click on the links below to access the document, and after review, send your comments to the relevant agency and copy any relevant applicant and/or consultant.

COMMENTS DUE OCTOBER 23, 2019

O'AHU: [Sea Life Park Improvements--Draft EA \(AFNSI\)](#)

COMMENTS DUE NOVEMBER 7, 2019

HAWAII: [Wai'aha Well B--Draft EA \(AFNSI\)](#)

MAUI: [East Maui Water Lease--Draft EIS](#)

O'AHU: [New Aloha Stadium Entertainment District \(EIS Preparation Notice\)](#)
['Ewa Villages R-1 Replacement Project--Draft EA \(AFNSI\)](#)

KAUA'I: [Kaua'i Seabird \(Habitat Conservation Plan\)](#)
[Waiahi Hydropower Long-Term Water Lease--Draft EA \(AFNSI\)](#)

COMMENTS DUE NOVEMBER 22, 2019

MAUI: [Windward Hotel--Draft EIS](#)

COASTAL ZONE MANAGEMENT NOTICES

SPECIAL MANAGEMENT AREA (SMA) MINOR PERMITS

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

Location (TMK)	Description (File No.)	Applicant/Agent
Hawaii: North Kona (7-5-006: 013; 020; 021; 022; 024; 030; 032; 039; 7-5-008: 010 and 011)	Temporary Booths/Event Spaces with Tents, Valid during the Ironman World Championship Event (SMM 19-000422)	Diana Bertsch
Hawaii: South Hilo (2-1-019: 010)	Richardson Ocean Park Accessibility Improvements (SMM 19-000423)	County of Hawaii Department of Parks and Recreation
Kaua'i: Kilauea (5-2-004: 077)	Ground Mount Photovoltaic (SMA(M)-2020-2)	Chris A.Mann
Kaua'i: 'Anini (5-3-006: 025)	Two-story Storage Room with Deck and Equipment Room, Conversion of Storage to Carport (SMA(M)-2020-3)	Robert Kukowski
Kaua'i: Niumalu (3-2-002: 029)	Fence and Driveway Gate (SMA(M)-2020-4)	Alyssa Carnegie
Kaua'i: Kalihiwai (5-3-003: 044)	Swimming Pool/Spa, Fence, Gates, and Equipment (SMA(M)-2020-5)	Lisa Chaplin-Melvin
Maui: Kahului (3-8-079: 016)	Verizon Wireless Rooftop/Build-Mounted Telecommunications Facility (SM2 20190086)	Verizon Wireless
Maui: Kihei (3-9-001: 004)	Maui Schooner Storage Area Enclosure (SM2 20190088)	Anthony Riecke-Gonzales
Maui: Kahului (3-8-079: 012)	Open Air Market (SM2 20190090)	Kaleo Alau
Maui: Wailea (2-1-023: 003)	Fairmont Kea Lani (SM2 20190091)	AXIS/GFA Architecture + Design
Maui: Ha'ikū (2-9-007: 048)	Grantham/De Naie Residence (SM2 20190092)	Daniel Grantham & Lucienne De Naie
Maui: Ha'ikū (2-7-036: 039)	Farmers' Market (SM2 20190093)	Moretti-Moretti Francesco
O'ahu: Waimānalo (4-1-014: 011)	Construction of a New Riprap Berm, Weep Holes and Soil Backfill (2019/SMA-26)	AECOM/Board of Water Supply, Ernest Y. W. Lau
O'ahu: Kailua (4-2-055: 012)	Kaohao Public Charter School New Basketball Court Tent (2019/SMA-31)	Hawaii State Department of Education/Long Chen, L.P.E (SGD Engineering)

SHORELINE NOTICES

APPLICATIONS FOR SHORELINE CERTIFICATION

The shoreline certification applications below are available for review at the Department of Land and Natural Resources offices on Kaua'i, Hawai'i, Maui, and Honolulu, 1151 Punchbowl Street, Room 220 (HRS § 205A-42 and HAR § 13-222-12). All comments shall be submitted in writing to the State Land Surveyor, 1151 Punchbowl Street, Room 210, Honolulu, HI 96813 and postmarked no later than 15 calendar days from the date of this public notice of the application. For more information, call Ian Hirokawa at (808) 587-0420.

File No.	Location	TMK	Applicant	Owner
MA-723	Front Street, Maui	(2) 4-5-002: road	Control Point Surveying, Inc.	County of Maui
MO-179	30 Oki Pl, Moloka'i 96748	(2) 5-3-006: 028	Helen Kekalia, CEO, Molokai Ohana Health Care, Inc.	Molokai Ohana Health Care, Inc.

PROPOSED SHORELINE CERTIFICATIONS AND REJECTIONS

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

File No.	Status	Location	TMK	Applicant	Owner
OA-1862	Proposed	47-407 Kamehameha Hwy, O'ahu 96744	(1) 4-7-009: 011	Walter P. Thompson, Inc.	Hawaii Rainbow Properties
OA-1876	Proposed	91-004 Nalomeli Pl., O'ahu 96708	(1) 9-1-005: 017	Kenn Nishihira	Chad A. & Christine M. Roe
MA-721	Proposed	35 Malukai Lane, Maui 96753	(2) 2-1-008: 062	Akamai Land Surveying, Inc.	Lori Huang

FEDERAL NOTICES

As a courtesy, listed below are some relevant entries from the Federal Register published since the last issue of *The Environmental Notice*. For more information, click on the title link, also available at www.federalregister.gov.

Proposed Rule: [List of Fisheries for 2020](#) (published by the National Oceanic and Atmospheric Administration on 10/10/2019)

The National Marine Fisheries Service (NMFS) publishes its proposed List of Fisheries (LOF) for 2020, as required by the Marine Mammal Protection Act (MMPA). The LOF for 2020 reflects new information on interactions between commercial fisheries and marine mammals. NMFS must classify each commercial fishery on the LOF into one of three categories under the MMPA based upon the level of mortality and serious injury of marine mammals that occurs incidental to each fishery. The classification of a fishery on the LOF determines whether participants in that fishery are subject to certain provisions of the MMPA, such as registration, observer coverage, and take reduction plan requirements. *Please click on linked title for additional information.*
Comments must be received by November 12, 2019.

Rule: [Atlantic Highly Migratory Species; Removal of Billfish Certificate of Eligibility Requirements](#) (published by the National Oceanic and Atmospheric Administration on 10/21/2019)

This final rule removes obsolete language in the Atlantic highly migratory species (HMS) regulations requiring that a Billfish Certificate of Eligibility accompany certain product. The requirement to possess a Billfish Certificate of Eligibility no longer applies because passage of 2018 amendments to the Billfish Conservation Act of 2012 prohibited the associated product sales by clarifying that billfish are only exempted from the sales prohibition when they are retained in Hawai'i or the Pacific Insular Areas. Accordingly, such billfish may only be sold in the same location where landed or when legally transported to the other exempted location (i.e., from Hawai'i to the Pacific Insular Areas or vice versa). This amendment removes a now-obsolete requirement consistent with an already-effective statutory provision. As further discussed below, we anticipate finding good cause that notice is unnecessary and that it will not be necessary to provide an opportunity for public comment. No aspect of this action is controversial. *Please click on linked title for additional information.* **This final rule is effective on October 21, 2019.**

GLOSSARY OF TERMS AND DEFINITIONS

Agency Actions

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

Applicant Actions

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

Draft Environmental Assessment

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

Final Environmental Assessment and Finding of No Significant Impact

The action's proponent shall respond in writing to comments on a DEA received during the 30-day review period and prepare a Final EA (FEA) that includes those responses to determine whether an environmental impact statement shall be required. If there are no significant impacts, then the Agency will issue a Finding of No Significant Impact (FONSI). An Environmental Impact Statement (EIS) will not be required and the project has cleared HRS 343 requirements. The public has 30 days from the notice of a FONSI in this bulletin to ask the Environmental Court to require the preparation of an EIS.

Final Environmental Assessment and Environmental Impact Statement Preparation Notice

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

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

Act 172 in 2012 amended HRS 343 by providing for an agency to bypass the preparation of an environmental assessment for various actions that in the experience of the agency would clearly require the preparation of an EIS. The agency must submit its determination that an EIS is required for an action (Act 172-2012, EISPEN) with a completed OEQC publication form detailing the specifics of the action. This starts a 30-day scoping period in which the agency or applicant must hold a public scoping meeting for the preparation of the Draft EIS. Written comments and responses on the EISPEN must be incorporated into the subsequent Draft EIS and oral comments from the public scoping meeting must be recorded and submitted to the OEQC with the Draft EIS.

Act 312-2012, Secondary Actions in the Highway or Public Right Of Way

Act 312-2012, amended HRS 343, by adding a new section (HRS 343-5.5., entitled "Exception to applicability of chapter"). HEPA allows for a statutory exception for "secondary actions" (those that involve infrastructure in the highway or public right-of-way) provided that the permit or approval of the related "primary action" (those outside of the highway or public-right-of-way and on private property) is not subject to discretionary consent and further provided that the applicant for the primary action submits documentation from the appropriate agency confirming that no further discretionary approvals are required. An aid to understanding this is to visualize residential driveway improvements in the public right-of-way, versus, retail outlet driveway improvements in the public right-of-way.

Draft Environmental Impact Statement

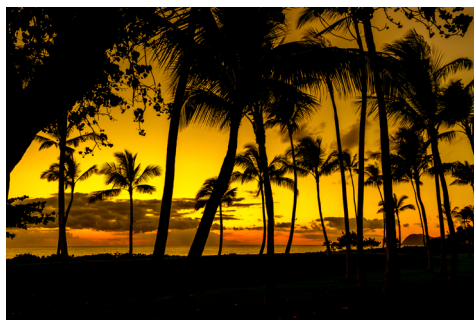
After receiving the comments on the EISPEN, the Agency or Applicant must prepare a Draft Environmental Impact Statement (DEIS). The content requirements of the DEIS shall contain an explanation of the environmental consequences of the proposed action including the direct, indirect and cumulative impacts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

Final Environmental Impact Statement

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

Acceptability

The Accepting Authority must be satisfied that the FEIS meets three criteria (process, content, response to comments) to accept it. If the FEIS is accepted, notice is published in this bulletin. The public has 60 days from publication to challenge the acceptance of a FEIS. For Applicant actions, non-acceptance by the Approving Agency is cause for the Applicant to administratively appeal to the Environmental Council. For Agency actions, there is no such administrative appeal. In both instances, the Applicant or the proposing Agency can prepare a revised DEIS after a non-acceptance determination.



Ko Olina Bay, O'ahu

Photo by [Floyd Manzano](#)

National Environmental Policy Act

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

Conservation District

Proposed uses of land in the State Conservation District require a Conservation District Use Application (CDUA). These applications are reviewed and approved by the Board of Land and Natural Resources. Members of the public may intervene in the permit process. This bulletin will include EAs & EISs for actions proposed within the Conservation District.

Special Management Area and Shoreline Setback Area

The Special Management Area (SMA) is along the coastline of all islands and development in this area is generally regulated by [HRS 205A](#), and county ordinance. A portion of the SMA that is addressed by HRS 343 is the [Shoreline Area](#), which includes land between the State-certified shoreline and the county-determined shoreline setback line. This bulletin will include EAs & EISs for actions proposed within the Shoreline Setback Area.

Shoreline Certifications

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

Environmental Council

The [Environmental Council](#) is a 15-member citizen board appointed by the Governor. They serve as a liaison between the Director of OEQC and the general public concerning ecology and environmental quality. The Council makes the rules that govern the Environmental Impact Statement process (HRS 343). Agendas of their regular meetings are posted on the Internet and the public is invited to attend. The Council just completed the repeal of Hawaii Administrative Rules (HAR) Chapter 11-200 and adoption of HAR Chapter 11-200.1.

Agency Exemption Lists

Government agencies may keep a list describing the minor activities they regularly perform that are exempt from the environmental review process. These lists and any amendments shall be submitted to the Council for review and concurrence (HAR 11-200.1-16). This bulletin will publish an agency's draft exemption list for public comment prior to Council decision making, as well as notice of the Council's decision on the list.

Endangered Species

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