



# The Environmental Notice

July 23, 2020

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.





## TABLE OF CONTENTS

<b>ANNOUNCEMENTS</b>	2
<b>STATEWIDE MAP OF NEW HRS CHAPTER 343 DOCUMENTS / DETERMINATIONS</b>	2
<b>HAWAI'I</b>	
<a href="#">Magic Sands Beach Park Accessibility Improvements--Final EA (FONSI)</a>	3
<b>MAUI</b>	
<a href="#">Wailea Resort SF-S Residential Project--Draft EA (AFNSI)</a>	3
<b>O'AHU</b>	
<a href="#">Ala Wai Canal Flood Risk Management Study--Final EIS</a> and <a href="#">Acceptance</a>	4
<a href="#">Wahiawā Pedestrian Bridge--Final EA (FONSI)</a>	5
<b>PREVIOUSLY PUBLISHED DOCUMENTS OPEN FOR COMMENT</b>	5
<b>PRIOR AGENCY DETERMINATIONS (PURSUANT TO HAR SECTION 11-200.1-11)</b>	6
<b>SHORELINE NOTICES</b>	
Applications for Shoreline Certification	6
Proposed Shoreline Certifications and Rejections	6
<b>FEDERAL NOTICES</b>	7
<b>GLOSSARY OF TERMS AND DEFINITIONS</b>	9

## ANNOUNCEMENTS


To advance the purpose of the environmental review system, Environmental Assessments, Environmental Impact Statements and EIS Preparation Notices have much more value when they are submitted in an "Optical Character Recognition" (OCR) format that has converted scanned paper documents or images into searchable data (i.e., text recognition). Software to create OCR documents is readily available and may already be included within many document processing software packages. Use it!

## STATEWIDE MAP OF NEW HRS CHAPTER 343 DOCUMENTS / DETERMINATIONS



## HAWAII


Magic Sands Beach Park Accessibility Improvements--Final EA (FONSI)

<b>HRS §343-5(a) Trigger</b>	(1) Propose the use of state or county lands or the use of state or county funds (3) Propose any use within a shoreline area	
<b>District(s)</b>	North Kona	
<b>TMK(s)</b>	(3) 7-7-008: 017, 094, and 107; 7-7-010: 036; and right-of-way of Ali'i Drive	
<b>Permit(s)</b>	Grading, Grubbing and Driveway Permits (County DPW); Building Permits and Plan Approval (County DPW and Planning); Chapter 6e, HRS, determination from State Historic Preservation Division on historic property effects (obtained); Disability and Communication Access Board (DCAB) plan review and approval; Special Management Area (SMA) Permit/Approval	
<b>Proposing/ Determining Agency</b>	Department of Parks and Recreation, County of Hawai'i Kevin Sakai, (808) 969-7090, <a href="mailto:kevin.sakai@hawaiiicounty.gov">kevin.sakai@hawaiiicounty.gov</a> 101 Pauahi Street, Suite 6, Hilo, HI 96720	
<b>Consultant</b>	Geometrician Associates; 10 Hina Street, Hilo, HI 96720 Ron Terry, (808) 969-7090, <a href="mailto:rterry@hawaii.rr.com">rterry@hawaii.rr.com</a>	
<b>Status</b>	Finding of No Significant Impact (FONSI) determination; No comment period	

P&R proposes to eliminate architectural barriers through replacement of a noncompliant comfort station with an accessible and environmentally improved facility, as well as new accessible parking, showers, walkways, ramps, a picnic table and a barbecue grill. Also included are improvements to drain sumps, sand interceptors, utility tie-ins and waterlines, pavement reconstruction and restriping, as well as removal of several trees and planting of others. No impacts to terrestrial flora or fauna would occur, and the coastal waters and marine biota they support will be protected through extensive BMPs. Traffic impacts are minimal and will be mitigated, no historic sites are present, and impacts to cultural resources related to retention of a comfort station in a sensitive area will be mitigated through optimal design.

## MAUI

Wailea Resort SF-S Residential Project--Draft EA (AFNSI)


<b>HRS §343-5(a) Trigger</b>	(1) Propose the use of state or county lands or the use of state or county funds	
<b>District(s)</b>	Makawao	
<b>TMK(s)</b>	(2) 2-1-008: 145	
<b>Permit(s)</b>	Department of Health Community Noise Permit, as applicable; National Pollutant Discharge Elimination System Permit; Special Management Area Use Permit; Planned Development Step II and Step III Approvals; and Construction Permits (Building, Grading, Electrical, Plumbing, Work in County Right-of-Way)	
<b>Approving Agency</b>	Maui Planning Commission, County of Maui Tara Furukawa, (808) 270-7735, <a href="mailto:Tara.Furukawa@co.maui.hi.us">Tara.Furukawa@co.maui.hi.us</a> 2200 Main Street, One Main Plaza, Room 315	
<b>Applicant</b>	Wailea Resort SF-S Partners LP; 590 Lipoa Parkway, Suite 259, Kihei, HI 96753 Paul Woodward, (808) 829-4067, <a href="mailto:Paul.Woodward@ledcor.com">Paul.Woodward@ledcor.com</a>	
<b>Consultant</b>	Munekiyo Hiraga; 305 High Street, Suite 104, Wailuku, HI 96793 Yukino Uchiyama, (808) 983-1233, <a href="mailto:Planning@munekiyohiraga.com">Planning@munekiyohiraga.com</a>	
<b>Status</b>	Statutory 30-day public review and comment period starts. <b>Comments are due by August 24, 2020.</b> Click the title link above to access and read the document, then send comments to the approving agency and copy the applicant and the consultant.	

Wailea Resort SF-S Partners LP proposes to develop a residential condominium project on approximately 23.1 acres of land at Tax Map Key (TMK) No. (2)2-1-008:145 in Wailea Resort. The proposed project will consist of 57 single-family residential units, an amenity center, and related infrastructure improvements. The residential units will be developed under a Condominium Property Regime (CPR). Onsite infrastructure improvements include drainage, utilities, landscaping, and access/internal roadway improvements. The proposed action also involves installation of infrastructure along Wailea Alanui Drive, a public roadway owned by the County of Maui, which is a trigger for the preparation of an HRS Chapter 343, Environmental Assessment.

## O'AHU

**Ala Wai Canal Flood Risk Management Study--Final EIS and Acceptance**

Grandfathered under old rules

<b>HRS §343-5(a) Trigger</b>	(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 (4) Propose any use within any historic site... (5) Propose any use within the Waikīkī area of O'ahu	
<b>District(s)</b>	Honolulu	
<b>TMK(s)</b>	Numerous (see document)	
<b>Permit(s)</b>	Numerous (see document)	
<b>Proposing Agency</b>	Department of Land and Natural Resources, State of Hawai'i Gayson Ching, (808) 587-0232, <a href="mailto:gayson.y.ching@hawaii.gov">gayson.y.ching@hawaii.gov</a> P.O. Box 373, Honolulu, HI 96809	
<b>Accepting Authority</b>	Office of the Mayor, City and County of Honolulu c/o: Mark Yonamine, (808) 768-8480, <a href="mailto:myonamine@honolulu.gov">myonamine@honolulu.gov</a> Department of Design and Construction, 530 South King Street Rm. 300, Honolulu, HI 96813	
<b>Status</b>	The Final EIS was submitted to the Accepting Authority on June 30, 2020 and was accepted on July 13, 2020.	

The State of Hawai'i Department of Land and Natural Resources (DLNR) and the U.S. Army Corps of Engineers (USACE) conducted a feasibility study to address flood risk associated with the Ala Wai Canal and its contributing watershed, including Makiki, Mānoa and Pālolo Streams. The Ala Wai watershed is the most densely populated watershed in Hawai'i; in addition to residential, commercial, and institutional development, the watershed also includes the Waikīkī District, a prime tourist destination and economic engine of the State. It is estimated that the Canal has the capacity to contain about a 20- to 10-percent chance (5- to 10-year) flood before overtopping the banks; overtopping of the Canal has previously caused flooding in Waikīkī multiple times. Upstream areas are also at risk of flooding, as demonstrated by an October 2004 storm in Mānoa, which caused an estimated \$85 million in damages. Flooding associated with a 1-percent annual chance exceedance (100-year) rainfall event would affect approximately 1,358 acres within the Ala Wai Watershed, including over 3,000 properties with an estimated \$1.14 billion in structural damages alone (at 2016 price levels).


The objective of the project is to reduce riverine flood hazards to property and life safety in the Ala Wai watershed. In response to identified flood-related problems and opportunities, a variety of measures were identified. These measures were combined into a range of alternatives, which were evaluated through an iterative screening and reformulation process, resulting in identification of a Recommended Plan based on information gathered from 2001-2017. The recommended plan presented includes construction of (1) a series of in-stream detention basins in the upper reaches of Makiki, Mānoa and Pālolo streams, (2) additional detention basins adjacent to the Ala Wai Canal, (3) debris catchment in portions of the developed watershed, (4) flood-walls along the Ala Wai Canal and (5) various non-structural measures (e.g., early flood warning system).

Given the scope and scale of the measures being considered, it is expected that implementation of the recommended plan will result in unavoidable adverse impacts. As such, an Environmental Impact Statement (EIS) was prepared, which describes the recommended plan (proposed action) and the range of reasonable alternatives, and addresses the potential for direct, indirect, and cumulative effects on the human, natural, and cultural environment; mitigation measures that avoid or minimize the potential adverse effects have been identified. The EIS identifies unresolved issues and the steps to be taken during the design phase to resolve or mitigate unresolved issues (e.g., real estate requirements). A public meeting was held in September 2015 during a public review period for the Ala Wai Canal Flood Risk Management Draft Feasibility Study and Integrated Environmental Impact Statement, which started on August 21, 2015 (Federal) and August 23, 2015 (State) and ended November 9, 2015. By letter dated September 20, 2019, the Governor of the State of Hawai'i designated the Mayor of the City and County of Honolulu as his authorized representative to review and process the FEIS for acceptability.



## O'AHU (CONTINUED)

Wahiawā Pedestrian Bridge--Final EA (FONSI)

<b>HRS §343-5(a) Trigger</b>	(1) Propose the use of state or county lands or the use of state or county funds	
<b>District(s)</b>	Wahiawā	
<b>TMK(s)</b>	(1) 7-1-001:013, 7-1-002:004 and 009, 7-4-007:006 and 007	
<b>Permit(s)</b>	U.S. Army Corps of Engineers Section 404 & Section 10; Coastal Zone Management – Federal Consistency Review; State Dept of Health: National Pollutant Discharge Elimination System, Community Noise Permit, Community Noise Variance, Section 401 of the Clean Water Act, Commission on Water Resource Management Stream Channel Alteration Permit, Disability and Communications Access Board Review / Approval; City and County of Honolulu Department of Planning and Permitting Grading, Grubbing, and Stockpiling Permit	
<b>Proposing/ Determining Agency</b>	Department of Transportation, State of Hawai'i Holly Yuen, (808) 692-7548, <a href="mailto:Holly.Yuen@hawaii.gov">Holly.Yuen@hawaii.gov</a> Highways Division, 601 Kamokila Blvd Rm 688, Kapolei, HI 96707	
<b>Consultant</b>	WSP USA; 1001 Bishop Street, Suite 2400, Honolulu, HI 96813 Todd Nishioka, (808) 566-2212, <a href="mailto:todd.nishioka@wsp.com">todd.nishioka@wsp.com</a>	
<b>Status</b>	Finding of No Significant Impact (FONSI) determination; No comment period	

The Hawai'i Department of Transportation is proposing to construct a shared use path that would create a new non-motorized access option directly between Whitmore Village and Wahiawā. The proposed project would be completely state-funded; no federal funds would be used. The new non-motorized path includes a 16-foot wide pedestrian/bicycle path and a new bridge over Ki'iki'i Stream. HDOT has identified the boundaries of where the bridge would cross Ki'iki'i Stream. Any potential alignment would connect on the Wahiawā side of the stream at North Cane Street. Because the project is proposed as a design-build project, design details and potential impacts are subject to change as the design is developed at a later stage. If design details differ substantively from the action proposed in this document, additional environmental review may be 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, and send comments to the relevant agency and copy any relevant applicant and/or consultant.

**COMMENTS DUE JULY 23, 2020**

## MAUI

[Kanahā Hotel at Kahului Airport \(EIS Preparation Notice\)](#)

## O'AHU

[Farrington Highway Improvements--Draft EA \(AFNSI\)](#)

[Kapa'a Light Industrial Park \(Supplemental EIS Preparation Notice\)](#)

[New Hope Oahu Renovations and Addition--Draft EA \(AFNSI\)](#) [being processed pursuant to ROH Chapter 25]

**COMMENTS DUE AUGUST 7, 2020**

## HAWAI'I

[Hilo Scrap Metal Yard Closure and Remediation--Draft EA \(AFNSI\)](#)

## KAUA'I

[DHHL Hanapēpē Homestead Community--Draft EA \(AFNSI\)](#)

## PRIOR AGENCY DETERMINATIONS (pursuant to HAR Section 11-200.1-11)

**Department of Planning and Permitting, City and County of Honolulu** [has determined](#) that additional environmental review is not required for the King Kalakaua Plaza renovation, where the Applicant proposes to demolish the fourth floor of an existing four-story building and add four levels of timeshare units and appurtenant site improvements at 2080 Kalākaua Avenue in Waikīkī, on Tax Map Key parcels (1) 2-6-016: 023 and 026. A 2015 Final EA described the previous project as a seven-story (maximum height of 100 feet), 230-unit hotel utilizing the existing building footprint and underground parking structure. The Applicant now proposes a seven-story (115-foot high), 110-unit timeshare building that also utilizes the existing building footprint and underground parking structure. The floor area increased from 150,000 square feet in 2015 to 162,300 square feet in the current proposal. The 15-foot increase in height represents a 15 percent increase; the 120-unit decrease in hotel rooms to timeshare units results in a decrease of 52 percent; and the additional floor area results in an increase of 8.2 percent. As such, the proposed changes from the 2015 proposal are minimal.

**Natural Energy Laboratory of Hawai'i Authority, State of Hawai'i** [has determined](#) that additional environmental review is not required for a proposed expansion of an existing abalone farm on NELHA Land leased by a tenant business. Two prior-accepted Environmental Impact Statements, published in 1985 and 1992, describe anticipated impacts of development of the Hawai'i Ocean Science and Technology Park - including on lands applicable to the existing Big Island Abalone site, as well as the proposed expansion parcel. These evaluations were included in the assessment of several build-out scenarios intended to include future improvements, allowing for flexibility to adapt to current market and technology conditions. NELHA has determined that the proposed expansion is consistent with the location, types and scale of scenarios evaluated in the prior EIS documents, and that the potential direct, indirect, and cumulative impacts of the project have been adequately disclosed and evaluated therein, and therefore that the findings in those reports satisfy the requirements of HRS Chapter 343 for the proposed expansion.

## 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 ([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
OA-1904	47-745B Kamehameha Highway, O'ahu	(1) 4-7-017: 012	R.M. Towill Corporation	Gerard K.H. Leong
OA-1905	251 Portlock Road, O'ahu 96825	(1) 3-9-002: 002	Walter P. Thompson, Inc.	Rachel Geike
MA-741	146 & 160 Lower Waiehu Beach Rd, Maui	(2) 3-2-015: 002 & 024	Akamai Land Surveying, Inc.	J. Russell Cunningham
HA-589	12-7205 Moana Kai Place, Hawai'i 96778	(3) 1-2-030: 002	Daniel Berg, dlb & associates, LLC	Daniel Mardones
HA-590	12-7209 Moana Kai Place, Hawai'i 96778	(3) 1-2-030: 004	Daniel Berg, dlb & associates, LLC	Daniel Mardones
KA-455	Moanakai Road, Kaua'i	(4) 4-5-002: 003	Lucas Breckenridge & Associates, Inc.	Moanakai Lani, LLC

### 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-1897	Proposed	91-545 Fort Weaver Rd, O'ahu	(1) 9-1-007: 058	Ailana Surveying & Geomatics	Tip Top Investments, LLC
OA-1899	Proposed	5799 Kalaniana'ole Hwy, O'ahu	(1) 3-7-002: 005	Kenn Nishihira	Nathan B.K. & Kretia T.P. Wong
MA-735	Proposed	475 Front St, Maui	(2) 4-6-002: 007	Kevin J Clarke	Lahaina Shores - Condo Master
HA-585	Proposed	Government Beach Rd, Hawai'i	(3) 1-4-028: 044	Daniel Berg & associates, LLC	Alice Ammen
HA-587	Proposed	Queen Ka'ahumanu Hwy, Hawai'i	(3) 7-2-004: 001	R.M. Towill Corporation	B.P. Bishop Estate TTEES, Kamehameha Schools



## 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 about any entry, click on the title link**, also available at [www.federalregister.gov](http://www.federalregister.gov).

**Rule: [Update to the Regulations Implementing the Procedural Provisions of the National Environmental Policy Act](#) (published by the Council on Environmental Quality on 07/16/2020)**

The Council on Environmental Quality (CEQ) issues this final rule to update its regulations for Federal agencies to implement the National Environmental Policy Act (NEPA). CEQ has not comprehensively updated its regulations since their promulgation in 1978, more than four decades ago. This final rule comprehensively updates, modernizes, and clarifies the regulations to facilitate more efficient, effective, and timely NEPA reviews by Federal agencies in connection with proposals for agency action. The rule will improve interagency coordination in the environmental review process, promote earlier public involvement, increase transparency, and enhance the participation of States, Tribes, and localities. The amendments will advance the original goals of the CEQ regulations to reduce paperwork and delays, and promote better decisions consistent with the national environmental policy set forth in section 101 of NEPA.

This is a major rule subject to congressional review. **The effective date is September 14, 2020.** However, if congressional review has changed the effective date, CEQ will publish a document in the Federal Register to establish the actual effective date or to terminate the rule. CEQ has established a docket for this action under docket number CEQ-2019-0003. All documents in the docket are listed on [www.regulations.gov](http://www.regulations.gov). For further information, click on the title link above or contact Viktoria Z. Seale, Chief of Staff and General Counsel, 202-395-5750, [NEPA-Update@ceq.eop.gov](mailto:NEPA-Update@ceq.eop.gov)

**Notice: [Presidential Declaration of a Major Disaster for Public Assistance Only for the State of Hawai'i](#) (published by the Small Business Administration on 07/16/2020)**

This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of Hawai'i (FEMA-4549-DR), dated 07/09/2020. Incident: Severe Storms and Flooding; Incident Period: 03/27/2020 through 03/28/2020. Notice is hereby given that as a result of the President's major disaster declaration on 07/09/2020, Private Non-Profit organizations that provide essential services of a governmental nature may file disaster loan applications at the address listed above or other locally announced locations. The County of Kaua'i has been determined to be adversely affected by the disaster.

Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155. For further information, click on the title link above or contact A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205-6734.

**Physical Loan Application Deadline Date: 09/08/2020. Economic Injury (EIDL) Loan Application Deadline Date: 04/09/2021.**

**Rule: [Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to the U.S. Navy Training and Testing Activities in the Hawai'i-Southern California Training and Testing Study Area](#) (published by the National Oceanic and Atmospheric Administration on 07/10/2020)**

National Marine Fisheries Service (NMFS), upon request from the U.S. Navy (Navy), issues these regulations pursuant to the Marine Mammal Protection Act (MMPA) to govern the taking of marine mammals incidental to the training and testing activities conducted in the Hawai'i-Southern California Training and Testing (HSTT) Study Area over the course of seven years, effectively extending the time period from December 20, 2023, to December 20, 2025. In August 2018, the MMPA was amended by the John S. McCain National Defense Authorization Act (NDAA) for Fiscal Year 2019 to allow for seven-year authorizations for military readiness activities, as compared to the previously allowed five years. The Navy's activities qualify as military readiness activities pursuant to the MMPA as amended by the NDAA for Fiscal Year 2004. These regulations, which allow for the issuance of Letters of Authorization for the incidental take of marine mammals during the described activities and timeframes, prescribe the permissible methods of taking and other means of effecting the least practicable adverse impact on marine mammal species or stocks and their habitat, and establish requirements pertaining to the monitoring and reporting of such taking.

**Effective from July 10, 2020, to December 20, 2025.**

Copies of the Navy's applications, NMFS' proposed rule for these regulations, NMFS' proposed and final rules and subsequent LOAs for the associated five-year HSTT Study Area regulations, other supporting documents cited herein, and a list of the references cited in this document may be obtained online at: [www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-military-readiness-activities](http://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-military-readiness-activities). For further information, click the title link or contact Wendy Piniak, Office of Protected Resources, NMFS, (301) 427-8401.

## FEDERAL NOTICES (CONTINUED)

**Notice: [Notice of Availability of a Final Programmatic Environmental Impact Statement for the Coral Reef Conservation Program](#) (published by the National Oceanic and Atmospheric Administration on 07/17/2020)**

The National Oceanic and Atmospheric Administration (NOAA), Office for Coastal Management has prepared a final programmatic environmental impact statement (PEIS) in accordance with the National Environmental Policy Act of 1969, as amended (NEPA), for its Coral Reef Conservation Program (CRCP), which is managed by NOAA's National Ocean Service in Silver Spring, MD. The CRCP is implemented in coastal areas and marine waters of Florida, Puerto Rico, U.S. Virgin Islands, Gulf of Mexico, Hawai'i, Guam, the Commonwealth of the Northern Mariana Islands, American Samoa, the U.S. Pacific Remote Islands, and targeted international regions including the wider Caribbean, the Coral Triangle, the South Pacific, and Micronesia. For further information, click the title link or contact Liz Fairey, NMFS Office of Habitat Conservation, NOAA Coral Reef Conservation Program, 1315 East West Highway, Silver Spring, MD 20910, [liz.fairey@noaa.gov](mailto:liz.fairey@noaa.gov), 301-427-8632.

**Proposed Rule: [Pacific Island Pelagic Fisheries; 2020 U.S. Territorial Longline Bigeye Tuna Catch Limits](#) (published by the National Oceanic and Atmospheric Administration on 07/09/2020)**

NMFS proposes a 2020 limit of 2,000 metric tons (t) of longline-caught bigeye tuna for each U.S. Pacific territory (American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands (CNMI)). NMFS would allow each territory to allocate up to 1,500 t each year to U.S. longline fishing vessels in a specified fishing agreement that meets established criteria, but the overall allocation limit among all territories may not exceed 3,000 t. As an accountability measure, NMFS would monitor, attribute, and restrict (if necessary) catches of longline-caught bigeye tuna, including catches made under a specified fishing agreement. The proposed catch limits and accountability measures would support the long-term sustainability of fishery resources of the U.S. Pacific Islands. **NMFS must receive comments by July 24, 2020.**

**Rule: [Clean Water Act Section 401 Certification Rule](#) (published by the Environmental Protection Agency on 07/13/2020)**

The Environmental Protection Agency (EPA) is publishing this final rule to update and clarify the substantive and procedural requirements for water quality certification under Clean Water Act (CWA or the Act) section 401. CWA section 401 is a direct grant of authority to States to review for compliance with appropriate federal, State, and Tribal water quality requirements any discharge into a water of the United States that may result from a proposed activity that requires a federal license or permit. This final rule is intended to increase the predictability and timeliness of CWA section 401 certification actions by clarifying timeframes for certification, the scope of certification review and conditions, and related certification requirements and procedures. **This rule is effective on September 11, 2020.** For further information, click the title link or contact Lauren Kasperek, Oceans, Wetlands, and Communities Division, Office of Water (4504-T), EPA, 1200 Pennsylvania Ave NW, Washington, DC 20460; (202) 564-5700; [cwa401@epa.gov](mailto:cwa401@epa.gov)

**Notice: Endangered Species; [Receipt of Recovery Permit Applications](#) (published by the Fish and Wildlife Service on 07/08/2020)**

We, the U.S. Fish and Wildlife Service, have received an application for a permit from the U.S. Army Garrison, Pohakuloa Training Area, Hilo, HI to conduct activities (specifically to survey/monitor with detector dog, nest cameras, and acoustic recording devices; predator control; and salvage) intended to enhance the propagation and survival of endangered species (the Band-rumped storm-petrel [*Oceanodroma castro*]), under the Endangered Species Act of 1973, as amended. We invite the public and local, State, Tribal, and Federal agencies to comment on these applications. Before issuing the requested permits, we will take into consideration any information that we receive during the public comment period. **We must receive your written comments on or before August 7, 2020.** For further information, click the title link or contact Colleen Henson, Regional Recovery Permit Coordinator, Ecological Services; (503) 231-6131; [permitsR1ES@fws.gov](mailto:permitsR1ES@fws.gov)

**Notice: [Marine Mammals; File No. 23966](#) (published by the National Oceanic and Atmospheric Administration on 07/14/2020)**

Notice is hereby given that an application has been received for a permit to conduct commercial or educational photography on humpback whales (*Megaptera novaeangliae*). The applicant proposes to film the whales in the waters of Maui County to create a series of documentary films that highlight humpback whale and their conservation. Up to 100 humpback whales would be filmed annually from a boat, unmanned aircraft system, remotely operated vehicle, and by free divers. One hundred bottlenose (*Tursiops truncatus*), 100 pantropical spotted (*Stenella attenuata*), and 500 spinner (*Stenella longirostris*) dolphins may be incidentally filmed or harassed annually. For further information, click the title link or contact Carrie Hubbard or Shasta McClenahan, (301) 427-8401. By **August 13, 2020**, submit comments, or requests for documents, to [NMFS.Pr1Comments@noaa.gov](mailto:NMFS.Pr1Comments@noaa.gov)



## 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 (discretionary consent) 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.



Maui sunset

Photo by [Thomas Hawk](#)

### 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).