



# The Environmental Notice

October 8, 2022

David Y. Ige, Governor  
Mary Alice Evans, Director

*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.



An existing observational well may provide agricultural water for the rural 'Upolu area of North Kohala on the Big Island

Photo from [the project's Draft EA](#)

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### ANNOUNCEMENTS

- Please continue to use our website's [Contact Us page](#) as the primary means to communicate with our office. Our goal is to respond within 1 to 2 business days.
- We are digesting [a recent ruling by the Hawai'i Supreme Court](#) that addresses HEPA's required analysis of "secondary impacts," which can occur outside the physical footprint of a project. HEPA practitioners and other interested stakeholders may also want to familiarize themselves with the findings of this case.

### STATEWIDE MAP OF NEW EA/EIS DOCUMENTS & DETERMINATIONS



## HAWAI'I EAS/EISS

**Issuance of Commercial Aquarium Permits and Commercial Marine Licenses for the West Hawai'i Regional Fishery Management Area (Statutory Acceptance of Final EIS)**

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
<b>District(s)</b>	Hawai'i-multiple (see document)
<b>TMK(s)</b>	N/A
<b>Permit(s)</b>	Commercial Aquarium Fishing Permits issued pursuant to Hawai'i Revised Statutes (HRS) § 188-31; Commercial Marine License issued pursuant to HRS §§ 189-2, -3; and West Hawai'i Aquarium Permit issued pursuant to Hawai'i Administrative Rules (HAR) § 13-60.4
<b>Approving Agency</b>	State of Hawai'i, Department of Land and Natural Resources David Sakoda, (808) 587-0104, <a href="mailto:david.sakoda@hawaii.gov">david.sakoda@hawaii.gov</a> 1151 Punchbowl Street, Room 330, Honolulu, HI 96813
<b>Accepting Authority</b>	State of Hawai'i, Board of Land and Natural Resources c/o: David Sakoda, (808) 587-0104, <a href="mailto:david.sakoda@hawaii.gov">david.sakoda@hawaii.gov</a> 1151 Punchbowl Street, Room 330, Honolulu, HI 96813
<b>Applicant</b>	Pet Industry Joint Advisory Council (PIJAC); 1615 Duke St., #100 Alexandria, VA 22314 Jim Lynch, (425) 463.8396, <a href="mailto:lynchjm.wa@gmail.com">lynchjm.wa@gmail.com</a>
<b>Consultant</b>	Stantec Consulting Services Inc; 2300 Swan Lake Blvd., Suite 202 Independence, IA 50644 Terry Van DeWalle, (319) 334-3755, <a href="mailto:terry.vandewalle@stantec.com">terry.vandewalle@stantec.com</a>
<b>Status</b>	Statutory Acceptance of Final EIS: The Accepting Authority did not make a timely determination on the acceptance or nonacceptance of the applicant's FEIS under HRS Section 343-5(c), and therefore the applicant's FEIS is deemed accepted as a matter of law.

The purpose of the Applicant's action is to ensure that commercial aquarium fish collection allows for the lawful, responsible, and sustainable commercial collection of 8 aquarium fish species from nearshore habitats of the West Hawai'i Regional Fishery Management Area (WHRFMA), where collection is currently limited to 40 "White List" species of fish. The objective of the proposed action is for the Department of Land and Natural Resources (DLNR) to issue 7 Aquarium Permits and 7 corresponding Commercial Marine Licenses for the WHRFMA, revise the White List from 40 to 8 species, and implement individual catch quotas for the 8 species remaining on the proposed Revised White List. The need for the Applicant's action is to allow for commercial aquarium collection in compliance with all applicable laws, rules, and regulations pertaining to the industry.

**'Upolu Well and Agricultural Water Distribution System/Agricultural Park--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>	North Kohala
<b>TMK(s)</b>	(3) 5-5-006:002
<b>Permit(s)</b>	Various (see document)
<b>Proposing/Determining Agency</b>	State of Hawai'i, Department of Land and Natural Resources Brandon Kim, (808) 987-5239, <a href="mailto:brandon.j.kim@hawaii.gov">brandon.j.kim@hawaii.gov</a> 1151 Punchbowl Street #131, Honolulu, HI 96813
<b>Consultant</b>	Geometrician Associates, LLC; 10 Hina Street, Hilo, HI 96720 Ron Terry, (808) 987-5239, <a href="mailto:rterry@hawaii.rr.com">rterry@hawaii.rr.com</a>
<b>Status</b>	Statutory 30-day public review and comment period starts. <b>Comments are due by November 7, 2022.</b> Please send comments to the proposing/determining agency and copy the consultant.

State agencies plan to convert an existing USGS observation well on State land near 'Upolu Road to a well supplying water for farming, dairying and ranching, to help replace water lost when the Kohala Ditch was severely damaged. Pump tests show the well can supply 384,000 gallons per day. A 20-foot tall, 660,000-gallon reservoir and water lines running to the east and west would be built. The State may operate the system or lease it to a private operator. Farmers or cooperatives would privately design and fund simple facilities to convey the water to their use areas. The initial phase involves no significant impacts to native biota, water quality or sustainable yield, traffic, archaeological sites, or cultural practices. The program's future phases may convert part of the property to an Agricultural Park and expand the Park to nearby State properties, if sufficient water and demand exist. Follow-up HRS 343 compliance would evaluate future phase actions, impacts and mitigation.

**MAUI EAS/EISS**

**[Pu'unani Homestead Subdivision Water System Storage 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
<b>District(s)</b>	Wailuku
<b>TMK(s)</b>	(2) 3-5-002:003 (por.)
<b>Permit(s)</b>	Various (see document)
<b>Proposing/ Determining Agency</b>	State of Hawai'i, Department of Hawaiian Home Lands (DHHL) William Ailā, Jr., (808) 620-9500, <a href="mailto:stewart.t.matsunaga@hawaii.gov">stewart.t.matsunaga@hawaii.gov</a> 91-5420 Kapolei Parkway, Kapolei, HI 96707
<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>	Finding of No Significant Impact (FONSI) determination

DHHL proposes the construction of up to a 0.5 MG concrete water system storage tank on approximately 1.26 acres of land. The proposed water storage tank will be approximately 23 feet in height and approximately 70 feet in diameter. This new water storage tank will interconnect with the County of Maui's existing Kehalani Mid-Level Distribution System and eventually, lots within the DHHL Pu'unani Homestead Subdivision. Related improvements include the development of a subsurface drainage sump, inflow and outflow lines to interconnect with the existing distribution main, and the installation of fencing around the new tank expansion lot, grading, paving, and other miscellaneous equipment for the proposed tank.

**PREVIOUSLY PUBLISHED DOCUMENTS OPEN FOR COMMENT**

**Status:** The comment period for these projects began previously. Please click on the links below to read a document, then send comments to the relevant agency and copy any relevant applicant and/or consultant identified in the submission form that follows the initial agency letter.

**COMMENTS DUE OCTOBER 10, 2022**

**KAUAI**

**[West Kauai Energy Project--2nd Draft EA \(AFNSI\)](#)**

**COMMENTS DUE OCTOBER 24, 2022**

**HAWAII**

**[Waiākea Uka Park Master Plan Implementation Project--Draft EA \(AFNSI\)](#)**

**[University of Hawai'i at Hilo New Educational Telescope Facility--Draft EA \(AFNSI\)](#)**

**[Addition of Wastewater Services for the Puna District \(EIS Preparation Notice\)](#)**

**O'AHU**

**[Honokea Surf Village--Draft EA \(AFNSI\)](#)**

**LISTS OF EXEMPTION NOTICES**

Pursuant to [HAR § 11-200.1-17](#), State and county agencies that have determined specific actions to be exempt from the requirement to prepare an EA are required to submit a listing of such exemptions made during the previous month. Following are Lists of Exemption Notices submitted by various agencies for September 2022; contact the identified agency contact on each list for additional information about any specific exemption:

**State of Hawai'i**

- [Department of Accounting and General Services](#)
- [Department of Land and Natural Resources](#)
- [Department of Education](#)
- [Hawai'i Housing Finance and Development Corporation](#)

**County of Kauai**

- [Department of Public Works](#)

**County of Maui**

- [Department of Parks and Recreation](#)
- [Department of Public Works](#)
- [Planning Department](#)

**City and County of Honolulu**

- [Department of Design and Construction](#)
- [Department of Planning and Permitting](#)



**COASTAL ZONE MANAGEMENT NOTICES**

**FEDERAL CONSISTENCY REVIEWS**

The following federal actions are being reviewed for consistency with the enforceable policies of the Hawai'i Coastal Zone Management (CZM) Program, including [the CZM objectives and policies in Hawai'i Revised Statutes, Chapter 205A](#). Federal consistency, pursuant to Section 307 of the Coastal Zone Management Act of 1972 (CZMA), as amended, generally requires that federal actions, within and outside of the coastal zone, which have reasonably foreseeable effects on any coastal use (land or water) or natural resource of the coastal zone be consistent with the enforceable policies of a state's federally approved coastal management program. Federal actions include federal agency activities, federal license or permit activities, and federal financial assistance activities. This public notice is being provided in accordance with § 306(d)(14) of the CZMA, and federal regulations at 15 CFR § 930.2, § 930.42, and § 930.61. General information about federal consistency is available at the [Hawai'i CZM Program web site](#), or call (808) 587-2878.

For specific information or questions about an action listed below, contact the CZM staff person identified for each action. The CZM Program is required to adhere to federal review deadlines, therefore, comments must be received by the date specified. Comments may be submitted by mail or electronic mail, to the addresses below.

**Mail:** Office of Planning and Sustainable Development  
 Department of Business, Economic Development and Tourism  
 P.O. Box 2359, Honolulu, HI 96804

**Email:** [Debra.L.Mendes@hawaii.gov](mailto:Debra.L.Mendes@hawaii.gov)

**FEMA Programmatic Risk MAP program**

**Proposed Action:** FEMA proposes to continue the Risk MAP program which conducts activities for the identification of flood hazards on Flood Insurance Rate Maps (FIRMs) and Flood Insurance Studies (FISs) throughout the State. Proposed activities include identification and publication under the National Flood Insurance Act (NFIA) and flood hazard mapping activities involving the identification of flood hazards, assessing flood risks, and collaborating with States and communities to provide accurate flood hazard and risk data.

- Location:** Statewide
- Federal Action:** Federal Agency Activity
- Federal Agency:** Federal Emergency Management Agency (FEMA)
- CZM Contact:** Debra Mendes, (808) 587-2840, [Debra.L.Mendes@hawaii.gov](mailto:Debra.L.Mendes@hawaii.gov)
- Comments Due:** Oct 22, 2022

**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 [(808) 768-8015]; Hawai'i [East (808) 961-8288], [West (808) 323-4770]; Kaua'i [(808) 241-4050]; Maui [(808) 270-7735]; Kaka'ako or Kalaeloa Community Development District [(808) 587-2846]

Location (TMK)	Description (File No.)	Applicant/Agent
Kaua'i: Hanalei (5-5-002: 107)	Construction of an Outdoor Shower Addition, Storage area Addition, Drainage Improvements, and Related Site Utilities (SMA(M)-2023-6)	3 Palms, LLC/ Belles Graham, LLP
Kaua'i: Kapa'a (4-3-002: 018)	Construction of New Emergency Generator Enclosure (SMA(M)-2023-7)	T-Mobile
Maui: Hana (1-4-004: 029)	Parking Improvements: Drainage, Pavement, Fencing, Water, Landscaping (SM2 2022-00044)	Jennifer Sumida, Ronald Fukumoto, Mandy Saito
Maui: Lahaina (4-6-031: 017)	Photovoltaic and Battery Installation (SM2 2022-00047)	Rising Sun Solar Electric LLC, Henry McNamara
O'ahu: Ke'ehi (1-1-003: 028)	Maintenance of Existing Wastewater Pump Station (2022/SMA-58)	City and County of Honolulu Department of Environmental Services/ Jacobs Engineering Group
O'ahu: Wai'anae (8-7-008: 091)	Remodel a Trash Enclosure and Relocate the Main Water Shut-off Valve (2022/SMA-59)	McDonald's USA LLC/Munekiyo Hiraga

SHORELINE NOTICES

APPLICATIONS FOR SHORELINE CERTIFICATION

The shoreline certification applications below are available for review and comment 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](#)). **Maps and photos of each application file can be viewed [here](#). 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-2007	55-323 Kamehameha Hwy, O’ahu 96762	(1) 5-5-002:034	Ailana Surveying & Geomatics	Brandy S. Shelby
OA-2008	5699 Kalaniana’ole Hwy, O’ahu 96821	(1) 3-7-002:081	Austin Tsutsumi & Associates	Jean Tripier and Jean Arnold
OA-2009	45-21 Likeke Pl., O’ahu 96744	(1) 4-5-104:028	Ailana Surveying & Geomatics	Paula Lee-Valkov
OA-2010	1056 Mokulua Dr., 1064 Mokulua Dr. 1070 Mokulua Dr., O’ahu 96734	(1) 4-3-006:058, 105, 106	R.M. Towill Corporation	1056 Mokulua LLC, 1064 Mokulua LLC, Mokulua Windward LLC
OA-2011	61-769 Papailoa Rd., O’ahu 96712	(1) 6-1-004:087	Austin, Tsutsumi & Associates	Surf North Shore LLC
OA-2012	3 Poipu Dr., O’ahu 96825	(1) 3-9-028:001	Walter P. Thompson, Inc.	RNO Trust
OA-2013	604 D N. Kalaheo Ave., O’ahu 96734	(1) 4-3-019:062	Walter P. Thompson, Inc.	Timothy Bumb

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-1999	Proposed	4 Sand Island Access Rd., O’ahu 96819	(1) 1-2-025:113	Wireless Network Support	DLNR, c/o Division of Boating and Ocean Recreation
OA-2000	Proposed	6 Duke Kahanamoku Lagoon Boardwalk, O’ahu 96815	(1) 2-3-037:012	Wireless Network Support	DLNR, c/o Division of Boating and Ocean Recreation
MA-793	Proposed	7 Kapalua Dr. , Maui 96761	(2) 4-2-004:007	Austin Tsutsumi & Associates, Inc.	7 Kapalua Place LLC
HA-630	Proposed	South Welea St., Hawai’i 96778	(3) 1-5-088:012	Daniel Berg c/o dlb & Associates, LLC	Bo Browne
KA-465	Rejection	5-7062 Kūhiō Hwy., Kaua’i 96714	(4) 5-8-011:011	Honua Engineering, Inc.	Noel F. Gaige

STATE NOTICES

The State of Hawai’i Department of Health will hold a public hearing on **November 9, 2022** at the State Lab auditorium at 2725 Waimano Home Rd., Pearl City for the proposed amendment of Hawai’i Administrative Rules chapters 11-260.1 to 11-279.1, which regulate businesses that generate or handle hazardous wastes and used oil. The proposed amendments align state regulations with updates to the US Environmental Protection Agency’s federal hazardous waste management program, expand allowed management of universal waste solar panels, and reduce the number of locations where generators must post emergency information. Changes are also proposed to improve consistency and to correct typographical errors and cross-references.

More information about the public hearing is available [here](#).

## NATIONAL ENVIRONMENTAL POLICY ACT (NEPA) ACTIONS

As a courtesy, listed below are documents submitted for publication that have been prepared pursuant to NEPA, rather than Chapter 343, HRS (sometimes referred to as "HEPA"). Accordingly, these entries may have unique comment periods. Occasionally, actions are subject to both NEPA and HEPA. In those cases, a separate Chapter 343, HRS, entry would be published in *The Environmental Notice* when a relevant document or determination is submitted to OPSD/ERP.

### [Preliminary Final Environmental Assessment for the Management of Invasive Vegetation on Wake Island Airfield, Wake Atoll, Pacific Ocean - USAF FONSI-FONPA](#)

<b>Island</b>	Wake Island
<b>Permit(s)</b>	NPDES Construction General Permit
<b>Proposing &amp; Approving Agency</b>	U.S. Air Force, 611th Civil Engineer Squadron/CEIE Richard Mauser, 907-726-7981, <a href="mailto:richard.mauser@us.af.mil">richard.mauser@us.af.mil</a> 10471 20th Street, Suite 325 Joint Base Elmendorf-Richardson, Alaska 99506
<b>Status</b>	The U.S. Air Force will accept comments for a 30-day <b>public comment period beginning on 8 October and end on 7 November 2022</b> . Send comments to Richard Mauser, 611th Civil Engineer Squadron, EAIP/NEPA Coordinator, 10471, 20th St., Ste 302, JBER 99506 or Email: <a href="mailto:richard.mauser@us.af.mil">richard.mauser@us.af.mil</a> or call (907) 726-7981.

The proposed action includes the removal of ironwood from three areas on Wake Island Airfield (WIA) through various combinations of chainsaw, herbicide application, controlled burn, and/or removal by heavy equipment. Disposal would also be carried out by various methods including wood-chipper, controlled wood-pile burn, or in-situ controlled burn. Due to the unique challenges of performing work at this remote location, including transport of equipment and materials, and potential for equipment failure, the Preferred Alternative includes all feasible methods for ironwood removal and disposal. It is expected that one or more of the methods will be used. The activity is needed to improve habitat for native species and reduce safety concerns in three regions adjacent to the active runway of WIA. Invasive ironwood trees crowd and shade out native vegetation, force low species richness and diversity, provide habitat for invasive rats, and present a hazard to flight operations due to ironwood presence within the 3,000-foot WIA clear zone adjacent to the taxiway, as mandated by Air Force Instruction (AFI) 32-1015 Integrated Installation Planning.

## 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](http://www.federalregister.gov).

### **Notice: [Rescinding the Notice of Intent To Prepare Environmental Impact Statement \(EIS\): Hawaii County, Hawaii \(published by the Federal Highway Administration on 09/27/2022\)](#)**

The FHWA is issuing this notice to advise the public that it is rescinding its Notice of Intent (NOI) and will not be preparing an Environmental Impact Statement (EIS) for a proposed highway project in Hawaii County, Hawaii. A NOI to prepare an EIS was published in the Federal Register on March 18, 2014. The project intended to address the linkage between the Queen Kaahumanu Highway (State Highway 19) and the Mamalahoa Highway (State Highway 190) in the vicinity of the Daniel K. Inouye Highway (formerly Saddle Road [State Highway 200]). The purpose of the project was to further develop this inter-regional capacity and connectivity between the east and west regions on the island of Hawaii. The HDOT has determined continued preparation of the EIS for the Saddle Road Improvements (Project) is no longer feasible. The primary reason for this determination is the financial impact of the estimated right-of-way and construction costs of the Project. Therefore, the preparation of the EIS is being terminated. For further information, click on the title link above or contact Richelle Takara, Division Administrator, Federal Highway Administration, 300 Ala Moana Boulevard, Box 50206, Honolulu, Hawaii 96850, (808) 541-2700.

### **Notice: [Marine Mammals; File No. 26593 \(published by the National Oceanic and Atmospheric Administration on 09/29/2022\)](#)**

Notice is hereby given that Adam Pack, Ph.D., University of Hawaii at Hilo, has applied in due form for a permit to conduct research on humpback whales (*Megaptera novaeangliae*) and other cetaceans. **Written, telefaxed, or email comments must be received on or before October 31, 2022.** Click on the title link above for further information about this notice.

## 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 challenge the FONSI in the Environmental Court and seek a ruling 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 OPSD called an EIS Preparation Notice (EISPN) along with the supporting Final EA. After the notice of the FEA-EISPN 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 EISPN 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, EISPN) with a completed 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 EISPN must be incorporated into the subsequent Draft EIS and oral comments from the public scoping meeting must be recorded and submitted to OPSD with the Draft EIS.

### HEPA

While technically there is no "Hawai'i Environmental Policy Act," HRS 343 is often referred to by this term.

### 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 EISPN, 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.

### 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. Whether the FEIS is accepted or not accepted, notice of the Acceptance Determination is published in this bulletin. The public has 60 days from publication to legally challenge the acceptance of a FEIS. For both Applicant and Agency actions, 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, OPSD 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/denied by the Department or 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; 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. Some projects going through the SMA permit process on O'ahu are also required to go through an environmental review process that mirrors HRS 343; these "ROH Chapter 25" EAs/EISs are included in this bulletin.

### 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 Advisory Council

The [Environmental Advisory Council](#) is a 15-member citizen board appointed by the Governor. They serve as a liaison between the Director of OPSD and the general public concerning ecology and environmental quality. Agendas of their regular meetings are posted on the Internet and the public is invited to attend.

### 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).