



The Environmental Notice

November 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.



Block C in Kaka'ako has been the subject of long-range planning for mixed-use developments; this proposal contains a variety of housing & commercial opportunities

Photo from [project EA](#)

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ANNOUNCEMENTS

- Attached at the end of this issue is the 2023 Publication Calendar for *The Environmental Notice*. Only documents being processed under the "old rules" (i.e., initially published prior to Aug 9, 2019) should observe the submittal deadlines referenced in the first column; in general, current documents will observe the submittal dates in the second column. The calendar is also available on our website [here](#)
- Please continue to use our [Contact Us page](#) on our website to submit questions to the Environmental Review Program or the Environmental Advisory Council

STATEWIDE MAP OF NEW EA/EIS DOCUMENTS & DETERMINATIONS



HAWAII HRS CHAPTER 343 EAS/EISS

Waimea Nui Regional Community Development Initiative Kipuka o ke Ola Clinic Relocation--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 Kohala
TMK(s)	(3) 6-4-038:011 (por.)
Permit(s)	Various (see document)
Proposing/ Determining Agency	State of Hawai'i, Department of Hawaiian Home Lands Andrew Choy, (808) 620-9481, andrew.h.choy@hawaii.gov 91-5420 Kapolei Parkway, Kapolei, HI 96707
Consultant	SSFM International, Inc.; 501 Sumner Street, Suite 620, Honolulu, HI 96817 Carah Kadota, (808) 356-1233, ckadota@ssfm.com
Status	Statutory 30-day public review and comment period starts. Comments are due by December 8, 2022. Please click on title link above to read the document, then send comments to the proposing/determining agency and copy the consultant.

The Waimea Nui Community Development Initiative (WNR-CDI) proposes to relocate the Kipuka o ke Ola (KOKO) Clinic to a 2-acre portion of Department of Hawaiian Home Lands (DHHL) Homestead Lands located in Waimea on the island of Hawai'i, identified as Tax Map Key (3) 6-4-038:011. The KOKO Clinic was established in 2013 in response to a community needs assessment, which called for a health clinic to address the health disparities endured by Native Hawaiians in North Hawai'i. In 2015, a Final Environmental Assessment - Finding of No Significant Impact was prepared for the WNR-CDI, which proposed various facilities and land uses to be located within a portion of parcel 011. The WNR-CDI proposes to relocate the KOKO Clinic to a 2-acre portion of their proposed development in parcel 011 as the clinic has outgrown their current space and anticipates an increase in patients as DHHL awards more homestead lots in the Waimea region.

O'AHU HRS CHAPTER 343 EAS/EISS

Waikiki Aquarium Water System Upgrade--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)	Honolulu
TMK(s)	(1) 3-2-031:006
Permit(s)	Special Management Area Major, Shoreline Setback Variance
Proposing/ Determining Agency	State of Hawai'i, University of Hawai'i at Mānoa Brandon Shima, (808) 956-0282, bshima@hawaii.edu 2444 Dole Street, Bachman Hall 109H, Honolulu, HI 96822
Consultant	Oceanit; 828 Fort Street Mall, Suite 600, Honolulu, HI 96813 Berna Senelly, (817) 422-1372, WAq@oceanit.com
Status	Statutory 30-day public review and comment period starts. Comments are due by December 8, 2022. Please click on title link above to read the document, then send comments to the proposing/determining agency at WAq@oceanit.com

Upgrade wastewater discharge system to comply with regulatory requirements. The Proposed Action includes installation of a wastewater discharge/transfer sump and pumps, two (2) onsite injection wells and associated appurtenances and equipment for disposal of aquarium exhibit wastewater and upgrading the piping inside the existing building and the property. Three (3) pumps connected to the discharge/transfer sump will pump the wastewater from the sump to a filter house structure on the south side of the property for filtration prior to discharge into the two injection wells.

O'AHU HRS CHAPTER 343 EAS/EISS (CONTINUED)

Kaka'ako Block C Development--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)	Honolulu
TMK(s)	(1)2-1-054-001
Permit(s)	Chapter 201H, HRS, NPDES, Building Permits
Approving Agency	State of Hawai'i, Hawaii Housing Finance and Development Corporation Dean Watase, (808) 587-0639, dean.k.watase@hawaii.gov 677 Queen Street, Honolulu, HI 96813
Applicant	Stanford Carr Development; 1100 Alakea Street, 27th Floor, Honolulu, HI 96823 Kevin Kasai, (808) 537-1801, kevink@stanfordcarr.com
Consultant	Environmental Communications, Inc.; P.O. Box 236097, Honolulu, HI 96823 Taeyong Kim, (808) 528-4661, tkim@environcom.com
Status	Statutory 30-day public review and comment period starts. Comments are due by December 8, 2022. Please click on title link above to read the document, then send comments to the approving agency and copy the consultant and applicant.

The Applicant is proposing the development of 861 housing units in a mixed configuration of market, workforce, affordable for sale and affordable rental housing units and a unique live/work unit type in a fully integrated block. A 400-foot tall tower with 43 floors will contain 449 for sale market units. A second 295-foot tall tower with 31 floors will include 276 affordable for-sale units. The podium beneath the 300-foot tall tower will include 124 affordable rental units. Additionally, 12 Live/Work units located in the podium will be offered for sale at market rates. The podium will also include 39,915 square feet of ground floor commercial space. All rental units of the project will be rented at rates determined to be for residents qualified at the 30- 70% and 70-100% levels of the Area Median Income (AMI). The proposed project will involve the use of Private Activity Bonds, State Low Income Housing Tax Credits (LIHTC), and Rental Housing Revolving Fund (RHRF).

Chinatown Hotel Development--Draft EA (AFNSI)

HRS §343-5(a) Trigger	(4) Propose any use within any historic site as designated in the National Register or Hawai'i Register
District(s)	Honolulu
TMK(s)	(1) 1-7-002:013, 023, 050
Permit(s)	Interim-Planned Development-Transit (IPD-T); Chinatown Special District Permit; Building Permit; Grading Permit; Historic Preservation Review Process; Drain Connection; Sewer Connection; Construction Plan Approval; Storm Water Permit; Storm Water Pollution Prevention Plan; National Pollutant Discharge Elimination System Permit; Industrial Wastewater Discharge; Construction Noise Permit; Erosion and Sediment Control Plan; Consolidation and Subdivision; Historic Preservation Certificate
Approving Agency	City and County of Honolulu, Department of Planning and Permitting Geoffry Spangler, (808) 768-8022, geoffry.spangler@honolulu.gov 650 South King Street, 7th Floor, Honolulu, HI 96813
Applicant	Ikenakea Hokele LLC; 1188 Bishop Street, Suite 907, Honolulu, HI 96813 Christopher Flaherty, (209) 483-8105, cflaherty@3leafholdings.com
Consultant	Environmental Planning and Assessments LLC; Patti Barbee, (808) 464-7084, Epa.hawaii@gmail.com
Status	Statutory 30-day public review and comment period starts. Comments are due by December 8, 2022. Please click on title link above to read the document, then send comments to the approving agency and copy the consultant and applicant.

The Applicant proposes the repurposing of the existing parking lot and rehabilitation of the historic vacant warehouse to enable the construction of a new lifestyle hotel. The hotel is anticipated to serve as an anchor for the community and catalyst for investment and redevelopment of the area. The proposed hotel will be designed as a fifteen (15) story building to provide 240 guest rooms. Supporting functional spaces will include a sky lobby, two food and beverage outlets, meeting space, a rooftop pool, and 125 stacked parking stalls. The design also calls for the restoration of the stand-alone historic building back to its original condition and exposing its original basalt rock wall exterior. In addition to this Environmental Assessment, the primary land use permits necessary to entitle the hotel include a subdivision, IPD-T and Chinatown Special District permits. The IPD-T option is being used to seek exceptions to the underlying BMX-4 District Development Standards.

O'AHU HRS CHAPTER 343 EAS/EISS (CONTINUED)

Waimalu 217' Exploratory Well in 'Aiea--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)	Honolulu
TMK(s)	(1) 9-8-046:013
Permit(s)	Various (see document)
Proposing/ Determining Agency	City and County of Honolulu, Board of Water Supply Erwin Kawata, (808) 748-5066, ekawata@hbws.org 630 South Beretania Street, Honolulu, HI 96843
Consultant	The Limtiaco Consulting Group; 1622 Kananui Street, Honolulu, HI 96817 Ian Arakakai, (808) 596-7790, ian@tlcghawaii.com
Status	Statutory 30-day public review and comment period starts. Comments are due by December 8, 2022. Please click on title link above to read the document, then send comments to the proposing/determining agency and copy the consultant.

BWS proposes to install an exploratory well and test pump at its existing facility at 98-183 Pua'ali'i Street in 'Aiea, O'ahu to collect data about the quantity and quality of the underlying groundwater source. The project site involves land that was previously disturbed for the development of the Waimalu 217' Reservoir facility. The testing data will allow BWS to determine if the project site is a suitable location for a permanent groundwater well.

In early December 2021, BWS shut down its Halawa Shaft and halted pumping at the 'Aiea and Halawa Wells due to contamination of the groundwater aquifer by petroleum fuel releases from the Navy's Red Hill Bulk Fuel Storage Facility and Pipeline. The project is proposed at this time in response to the ongoing emergency situation and the uncertainty of returning all previously used water sources to full production. Once water testing is completed, the test pump would be removed and the well would be covered with a well cap.

'Aiea 497' Exploratory Well in 'Aiea--Final EA (FONSI)

HRS §343-5(a) Trigger	(1) Propose the use of state or county lands or the use of state or county funds
District(s)	Honolulu
TMK(s)	(1) 9-9-067:001
Permit(s)	Various (see document)
Proposing/ Determining Agency	City and County of Honolulu, Board of Water Supply Erwin Kawata, (808) 748-5066, ekawata@hbws.org 630 South Beretania Street, Honolulu, HI 96843
Consultant	The Limtiaco Consulting Group; 1622 Kananui Street, Honolulu, HI 96817 Ian Arakakai, (808) 596-7790, ian@tlcghawaii.com
Status	Finding of No Significant Impact (FONSI) determination

BWS proposes to install an exploratory well and test pump at its existing facility at 99-925 Kalawina Place in 'Aiea, O'ahu to collect data about the quantity and quality of the underlying groundwater source. The project site involves land that was previously disturbed for the development of the 'Aiea 497' Reservoir & Booster 2 Reservoir facility. The testing data will allow BWS to determine if the project site is a suitable location for a permanent groundwater well.

In early December 2021, BWS shut down its Halawa Shaft and halted pumping at the 'Aiea and Halawa Wells due to contamination of the groundwater aquifer by petroleum fuel releases from the Navy's Red Hill Bulk Fuel Storage Facility and Pipeline. The project is proposed at this time in response to the ongoing emergency situation and the uncertainty of returning all previously used water sources to full production. Once water testing is completed, the test pump would be removed and the well would be covered with a well cap.

O'AHU HRS CHAPTER 343 EAS/EISS (CONTINUED)

Kaimukī High School Girl's Athletic Locker Room--Final EA (FONSI)

HRS §343-5(a) Trigger	(1) Propose the use of state or county lands or the use of state or county funds
District(s)	Honolulu
TMK(s)	(1) 2-7-024:001
Permit(s)	Various (see document)
Proposing/ Determining Agency	State of Hawai'i, Department of Education Mitch Tamayori, (808) 784-5116, Mitch.Tamayori@k12.hi.us P.O. Box 2360, Honolulu, HI 96804
Consultant	Wilson Okamoto Corporation; 1907 South Beretania Street, Suite 400, Honolulu, HI 96826 Dalton Beauprez, (808) 946-2277, DBeauprez@wilsonokamoto.com
Status	Finding of No Significant Impact (FONSI) determination

The Proposed Project, as envisioned, will encompass approximately 5,000 square feet (SF) of lockers and meeting area, shower and toilet stalls, a drying room, a coach's office, equipment storage rooms, janitorial closets, and a unisex room. It is also anticipated that the Proposed Project would include a trainer's room and potentially a weight training area. The Proposed Project will be approximately 5,000 SF and approximately no more than 30 feet in height. The Proposed Project would also include new utility connections for water, sewer, and electrical. The Proposed Project would be an exclusive locker room for the female athletic teams offered at Kaimukī High School.

REVISED ORDINANCES OF HONOLULU CHAPTER 25 EAS

Use of the Special Management Area (SMA) is not a trigger under Chapter 343, but developments in O'ahu's SMA are required to go through an environmental review process that mirrors the procedural requirements of [HRS Chapter 343](#), pursuant to [Revised Ordinances of Honolulu, Chapter 25](#). Developments being reviewed under Chapter 25 but not Chapter 343 appear here.

Repair and Addition to Existing Single Family Dwelling at 1508 Mokulua Drive--Final EA (FONSI)

District(s)	Ko'olaupoko
TMK(s)	(1) 4-3-003: 074
Permit(s)	Special Management Area (SMA) Use Permit, Building Permits
Approving Agency	City and County of Honolulu, Department of Planning and Permitting Gerald Toyomura, (808) 768-8056, gtoyomura@honolulu.gov 650 South King Street, 7th Floor, Honolulu, HI 96813
Applicant	Sousa Family Trust; 1508 Mokulua Drive, Kailua, HI 96734 Walter and Karin Sousa, (650) 218-0125
Consultant	Concept 2 Completion; 328-C Keaniani Street, Kailua, HI 96734 Karl Mench, (808) 782-5968, karl@c2c-builders.com
Status	Finding of No Significant Impact (FONSI) determination

The Project consists of improvements to the property by repairing the structural deficiencies in the existing dwelling and adding a bedroom, two bathrooms, a den, and additional living space. Repairs to the exterior siding and roofing for the existing second floor master bedroom will be within the existing foot print and is partially within the shoreline setback. No development will occur within the shoreline. The existing driveway will be replaced by a smaller driveway and will decrease the impervious surfaces and provide more landscaping space. The existing swimming pool will be rebuilt in its existing location. No new work is planned for the property walls or seawall.

PREVIOUSLY PUBLISHED DOCUMENTS OPEN FOR COMMENT

Status: The comment period for these projects began previously. **Comments are due November 22, 2022.** 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.

HAWAI'I

[Hilo Medical Center New Medical Office Building--Draft EA \(AFNSI\)](#)

MAUI

[North Kihei Wastewater Collection and Transmission System Project--Draft EA \(AFNSI\)](#)

[Helene Hall Septic System Improvements--Draft EA \(AFNSI\)](#)

O'AHU

[East Kapolei Transit-Oriented Development Project--\(EIS Preparation Notice\)](#)

PRIOR DETERMINATION

The Department of Business, Economic Development and Tourism (DBEDT) [has determined](#) that additional environmental review is not required for establishment of a Tropical AgTech and FoodTech Center on Hilo land. A prior Environmental Assessment in OPSD's archive describes anticipated impacts of development of the center on lands proposed for this project. The evaluation assessed build-out scenarios intended to include future improvements, allowing for flexibility to adapt to current market conditions. DBEDT has determined that the proposed development is consistent with the location, types and scale of scenarios evaluated in the prior EA, that the potential direct, indirect, and cumulative impacts of that development have been adequately disclosed and evaluated therein, and therefore that the Final Environmental Assessment's Negative Declaration in the report satisfies the requirements of HRS Chapter 343 pursuant to HAR Section 11-200.1-11.

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 October 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 Education](#)

[Department of Land and Natural Resources](#)

City and County of Honolulu

[Department of Design and Construction](#)

[Department of Transportation Services](#)

County of Hawai'i

[Department of Public Works](#)

County of Maui

[Department of Public Works](#)

County of Kaua'i

[Department of Public Works](#)

EXEMPTION NOTICE

County of Kaua'i Department of Public Works has declared the following action exempt from the requirement to prepare an EA pursuant to [HAR § 11-200.1-16](#), and has [voluntarily](#) submitted the Exemption Notice for publication:

[Demolition of an abandoned, dilapidated single-family structure](#)

The County of Kaua'i Department of Public Works (DPW) plans to demolish an abandoned single family residence identified as TMK No. 4-5-008:008; located at 1326 Inia Street, Kapa'a, HI 96746. The wooden structure set for demolition has a floor supported by post and pier wood construction, with a lesser portion built on a concrete slab-on-grade. The structure has become a haven for illicit activity including dealing and use of illicit drugs, and the subject of substantial community concerns and complaints to the State of Hawai'i and County of Kaua'i.

EXEMPTION LIST CONCURRENCE

The following agency exemption list, which is a guidance document for the referenced agency's use in considering the propriety of a specific exemption, has been submitted to the Environmental Advisory Council (EAC) for review and concurrence. At the request of the EAC, this draft exemption list is being published for public review and comment; please click on the following link to view the list, and **submit any comments by November 23, 2022** to dbedt.opsd.erp@hawaii.gov:

[State of Hawai'i, Public Housing Authority](#)

Pursuant to [HAR § 11-200.1-16](#), the Environmental Advisory Council (EAC) has reviewed and concurred upon the following agency exemption list, which is a guidance document for the referenced agency's use in considering the propriety of a specific exemption. The listed types of actions may be exempted from the requirement to prepare an EA. The EAC's date of concurrence is posted on the list. Click on the link to view or download the list:

[State of Hawai'i, Hawai'i Housing and Finance Development Corporation](#)

STATE NOTICES

The State of Hawai'i Department of Health will hold a public hearing on **December 13, 2022** at the State Lab auditorium at 2725 Waimano Home Rd., Pearl City for the proposed amendment of Hawai'i Administrative Rules chapter 11-41, which regulates individuals and businesses performing lead-based paint activities and providing lead-based paint activities training courses. The proposed amendments align state regulations with updates to the US Environmental Protection Agency's federal lead-based paint activities program. Changes are also proposed to improve clarity.

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

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 [(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
Hawai'i: Puna (1-3-004: 006)	Vegetation and Land Management (PL-SMM-2022-000030)	Ashley Michaud
Kaua'i: Hanalei (5-5-001: 010)	Construction of a Chicken Coop (SMA(M)-2023-8)	Douglas and Kim Blackburn
Kaua'i: Lihu'e (3-5-001: 027 and 168)	Construction of Two 5'-10" High Rock Wall (SMA(M)-2023-9)	Tower Lagoons Land LLC/ Palms Hawai'i Architecture
O'ahu: Pu'uloa (9-1-030: 011)	91-429 Pupuu Street Single-Family Residence (2022/SMA-62)	Domenic and Chiko Scozzafava/Geoffrey Lewis Architect, Inc
O'ahu: Wai'anae (8-5-008: 001)	Dish Pokai Bay Marina Condominium Roof Top Installation (2022/SMA-64)	Dish Wireless LLC/ Synergy Advantage Engineers
O'ahu: Wai'alae (3-5-023: 039)	Dish Kahala Hotel and Resort Roof Top Installation (2022/SMA-66)	Dish Wireless LLC/Synergy Advantage Engineers

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-2016	Lualualei Beach Park, O'ahu 96792	(1) 8-6-001:007	R.M. Towill Corporation	State of Hawai'i
MA-798	166 & 172 Lower Waiehu Beach Rd, Maui 96793	(2) 3-2-015:003 & 022	Akamai Land Surveying, Inc.	Russell & Hazel Cunningham
KA-466	4059 A 'Anini Rd., Kaua'i 96754	(4) 5-3-006:009	Honua Engineering, Inc.	Ryan Chatley
KA-467	3606 'Anini Rd., Kaua'i 96754	(4) 5-3-004:035	Lucas Breckenridge & Associates, Inc.	Geof, 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-2011	Proposed	61-769 Papa'iloa Rd., O'ahu, 96712	(1) 6-1-004:087	Austin, Tsutsumi & Associates	Surf North Shore LLC
MA-782	Proposed	63 Kuahulu Place, Maui 96761	(2) 4-8-003:120	Akamai Land Surveying, Inc.	Vadim Antonov
MA-792	Proposed	47640 Hana Hwy, Maui 96713	(2) 1-5-003:006	Loren E. Sletz	Lloyd Eric Cotsen Trust
MA-794	Proposed	47640 Hana Hwy, Maui 96713	(2) 1-5-003:022	Loren E. Sletz	Lloyd Eric Cotsen Trust
HA-629	Proposed	South Welea St., Hawai'i 96778	(3) 1-5-032:060	Aric Koerte	Susan Houston

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.

Notice: [Marine Mammals; File No. 26725](#) (published by the National Oceanic and Atmospheric Administration on 10/28/2022)

Notice is hereby given that Florian Graner, Ph.D., 4021 Beach Drive, Freeland, WA 98249, has applied in due form for a permit to conduct commercial or educational photography on humpback whales (*Megaptera novaeangliae*) and Hawaiian spinner dolphins (*Stenella longirostris*). Written, telefaxed, or email **comments must be received on or before November 28, 2022**. Please click on the title link above for additional information on submitting comments.

The applicant proposes to film humpback whales and Hawaiian spinner dolphins in the waters off the coasts of Maui and Hawaii-Kona for a natural history documentary on the variety and diversity of the Hawaiian ecosystems. The applicant would film and observe up to 400 humpback whales and 1200 spinner dolphins annually topside from a vessel, using an unmanned aircraft system (UAS) or underwater by diving. Up to 250 short-finned pilot whales (*Globicephala macrorhynchus*) and 400 bottlenose dolphins (*Tursiops truncatus*) annually may be harassed and opportunistically filmed if in the vicinity of the target species. The permit would be valid from February 2023 through December 2024.

It has come to the agency's attention that the 2016 interim final humpback approach rule (50 CFR 216.19; 81 FR 62010, September 8, 2016) does not explicitly exempt permits issued under section 104(c)(6) of the MMPA from its prohibitions. It is not the agency's intent to preclude the issuance of permits or authorizations consistent with the requirements of the MMPA. We interpret the rule to allow issuance of these permits. Consistent with this interpretation, it has been our practice to continue to issue section 104(c)(6) permits that are in compliance with the MMPA's requirements and our review procedures. However, to eliminate any potential ambiguity, we intend to revise the rule to explicitly clarify that photography permits issued under section 104(c)(6) of the MMPA are exempt from the prohibitions on approach.

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).



Publication Calendar of the
Environmental Review Program
Periodic Bulletin, **HAR Chapter 11-200.1**

2023

Pursuant to Chapter 11-200.1, Hawai'i Administrative Rules (HAR), all items to be published in the periodic bulletin must be electronically submitted (see, <https://planning.hawaii.gov/erp/submittal-form/>) to the Environmental Review Program (ERP) five working days prior to the publication date. For actions that have published a draft EA or EISPN on or before August 8, 2019, use the 1996 Rules Submittal Deadline column for determining the filing date for the Final EA, Draft EIS, Final EIS, Acceptance / Non-acceptance, supplemental determinations, and supplemental EISs.

1996 Rules Submittal Deadline	Current Submittal Deadline	Publication Date	EA or EISPN Comment 30-Day Deadline	EIS Comment 45 Day Deadline
Dec 13 Tue	Dec 16 Fri	Dec 23 2022 Fri	Jan 23 Mon	Feb 06 Mon
Dec 27 Tue	Dec 30 Fri	Jan 08 2023 Sun	Feb 07 Tue	Feb 22 Wed
Jan 10 Tue	Jan 13 Fri	Jan 23 Mon	Feb 22 Wed	Mar 09 Thu
Jan 27 Fri	Feb 01 Wed	Feb 08 Wed	Mar 10 Fri	Mar 28 Tue
Feb 10 Fri	Feb 15 Wed	Feb 23 Thu	Mar 28 Tue	Apr 10 Mon
Feb 24 Fri	Mar 01 Wed	Mar 08 Wed	Apr 10 Mon	Apr 24 Mon
Mar 13 Mon	Mar 16 Thu	Mar 23 Thu	Apr 24 Mon	May 08 Mon
Mar 28 Tue	Mar 31 Fri	Apr 08 Sat	May 08 Mon	May 23 Tue
Apr 12 Wed	Apr 17 Mon	Apr 23 Sun	May 23 Tue	Jun 07 Wed
Apr 26 Wed	May 01 Mon	May 08 Mon	Jun 07 Wed	Jun 22 Thu
May 11 Thu	May 16 Tue	May 23 Tue	Jun 22 Thu	Jul 07 Fri
May 26 Fri	Jun 01 Thu	Jun 08 Thu	Jul 10 Mon	Jul 24 Mon
Jun 13 Tue	Jun 16 Fri	Jun 23 Fri	Jul 24 Mon	Aug 07 Mon
Jun 27 Tue	Jun 30 Fri	Jul 08 Sat	Aug 07 Mon	Aug 22 Tue
Jul 12 Wed	Jul 17 Mon	Jul 23 Sun	Aug 22 Tue	Sep 06 Wed
Jul 27 Thu	Aug 01 Tue	Aug 08 Tue	Sep 07 Thu	Sep 22 Fri
Aug 10 Thu	Aug 15 Tue	Aug 23 Wed	Sep 22 Fri	Oct 09 Mon
Aug 28 Mon	Aug 31 Thu	Sep 08 Fri	Oct 09 Mon	Oct 23 Mon
Sep 13 Wed	Sep 18 Mon	Sep 23 Sat	Oct 23 Mon	Nov 07 Tue
Sep 27 Wed	Oct 02 Mon	Oct 08 Sun	Nov 07 Tue	Nov 22 Wed
Oct 11 Wed	Oct 16 Mon	Oct 23 Mon	Nov 22 Wed	Dec 07 Thu
Oct 27 Fri	Nov 01 Wed	Nov 08 Wed	Dec 08 Fri	Dec 26 Tue
Nov 13 Mon	Nov 16 Thu	Nov 23 Thu	Dec 26 Tue	Jan 08 Mon
Nov 28 Tue	Dec 01 Fri	Dec 08 Fri	Jan 08 Mon	Jan 22 Mon
Dec 13 Wed	Dec 18 Mon	Dec 23 2023 Sat	Jan 22 Mon	Feb 06 Tue
Dec 26 Tue	Dec 29 Fri	Jan 08 2024 Mon	Feb 07 Wed	Feb 22 Thu

- Section 11-200.1-4(a), HAR, establishes the publication schedule of the periodic bulletin to be on the eighth and twenty-third of each month. Publication shall occur on weekends and holidays, when appropriate.
- Section 11-200.1-5(a), HAR, establishes the submittal deadline to be five working days before the publication date. The schedule does not count holidays and non-working days. Items must be submitted before the close of business (4:30 PM) on the submittal deadline. Note: Actions that have published the Draft EA or EISPN on or before August 8, 2019 shall file pursuant to Chapter 11-200, HAR ("1996 Rules"), which requires filing eight working days before publication.
- Comment periods for EAs are 30 days and for EISs are 45 days from the publication date. Section 11-200.1-3 sets forth how to count the days from publication. The publication date is day zero. Holidays and weekends are counted. When the deadline falls on a state holiday or non-working day, the deadline is the next working day.