

# HRS Chapter 343 Environmental Review Process

Land Use Commission

September 25, 2025



# Ch. 343 Presentation to LUC

1

Overview of Hawai'i's Environmental Review Process, Chapter 343

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Environmental Review Triggers

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Environmental Review Program, OPSD

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Types of Review: Exemptions, EA, and EIS

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4

Resources

5

Q&A

# Act 246, SLH 1974, Environmental Impact Statements

## **HRS Chapter 343**

[A]n environmental review process will integrate the review of environmental concerns with existing planning processes of the State and counties and alert decision makers to significant environmental effects which may result from the implementation of certain actions.

[T]he process of reviewing environmental effects is desirable because environmental consciousness is enhanced, cooperation and coordination are encouraged, and public participation during the review process benefits all parties involved and society as a whole.

HRS § 343-1, Environmental Impact Statements, Findings and Purpose. Added in 1979.

# Ch. 343 Core Considerations

## The Process: Review and Authorization

- Chapter 343, HRS is a **disclosure** process, not an approval
- A proposed action must hit a trigger for Ch. 343 to apply.
  - Most common trigger is the use of State/county lands or funds
- Three levels of review: Exemption, Environmental Assessment (EA), Environmental Impact Statement (EIS)
- Agencies must apply Significance Criteria in determining the level of review. (Slide 10)

## Roles & Responsibilities

- The proposing party is either an Agency or an Applicant (which includes federal agencies)
- For applicant actions, a discretionary permit is required, thus an Approving Agency is required. Executive Boards and Commissions may serve as the Approving Agency.
- Agencies—not OPSD—manage the review as either a Proposing/Determining Agency or an Approving Agency

# More Core Considerations

## Public Participation & Oversight

- *The Environmental Notice* (published by OPSD twice a month) provides notices and status updates of environmental review documents (<https://planning.hawaii.gov/erp/environmental-notice/>)
- OPSD maintains an online library of EAs and EISs (<https://planning.hawaii.gov/erp/library-of-ea-and-eis/>)
- Public comment periods (following publication in *TEN*):
  - EA: 30 days (draft)
  - EIS: 30 days (EISPN), 45 days (draft EIS)
  - No comment period on exemptions or final EAs/EISs
- Applicants must prepare a response to all timely substantive comments on EAs and EISs

# Statutory Triggers Initiating EIS Process

(see HRS 343-5)

Use of state or county lands  
or state or county funds

Use within any land classified  
as a conservation district

Use within a shoreline area as  
defined in HRS205A-41

Use within a historic site as  
defined in HRS6E

Use within the Waikīkī area of  
O‘ahu

Amendments to existing  
county general plans

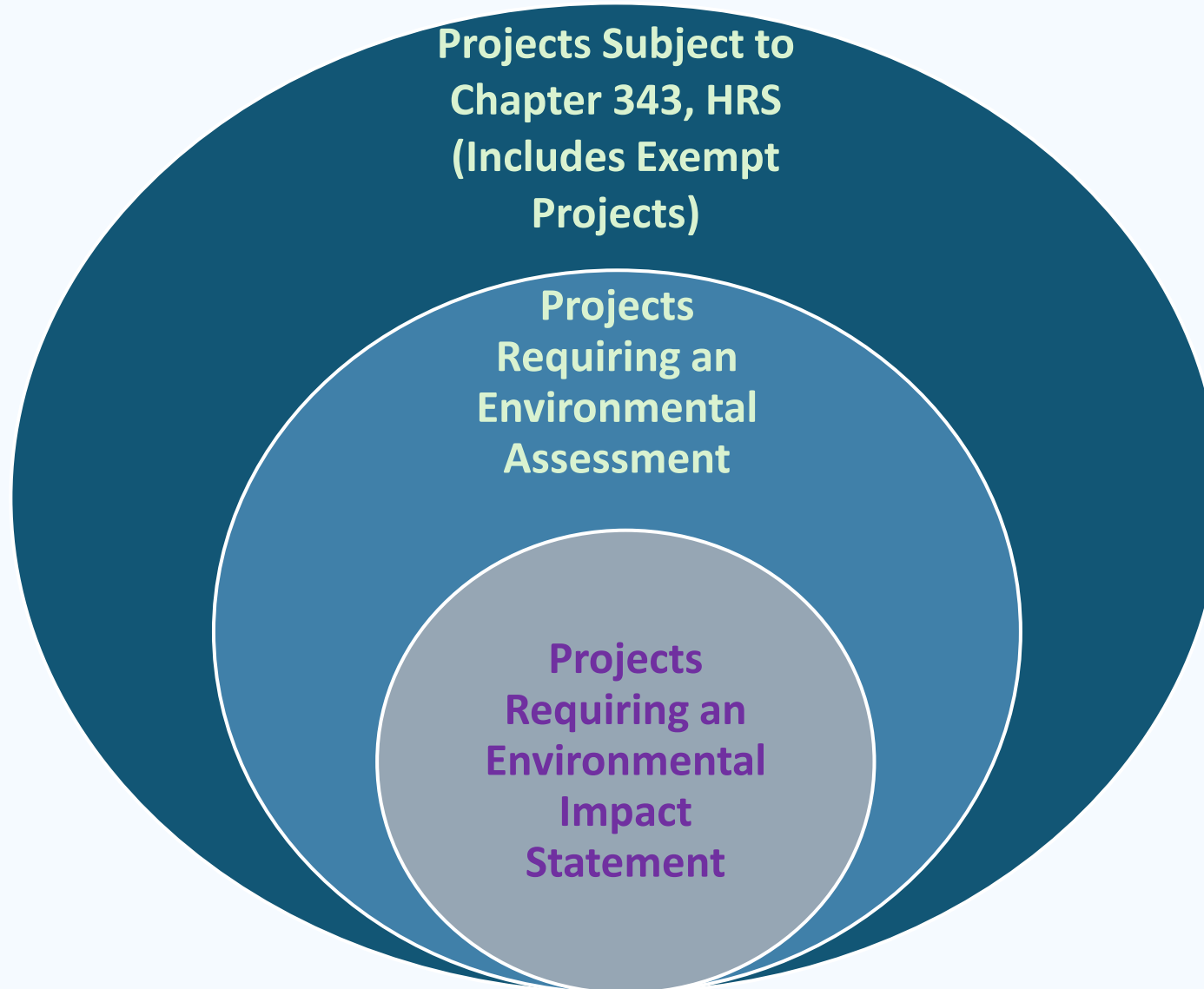
Reclassification of land  
classified as a conservation  
district

Construction, expansion, or  
modification of helicopter  
facilities

Propose any of the following:  
A. Wastewater treatment unit  
B. Waste-to-energy facility

Propose any of the following:  
C. Landfill  
D. Oil refinery  
E. Electric-generating facility

# Ch. 343 Projects



2024

71 Draft EAs

55 Final EAs

5 EIS Preparation  
Notices, 1 EIS accepted

# Ch. 343 Key Roles and Terms

- **Agency** – any department, office, board, or commission of the state or county governments that is a part of the executive branch of that government. *Essentially any State or county agency*
- **Applicant** – any “person” who, pursuant to statute, ordinance or rule, officially requests approval for a proposed action. *Essentially anyone that’s not a State or county agency*
- **Approving Agency** – the agency or board that initially receives and agrees to process the request (for a discretionary approval) from an applicant. *This agency marshals an applicant’s EA or EIS through the Ch. 343 process and makes all the required determinations*
- **Proposing/Determining Agency** – the agency that proposes the action also determines the level of review and satisfactory completion of the process. *Proposing agencies make their own determinations on Exemptions and EAs; not on EISs.*
- **Accepting Authority** – *this term is only used for EISs, never for EAs.* For agency EISs, the relevant Governor or Mayor (or their authorized representative) accepts the document as satisfactory; for applicant EISs, it’s accepted by the approving agency. *EAs are not formally “accepted” so there is no accepting authority for EAs, and the Governor or mayors are not involved.*
- **Action** – a Project (a discrete planned undertaking that is site & time specific, has a specific goal or purpose, and the potential to impact the environment) or a Program (a series of one or more projects to be carried out concurrently or in phases, undertaken for a broad goal or purpose; and may include multiple sites or geographic areas).

*For more details, see the full definition in the rules*



# Ch. 343 Key Terms Continued

- **Environment** – humanity’s surroundings, inclusive of all the physical, economic, cultural, and social conditions that exist within the area affected by a proposed action, including land, human and animal communities, health, air, water, minerals, flora, fauna, ambient noise, and objects of historic, cultural, or aesthetic significance.
- **Effects** may include:
  - ecological effects (e.g., natural resources, the components, structures, and functioning of affected ecosystems),
  - aesthetic, historic, cultural, economic, social, or health, whether **primary**, **secondary**, or **cumulative**, whether immediate or delayed.
  - Effects may also include those effects resulting from actions that may have both beneficial and detrimental effects, even if on balance the agency believes that the effect will be beneficial.
- **“Impacts”** are defined to mean the same thing as “effects”
- **Primary or direct effect** – effect that is caused by the action and occur at the same time and place.
- **Secondary or indirect effect** – effect that is caused by the action and is later in time or farther removed in distance, but is still reasonably foreseeable.
  - An indirect effect may include a growth-inducing effect and other effects related to induced changes in the pattern of land use, population density or growth rate, and related effects on air, water, and other natural systems, including ecosystems.
- **Cumulative effect** – means the impact on the environment that results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency or person undertakes the other actions.
  - Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time.

*For more details, see the full definitions in HAR 11-200.1-2.*

# Criteria for Significance

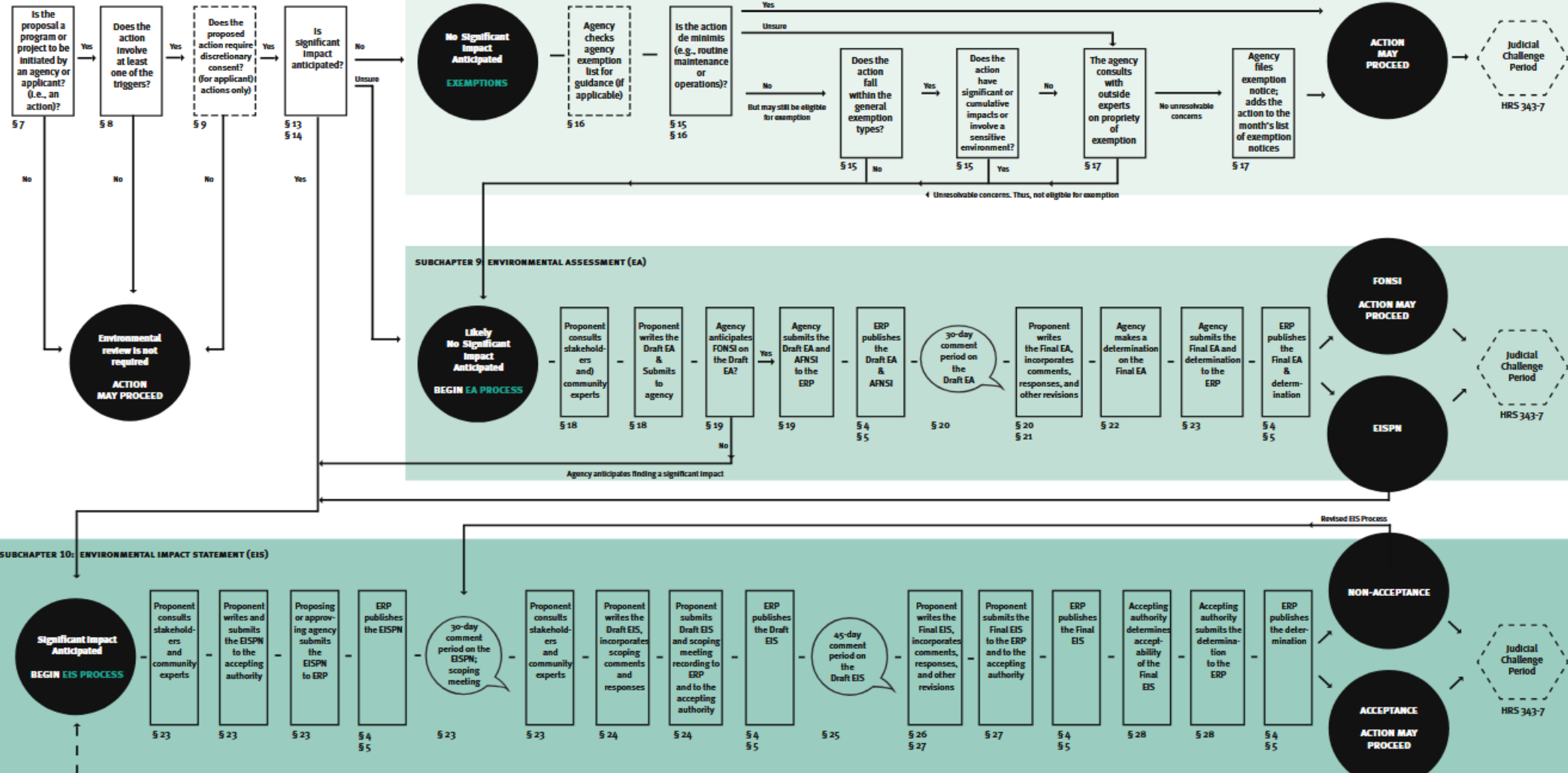
(established in [HAR Section 11-200.1-13](#)):

1. Irrevocably commit a natural, cultural, or historic resource;
2. Curtail the range of beneficial uses of the environment;
3. Conflict with State's environmental policies or long-term environmental goals;
4. Have a substantial adverse effect on the economic welfare, social welfare, or cultural practices of the community and State;
5. Have a substantial adverse effect on public health;
6. Involve adverse secondary impacts, such as population changes or effects on public facilities;
7. Involve a substantial degradation of environmental quality;
8. Be individually limited but cumulatively have substantial adverse effect upon the environment or involves a commitment for larger actions;
9. Have a substantial adverse effect on a rare, threatened, or endangered species, or its habitat;
10. Have a substantial adverse effect on air or water quality or ambient noise levels;
11. Have a substantial adverse effect on or be likely to suffer damage by being located in an environmentally sensitive area such as a flood plain, tsunami zone, sea level rise exposure area, beach, erosion-prone area, geologically hazardous land, estuary, fresh water, or coastal waters;
12. Have a substantial adverse effect on scenic vistas and viewplanes, during day or night, identified in county or state plans or studies; or
13. Require substantial energy consumption or emit substantial greenhouse gases

# Environmental Review Process

## HAWAII ENVIRONMENTAL REVIEW PROCESS HAR Chapter 11-200.1 (unless otherwise stated)

Begin here!



### LEGEND

§ = Section, from Hawaii Administrative Rules (HAR) Chapter 11-200.1

EA = Environmental Assessment AFNSI = Anticipated Finding of No Significant Impact FONSI = Finding of No Significant Impact  
EIS = Environmental Impact Statement EISPN = Environmental Impact Statement Preparation Notice

→ Process → Decision — If Applicable

NOTE: This flowchart is a simplified version of the Environmental Review Process

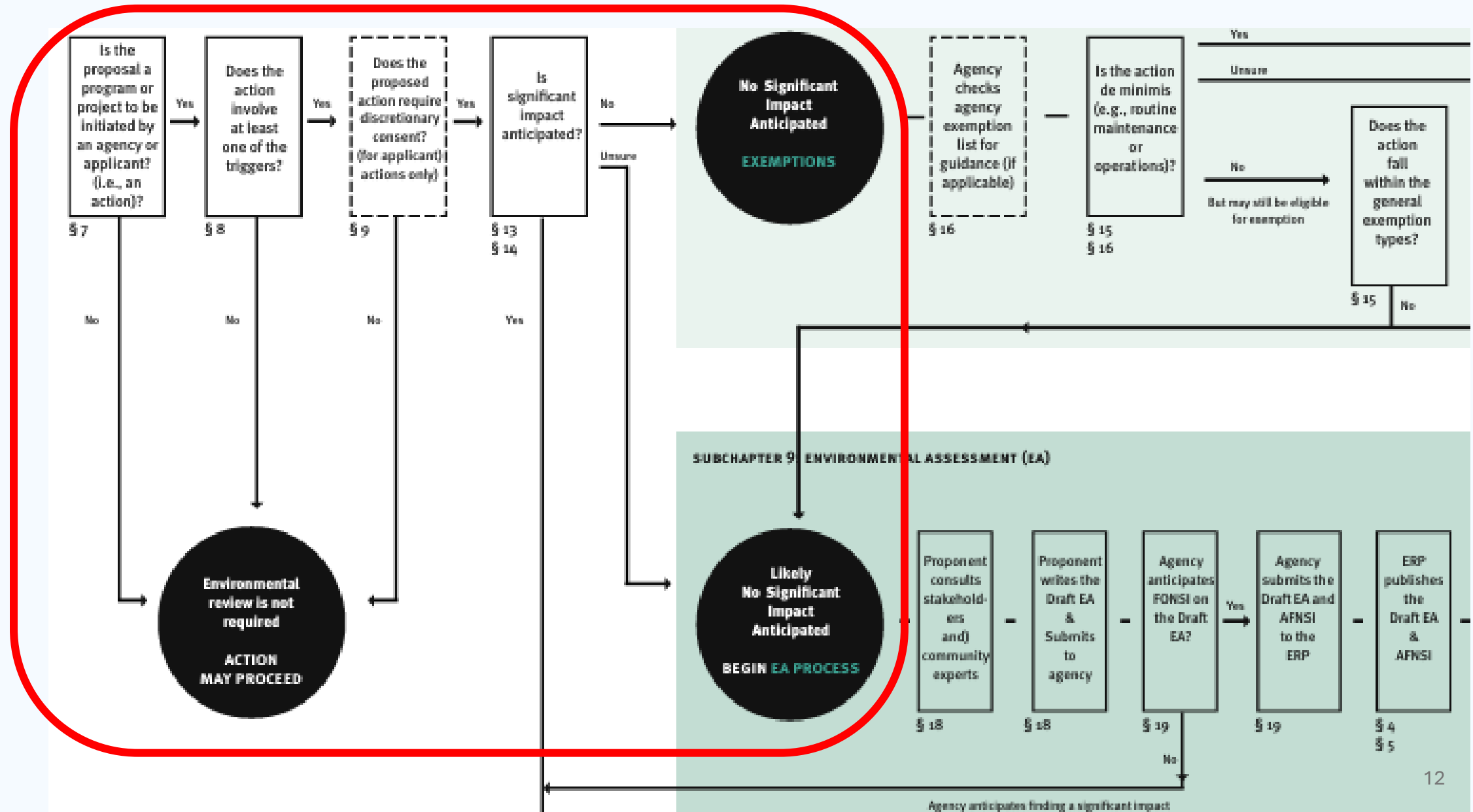


[planning.hawaii.gov/erp/](http://planning.hawaii.gov/erp/)

dbedt.opsd.erp@hawaii.gov (808) 586-4185

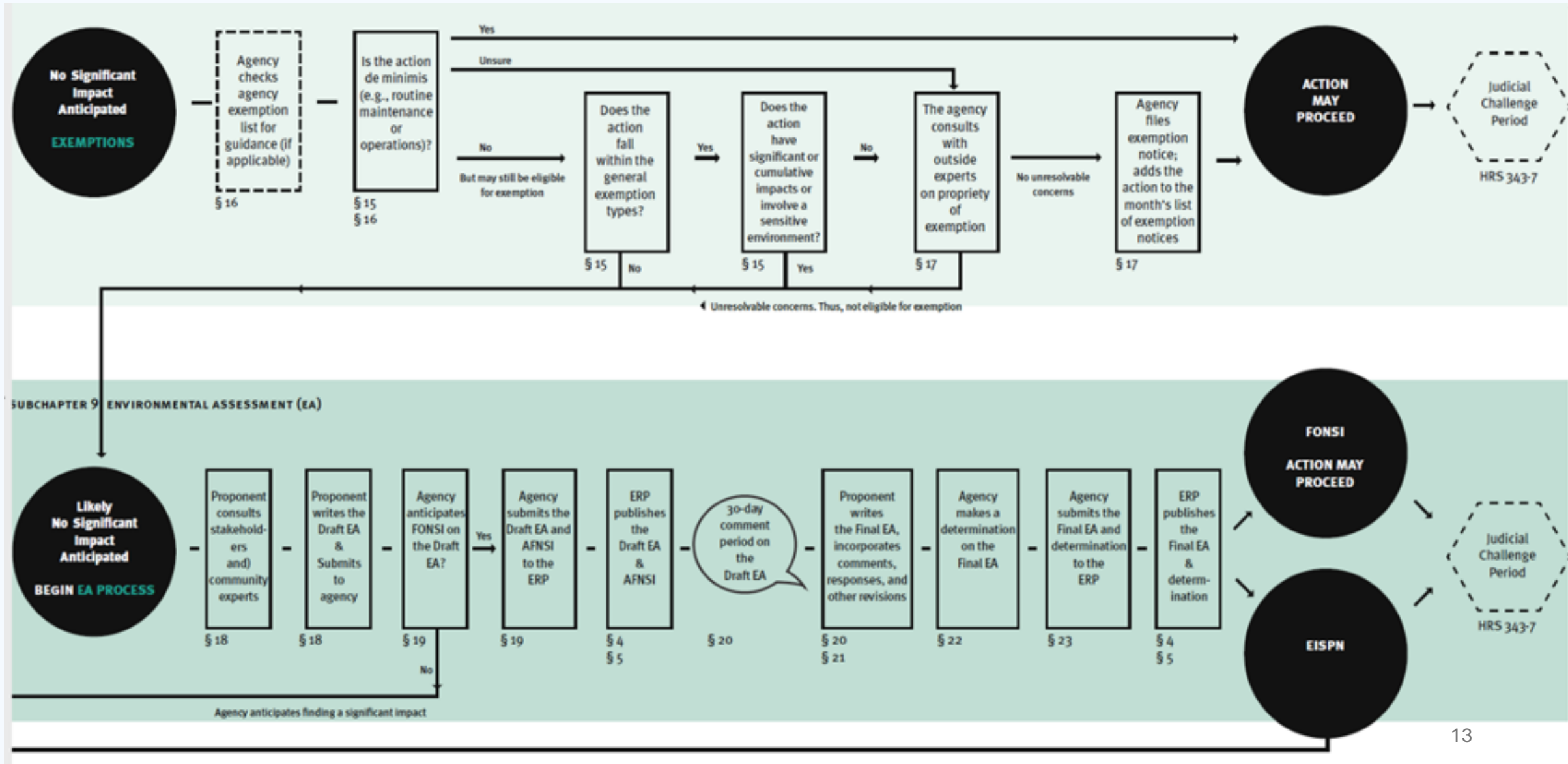
Flowchart designed by Stephanie Chang Design Ink  
Updated, August 12, 2022

# Initial Considerations: Does Ch. 343 Apply, and How?



# Procedural Pathways

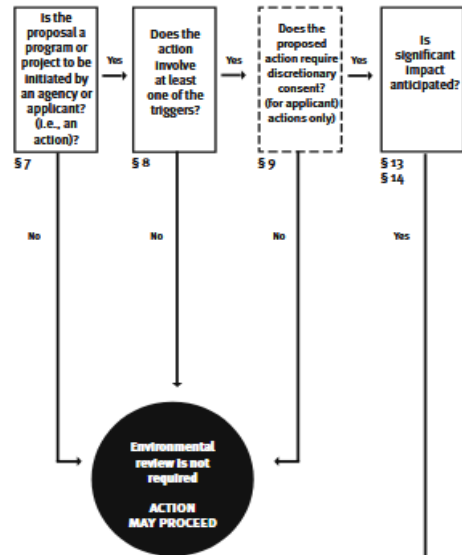
## Exemptions and Environmental Assessments



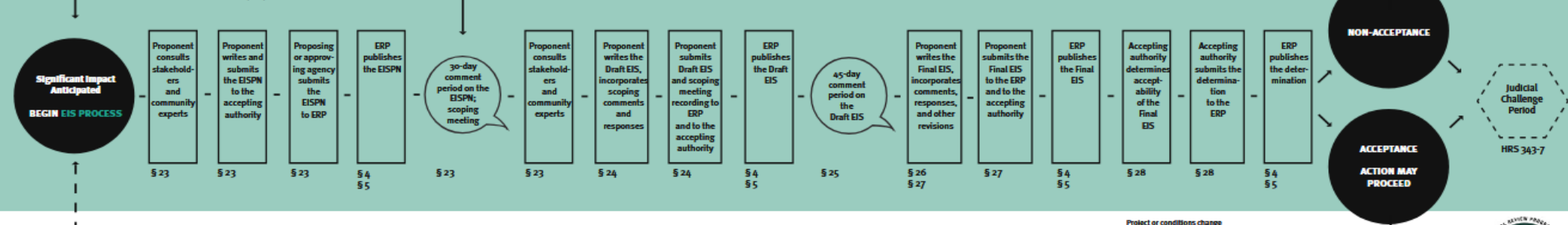
# EIS path on the bottom

## HAWAII ENVIRONMENTAL REVIEW PROCESS HAR Chapter 11-200.1 (unless otherwise stated)

Begin here!



## SUBCHAPTER 10: ENVIRONMENTAL IMPACT STATEMENT (EIS)



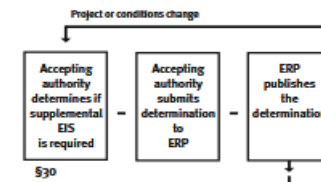
### LEGEND

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— Process —> Decision - - If Applicable

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dbedt.ops.d.erp@hawaii.gov (808) 586-4185  
Flowchart designed by Stephanie Chang Design Ink  
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# Criteria to Accept an EIS

1

The **procedures** for assessment, consultation process, review, and the preparation and submission of the EIS, from proposal of the action to publication of the final EIS, have all been completed satisfactorily,

*(HAR 11-200.1-23 and -25)*

2

The **content requirements** have been satisfied, and

*(HAR 11-200.1-24 and -27)*

3

**Comments** submitted during the review process **have received responses satisfactory to the accepting authority**

*(HAR 11-200.1-26)*

*For more details, see HAR 11-200.1-28.*



**S11-200.1-24 Content requirements; draft environmental impact statement.** (a) The draft EIS, at a minimum, shall contain the information required in this section. The contents shall fully declare the environmental implications of the proposed action and shall discuss all reasonably foreseeable consequences of the action. In order that the public can be fully informed and that the accepting authority can make a sound decision based upon the full range of responsible opinion on environmental effects, an EIS shall include responsible opposing views, if any, on significant environmental issues raised by the proposal.

(b) The scope of the draft EIS may vary with the scope of the proposed action and its impact, taking into consideration whether the action is a project or a program. Data and analyses in a draft EIS shall be commensurate with the importance of the impact, and less important material may be summarized, consolidated, or simply referenced. A draft EIS shall indicate at appropriate points in the text any underlying studies, reports, and other information obtained and considered in preparing the draft EIS, including cost-benefit analyses and reports required under other legal authorities.

(c) The level of detail in a draft EIS may be more broad for programs or components of a program for which site-specific impacts are not discernible, and shall be more specific for components of the program for which site-specific, project-level impacts are discernible. A draft EIS for a program may, where necessary, omit evaluating issues that are not yet ready for decision at the project level. Analysis of the program may discuss in general terms the constraints and sequences of events likely to



result in any narrowing of future options. It may present and analyze in general terms hypothetical scenarios that are likely to occur.

(d) The draft EIS shall contain a summary that concisely discusses the following:

- (1) Brief description of the action;
- (2) Significant beneficial and adverse impacts;
- (3) Proposed mitigation measures;
- (4) Alternatives considered;
- (5) Unresolved issues;
- (6) Compatibility with land use plans and policies, and a list of permits or approvals; and
- (7) A list of relevant EAs and EISs considered in the analysis of the preparation of the EIS.

(e) The draft EIS shall contain a table of contents.

(f) The draft EIS shall contain a separate and distinct section that includes the purpose and need for the proposed action.

(g) The draft EIS shall contain a description of the action that shall include the following information, but need not supply extensive detail beyond that needed for evaluation and review of the environmental impact:

- (1) A detailed map (such as a United States Geological Survey topographic map, Flood Insurance Rate Maps, Floodway Boundary Maps, or state sea level rise exposure area maps, as applicable) and a related regional map;
- (2) Objectives of the proposed action;
- (3) General description of the action's technical, economic, social, cultural, and environmental characteristics;
- (4) Use of state or county funds or lands for the action;
- (5) Phasing and timing of the action;
- (6) Summary technical data, diagrams, and other information necessary to enable an evaluation of potential environmental impact by commenting agencies and the public; and
- (7) Historic perspective.

(h) The draft EIS shall describe in a separate and distinct section discussion of the alternative of no action as well as reasonable alternatives that could attain the objectives of the action. The section shall include a rigorous exploration and objective evaluation of the environmental impacts of all such alternative actions. Particular attention shall be given to alternatives that

might enhance environmental quality or avoid, reduce, or minimize some or all of the adverse environmental effects, costs, and risks of the action. Examples of alternatives include:

- (1) Alternatives requiring actions of a significantly different nature that would provide similar benefits with different environmental impacts;
- (2) Alternatives related to different designs or details of the proposed action that would present different environmental impacts; and
- (3) Alternative locations for the proposed action.

In each case, the analysis shall be sufficiently detailed to allow the comparative evaluation of the environmental benefits, costs, and risks of the proposed action and each reasonable alternative. For alternatives that were eliminated from detailed study, the section shall contain a brief discussion of the reasons for not studying those alternatives in detail. For any agency actions, the discussion of alternatives shall include, where relevant, those alternatives not within the existing authority of the agency.

(i) The draft EIS shall include a description of the environmental setting, including a description of the environment in the vicinity of the action, as it exists before commencement of the action, from both a local and regional perspective. Special emphasis shall be placed on environmental resources that are rare or unique to the region and the action site (including natural or human-made resources of historic, cultural, archaeological, or aesthetic significance); specific reference to related actions, public and private, existent or planned in the region shall also be included for purposes of examining the possible overall cumulative impacts of such actions. Proposing agencies and applicants shall also identify, where appropriate, population and growth characteristics of the affected area, any population and growth assumptions used to justify the proposed action, and any secondary population and growth impacts resulting from the proposed action and its alternatives. The draft EIS shall expressly note the sources of data used to identify, qualify, or evaluate any and all environmental consequences.

(j) The draft EIS shall include a description of the relationship of the proposed action to land use and natural or cultural resource plans, policies, and controls for the affected area. Discussion of how the proposed action may conform or conflict with objectives and specific terms of

approved or proposed land use and resource plans, policies, and controls, if any, for the affected area shall be included. Where a conflict or inconsistency exists, the draft EIS shall describe the extent to which the agency or applicant has reconciled its proposed action with the plan, policy, or control, and the reasons why the agency or applicant has decided to proceed, notwithstanding the absence of full reconciliation.

(k) The draft EIS shall also contain a list of necessary approvals required for the action from governmental agencies, boards, or commissions or other similar groups having jurisdiction. The status of each identified approval shall also be described.

(l) The draft EIS shall include an analysis of the probable impact of the proposed action on the environment, and impacts of the natural or human environment on the action. This analysis shall include consideration of all phases of the action and consideration of all consequences on the environment, including direct and indirect effects. The interrelationships and cumulative environmental impacts of the proposed action and other related actions shall be discussed in the draft EIS. The draft EIS should recognize that several actions, in particular those that involve the construction of public facilities or structures (e.g., highways, airports, sewer systems, water resource actions, etc.) may well stimulate or induce secondary effects. These secondary effects may be equally important as, or more important than, primary effects, and shall be thoroughly discussed to fully describe the probable impact of the proposed action on the environment. The population and growth impacts of an action shall be estimated if expected to be significant, and an evaluation shall be made of the effects of any possible change in population patterns or growth upon the resource base, including but not limited to land use, water, and public services, of the area in question. Also, if the proposed action constitutes a direct or indirect source of pollution as determined by any governmental agency, necessary data regarding these impacts shall be incorporated into the EIS. The significance of the impacts shall be discussed in terms of subsections (m), (n), (o), and (p).

(m) The draft EIS shall include in a separate and distinct section a description of the relationship between local short-term uses of humanity's environment and the maintenance and enhancement of long-term productivity. The extent to which the proposed action involves trade-offs

among short-term and long-term gains and losses shall be discussed. The discussion shall include the extent to which the proposed action forecloses future options, narrows the range of beneficial uses of the environment, or poses long-term risks to health or safety. In this context, short-term and long-term do not necessarily refer to any fixed time periods, but shall be viewed in terms of the environmentally significant consequences of the proposed action.

(n) The draft EIS shall include in a separate and distinct section a description of all irreversible and irretrievable commitments of resources that would be involved in the proposed action should it be implemented. Identification of unavoidable impacts and the extent to which the action makes use of non-renewable resources during the phases of the action, or irreversibly curtails the range of potential uses of the environment, shall also be included. The possibility of environmental accidents resulting from any phase of the action shall also be considered.

(o) The draft EIS shall address all probable adverse environmental effects that cannot be avoided. Any adverse effects such as water or air pollution, urban congestion, threats to public health, or other consequences adverse to environmental goals and guidelines established by environmental response laws, coastal zone management laws, pollution control and abatement laws, and environmental policy including those found in chapters 128D

(Environmental Response Law), 205A (Coastal Zone Management), 342B (Air Pollution Control), 342C (Ozone Layer Protection), 342D (Water Pollution), 342E (Nonpoint Source Pollution Management and Control), 342F (Noise Pollution), 342G (Integrated Solid Waste Management), 342H (Solid Waste Recycling), 342I (Special Wastes Recycling), 342J (Hazardous Waste, including Used Oil), 342L (Underground Storage Tanks), 342P (Asbestos and Lead), and 344 (State Environmental Policy), HRS, and those effects discussed in this section that are adverse and unavoidable under the proposed action must be addressed in the draft EIS. Also, the rationale for proceeding with a proposed action, notwithstanding unavoidable effects, shall be clearly set forth in this section. The draft EIS shall indicate what other interests and considerations of governmental policies are thought to offset the adverse environmental effects of the proposed action. The draft EIS shall also indicate the extent to which these stated

countervailing benefits could be realized by following reasonable alternatives to the proposed action that would avoid some or all of the adverse environmental effects.

(p) The draft EIS shall consider mitigation measures proposed to avoid, minimize, rectify, or reduce impacts, including provision for compensation for losses of cultural, community, historical, archaeological, and fish and wildlife resources, including the acquisition of land, waters, and interests therein. Description of any mitigation measures included in the action plan to reduce significant, unavoidable, adverse impacts to insignificant levels, and the basis for considering these levels acceptable shall be included. Where a particular mitigation measure has been chosen from among several alternatives, the measures shall be discussed and reasons given for the choice made. The draft EIS shall include, where possible, specific reference to the timing of each step proposed to be taken in any mitigation process, what performance bonds, if any, may be posted, and what other provisions are proposed to ensure that the mitigation measures will in fact be taken in the event the action is implemented.

(q) The draft EIS shall include a separate and distinct section that summarizes unresolved issues and contains either a discussion of how such issues will be resolved prior to commencement of the action, or what overriding reasons there are for proceeding without resolving the issues.

(r) The draft EIS shall include a separate and distinct section that contains a list identifying all governmental agencies, other organizations and private individuals consulted in preparing the draft EIS, and shall disclose the identity of the persons, firms, or agency preparing the draft EIS, by contract or other authorization.

(s) The draft EIS shall include a separate and distinct section that contains:

- (1) Reproductions of all written comments submitted during the consultation period required in section 11-200.1-23;
- (2) Responses to all substantive written comments made during the consultation period required in section 11-200.1-23. Proposing agencies and applicants shall respond in the draft EIS to all substantive written comments in one of two ways, or a combination of both, so long as each

substantive comment has clearly received a response:

- (A) By grouping comment responses under topic headings and addressing each substantive comment raised by an individual commenter under that topic heading by issue. When grouping comments by topic and issue, the names of commenters who raised an issue under a topic heading shall be clearly identified in a distinctly labeled section with that topic heading. All substantive comments within a single comment letter must be addressed, but may be addressed throughout the applicable different topic areas with the commenter identified in each applicable topic area. All comments, except those described in paragraph (3), must be appended in full to the final document; or
  - (B) By providing a separate and distinct response to each comment clearly identifying the commenter and the comment receiving a response being responded to for each comment letter submitted. All comments, except those described in paragraph (3), must either be included with the response, or appended in full to the final document;
- (3) For comments that are form letters or petitions, that contain identical or near-identical language, and that raise the same issues on the same topic:
- (A) The response may be grouped under paragraph (2) (A) with the response to other comments under the same topic and issue with all commenters identified in the distinctly labeled section identifying commenters by topic; or
  - (B) A single response may be provided that addresses all substantive comments within the form letter or petition and that includes a distinct section listing the individual commenters who submitted the form letter or petition. At least one representative sample of the form letter or

petition shall be appended to the final document; and

(C) Provided that, if a commenter adds a distinct substantive comment to a form letter or petition, then that comment must be responded to pursuant to paragraph (2);

(4) A summary of any EIS public scoping meetings, including a written general summary of the oral comments made, and a representative sample of any handout provided by the proposing agency or applicant related to the action provided at any EIS public scoping meeting;

(5) A list of those persons or agencies who were consulted and had no comment in a manner indicating that no comment was provided; and

(6) A representative sample of the consultation request letter.

(t) An addendum to a draft EIS shall reference the original draft EIS to which it attaches and comply with all applicable filing, public review, and comment requirements set forth in subchapter 10. [Eff **AUG - 9 2019** ] (Auth: HRS §§343-5, 343-6) (Imp: HRS §§343-2, 343-5, 343-6)

**§11-200.1-27 Content requirements; final environmental impact statement.** (a) The final EIS, at a minimum, shall contain the information required in this section. The contents shall fully declare the environmental implications of the proposed action and shall discuss all reasonably foreseeable consequences of the action. In order that the public can be fully informed and the accepting authority can make a sound decision based upon the full range of responsible opinion on environmental

200.1-44

effects, an EIS shall include responsible opposing views, if any, on significant environmental issues raised by the proposal.

- (b) The final EIS shall consist of:
    - (1) The draft EIS prepared in compliance with this subchapter, as revised to incorporate substantive comments received during the review processes in conformity with section 11-200.1-26, including reproduction of all comments and responses to substantive written comments;
    - (2) A list of persons, organizations, and public agencies commenting on the draft EIS;
    - (3) A list of those persons or agencies who were consulted in preparing the final EIS and those who had no comment shall be included in a manner indicating that no comment was provided;
    - (4) A written general summary of oral comments made at any EIS public scoping meeting; and
    - (5) The text of the final EIS written in a format that allows the reader to easily distinguish changes made to the text of the draft EIS.
- [Eff: **AUG - 9 2019** ] (Auth: HRS §§343-5, 343-6)  
(Imp: HRS §§343-2, 343-5, 343-6)

200.1-45

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# Legal Challenges to Agency Determinations (Environmental Court)

HRS § 343-7 provides for judicial challenges of agency determinations:

- Exemptions can be challenged within **120 days** of the decision to carry out or approve the action; discovery provided by the publication of the [voluntary] Exemption Notice or [mandatory] monthly List of Exemptions in *The Environmental Notice* (or 120 days from the start of action if no formal determination is made [i.e., the agency asserts the action is de minimis])
- Findings of No Significant Impact (FONSI)s can be challenged within **30 days** after publication
- EIS Preparation Notices can be challenged within **60 days** after publication
- Acceptance or non-acceptance of EISs can be challenged within **60 days** after publication

# Discussion Questions

1. What are the practical implications for LUC review of the EIS being a disclosure document and not a permit or approval?
2. Which, if any, of the EIS approval criteria are relatively black and white, and how do you distinguish shades of grey?
3. How should Cultural Impact Assessments and Ka Pa'akai Findings ideally relate?
4. How do you determine whether enough independent scientific inquiry has been conducted into a critical issue on which there is disagreement?
5. How do you fairly weigh written and particularly oral testimony when it contradicts factual statements in an EIS?
6. HRS 343 and its administrative rules are over 50 years old. Have they met their original intent, or has the purpose been frustrated or co-opted, and how have they evolved or how could they evolve to function better?
7. The purpose of the EIS is to investigate impacts and devise mitigation to assist decision makers. As an EIS can be a roadblock to solutions, should it be mandated for all projects that beneficially address a recognized, critical State need, e.g., housing?
8. Are there circumstances in which an EA is more appropriate than an EIS for a Land Use Boundary Amendment?

# Resources, References, and Contact Information

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## Questions on the process?

Web form

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Email [dbedt.opsd.erp@hawaii.gov](mailto:dbedt.opsd.erp@hawaii.gov)

Phone: (808) 586-4185



# Environmental Review Program

<https://planning.hawaii.gov/erp/>

