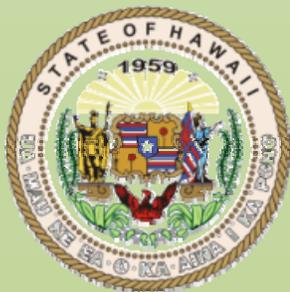


Guide to the Implementation and Practice of the Hawaii Environmental Policy Act

2012 Edition



State of Hawaii
Office of Environmental Quality Control
235 S. Beretania St, Room 702
Honolulu, HI 96813
Phone (808) 586-4185
Fax (808) 586-4186
oeqc@doh.hawaii.gov

www.hawaii.gov/health/environmental/oeqc/index.html

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STATE OF HAWAII

OFFICE OF ENVIRONMENTAL QUALITY CONTROL

235 SOUTH BERETANIA STREET, SUITE 702

HONOLULU, HAWAII 96813

Message from the Director:

This Guidebook is a revision of the "Guidebook for the Hawaii State Environmental Review Process" published in 2004 by the Office of Environmental Quality Control (OEQC), and is intended to provide a clear and comprehensive explanation of Hawaii Environmental Policy Act (HEPA), its practice, and its implementation.

This Guidebook will allow for individuals from private sectors, members of the community, as well as different local government agencies to gain a better understanding of the "Environmental Review Process," also called the "Environmental Impact Statement process." However, this Guide Book does not constitute legal advice from the OEQC, and shall not be viewed as legally binding. It is intended to be for general informational use only, and readers should consult HRS Chapter 343, HAR 11-200, and decisions of the Hawaii appellate courts prior to substantive decision-making.

For more information and additional resources please visit our website: <http://hawaii.gov/health/environmental/oeqc/index.html>

If it would be helpful, we would also be pleased to schedule a special Chapter 343 training workshop specifically for your individual office or agency.

As always, if we can be of any assistance whatsoever please do not hesitate to call.

Aloha,

A handwritten signature in cursive script, appearing to read "Gary Hooser".

Gary Hooser, Director
Office of Environmental Quality Control

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**THIS GUIDEBOOK IS FOR GENERAL INFORMATION ONLY.
CONSULT THE STATUTE AND THE RULES FOR SPECIFIC
APPLICABILITY, JUDICIAL CHALLENGE AND DETAILED STEPS
TO IMPLEMENTATION AND PROCESS OF HEPA.**

Chapter 1: Introduction to the Hawaii Environmental Policy Act (HEPA) and Chapter 343, HRS

1.1 Goals of this Chapter

The reader will become familiar with the following:

- A. Language, basic concepts, and terms used in the Hawaii Environmental Policy Act (HEPA), as codified in Chapter 343, Hawaii Revised Statutes (HRS), (the Environmental Assessment [EA] and Environmental Impact Statement [EIS] process).
- B. The origin of the National Environmental Policy Act (NEPA) of 1969 and how it provided a model for the development of HEPA in 1974.
- C. The differences between HEPA and NEPA:

HEPA	NEPA
<ul style="list-style-type: none">• Separates disclosure from permitting/ implementation processes• Draws a distinct boundary between the disclosure process and the implementation (or permitting) processes• Review triggered by any of nine factors	<ul style="list-style-type: none">• Constitutes a process that is under the oversight of one federal agency from start to finish• Does not draw a distinct boundary between the disclosure process and the implementation (or permitting) processes• Review triggered by “major” federal action significantly affecting human environment

- D. The different definition and context of terms used in both HEPA and NEPA. Some of these terms include "significance," "environmental assessment," "environmental impact statement," "finding of no significant impact," etc. For the purposes of this guidebook, these terms will be used as defined in HEPA. However, when discussed as used in NEPA and other state/county processes not covered by HEPA, such usage will be qualified in parentheses.

1.2 Foundations of the Hawaii Environmental Policy Act

HEPA includes the following statutes and administrative rules:

- A. HRS Chapter 343, Environmental Impact Statements
- B. HAR 11-200, Environmental Impact Statement Rules
- C. HAR 11-201, Environmental Council Rules of Practice and Procedure

The Chapters above can be found on the OEQC website:

<http://www.hawaii.gov/health/environmental/oeqc/index.html>

1.3 Brief Historical Overview

Table 1-1 presents a brief chronology of important historical events involving HEPA. The table describes the passage of legislation, creation of administrative bodies, and important court cases that have shaped the law and practice of HEPA. The table is not intended to be a complete or exhaustive list. The Final Report on Hawaii's

Environmental Review System contains a more comprehensive discussion of additional relevant events.

Table 0-1. Chronology of Important HEPA Events

Date	Event	Additional information
1969	The National Environmental Protection Act passed into law.	Public Law 91-190, approved, January 01, 1970.
1970	Governor John A. Burns signed SB 1132 as Act 132, Session Laws of Hawaii (SLH), Regular Session of 1970, creating the Office of Environmental Quality Control (OEQC), the Environmental Center (Center), and the Environmental Council (EC) (HRS Chapter 341).	All were housed in the Office of the Governor except for the Center, which was housed in the University of Hawaii.
1971	Governor John A. Burns issued an executive order requiring State agencies and county agencies that used State or county funds or the use of State or County lands to prepare an EIS for major actions under the oversight of the OEQC.	
1973	The Legislature created a Temporary Commission on Environmental Planning that proposed legislation for EISs in the State of Hawaii.	
1974	The Governor signed Act 246, Session Laws of Hawaii, Regular Session of 1974, later known as the HEPA and patterned after the NEPA. Act 246 established the Environmental Quality Commission (EQC) and the EIS process (HRS Chapter 343). The State also passed the State Environmental Policy, HRS Chapter 344:	Act 246 created the EIS process under the authority of the EQC, enabling it to publish notice of documents for public comment in a periodic bulletin (then known as the <i>EQC Bulletin</i>), and to promulgate rules to implement the provisions of the statute. Chapter 344 contains comprehensive environmental policy, goals, and objectives.
1983	The Governor signed Act 140, Session Laws of Hawaii, Regular Session of 1983. The Act abolished the EQC and divided its personnel, equipment and responsibilities between the OEQC and the EC. The OEQC received the personnel and equipment of the EQC, with a mandate to staff the EC.	The OEQC was made responsible for publishing the periodic bulletin of Section 343-3, HRS, while the EC was made responsible for rulemaking and the review and concurrence of agency exemption lists. Both the OEQC and the EC were attached to the Department of Health for administrative purposes.
1985	The EC promulgated Chapter 200, Title 11, Hawaii Administrative Rules (HAR), implementing the provisions of Chapter 343, HRS.	Based substantively on the Rules and Regulations of the former Environmental Quality Commission.
1992	Act 241, SLH 1992, amended Chapter 343, HRS by requiring a 30-day public comment period on agency or applicant actions for which the proposing agency or approving agency anticipates a "Negative Declaration" ("Neg Dec").	"Negative declaration" later termed a "Finding of No Significant Impact" (FONSI).

Date	Event	Additional information
1996	The EC issues its first amendment and compilation of Chapter 200, Title 11, HAR, effectively implementing the provisions of Act 241, SLH 1992.	
1997	The OEQC published its "Guidebook for the Hawaii State Environmental Review Process." <i>Kahana Sunset Owners Association v. County of Maui et alia.</i>	The Guidebook introduced the terms "Draft EA" and "Final EA". The county's determination that a completely new drainage system for over 300 residences was within the exemption for HEPA's requirements for installation of drains within streets and highways was inconsistent with both the letter and intent of rules set forth under Section 11-200-8, HAR.
1998	<i>Kepono v. Watson, et alia</i>	The requirements of HEPA apply to lands under the jurisdiction of the Department of Hawaiian Home Lands.
1999	<i>Citizens for the Protection of the North Kohala Coastline et alia v. County of Hawaii, Chalon International Inc., et alia</i>	HEPA was triggered when the applicant proposed the use of state land (proposed construction of two underpasses under Akoni Pule Highway) for golf carts to travel a golf course bisected by a state highway.
2004	The OEQC issued a revised "Guidebook for the Hawaii State Environmental Review Process".	Hereinafter referred to as "The 2004 Guidebook".
2006	<i>Sierra Club v. Office of Planning (Koa Ridge)</i>	Developer's request to reclassify agricultural land as urban required an EA where State land was used for water and sewer lines under State highway.
2007	<i>Sierra Club v. Department of Transportation (Superferry 1)</i>	DOT erred in finding exempt Superferry dock improvements without considering whether environmental impacts of the whole Superferry operation, secondary, as well as primary, would be significant.
2008	<i>'Ohana Pale Ke Ao v. Board of Agriculture</i>	HEPA required the preparation of an EA for importing and growing genetically engineered algae at the state's research and technology park because it involves a use of State land and was not within the scope of prior NELHA EISs.
2009	<i>Unite Here! Local 5 v. City and County of Honolulu and Kuilima Resort</i>	The Turtle Bay expansion project must do a supplemental EIS; it could not rely on a 20 year old EIS where record showed changed environmental impacts.

1.4 Understanding of the HEPA Process

The authorities governing the HEPA process include:

- A. The text of the statute (Chapter 343, HRS) and its implementing administrative rules (Chapters 11-200, and 11-201, HAR, Department of Health)
- B. The State Environmental Policy (Chapter 344, HRS)
- C. The enumerated and written advisory opinions of the Attorney General of the State of Hawaii

- D. The declaratory rulings of the Environmental Quality Commission (EQC) and the Environmental Council (EC)
- E. The appellate rulings of the Intermediate Court of Appeals and the Supreme Court of the State of Hawaii. Several studies published by the Center of the University of Hawaii on the HEPA process are also instructive

Due to space limitations, the text of the HEPA Statute and rules have not been included in this Guidebook. Please refer to the OEQC website for the current Statute and rules, at <http://www.hawaii.gov/health/environmental/oeqc/index.html>

The environmental review process described in the findings and purpose section of Chapter 343, HRS, necessitates integrating citizen concerns into the planning process and forewarning decision makers of potential significant environmental effects should implementation take place.

Since its inception, the HEPA process has bifurcated into two separate procedural tracks:

- A. Agency actions (set forth in Section 343-5(b), HRS); refers to those proposed by a government agency
- B. Applicant actions (set forth in Section 343-5(c), HRS); refers to those that are initiated by a private party and “triggers” an environmental review

To learn more about how HEPA applies specifically to agency actions, refer to Chapter 6, as well as the flowcharts in Exhibits 6-1 and 6-2.

To learn more about how HEPA applies specifically to applicant actions, refer to Chapter 7, as well as the flowcharts in Exhibits 7-1 and 7-2.

To better understand the HEPA process, review the terms used in the HEPA very carefully. Chapter 8, Glossary, includes an explanation of these terms.

1.5 The Structure and Design of the HEPA Process

The objective of HEPA is set forth in the findings and purpose section of the statute (Section 343-1, HRS), which states in pertinent part that:

"[t]he legislature finds that the quality of humanity's environment is critical to humanity's well being, that humanity's activities have broad and profound effects upon the interrelations of all components of the environment, and that an 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. The legislature further finds that the 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."

At the outset it is important to articulate how one complies with the "environmental review process" in HEPA.

HOW TO COMPLY WITH THE HEPA PROCESS:

When an action triggers Chapter 343, HRS, the agency responsible for compliance can clear the process through:

1. An agency declares an action exempt from the preparation of an EA (see Section 11-200-8, HAR).
2. An agency declares a FONSI based on a final environmental assessment (FEA) (see Section 11-200-11.2, HAR).
3. An entity (the approving agency, the Governor, or the Mayor) determines that a final environmental impact statement (FEIS) for a proposed action meets the criteria for acceptability (see Section 11-200-23, HAR) or for applicant actions, the approving agency fails to make a determination on the acceptability of a FEIS within 30-days from the date of receipt (see Section 343-5(c), HRS).

Proposing agency – Responsible for preparing an EA, reviewing the document, submitting the document to OEQC for publication, and issuing a notice of determination on the need for an EIS.

Approving agency – An agency that issues an approval prior to actual implementation of an action.

1.6 Statutory Trigger Conditions for HEPA

The specific instances when a proposing agency or an approving agency must prepare an EA (for an action not declared exempt under Section 11-200-8, HAR) derive from Section 343-5(a), HRS, are as follows:

Table 0-2. “Triggers” Initiating HEPA

	Instances	Agency Responsible for Complying with this Trigger
1.	Use of State or County lands or use of State or County funds, other than funds to be used for feasibility or planning studies for possible future programs or projects that the agency has not approved, adopted, or funded, or funds to be used for the acquisition of unimproved real property; provided that the agency shall consider environmental factors and available alternatives in its feasibility or planning studies; provided further that an EA for proposed uses under Section 205-2(d)(11) or 205-4.5(a)(13) shall only be required pursuant to Section 205-5(b).	The agency with title to the land or is using funds.
2.	Use of any land classified as conservation district by the state land use commission under Chapter 205.	Office of Conservation and Coastal Lands of the Department of Land and Natural Resources (DLNR).
3.	Use within a shoreline area as defined in Section 205A-41. The shoreline area in question is defined by county ordinance and consists of a predetermined distance going inland from the certified shoreline. In the City and County of Honolulu, this is forty-feet.	The respective county planning department.

	Instances	Agency Responsible for Complying with this Trigger
4.	Use within any historic site as designated in the National Register or Hawaii Register, as provided for in the Historic Preservation Act of 1966, Public Law 89-665, or Chapter 6E.	The respective county planning department.
5.	Use within the Waikiki area of Oahu, the boundaries of which are delineated in the land use ordinance as amended, establishing the "Waikiki Special District".	The Department of Planning and Permitting of the City and County of Honolulu.
6.	Any amendments to existing county general plans where the amendment would result in designations other than agriculture, conservation or preservation, except actions proposing any new county general plan or amendments to any existing county general plan initiated by a county.	The respective county planning department.
7.	Any reclassification of any land classified as a conservation district by the state land use commission under Chapter 205.	The Land Use Commission, except in cases involving less than fifteen-acres (which cases are processed by the respective county planning department).
8.	Any construction of new or the expansion or modification of existing helicopter facilities within the State, that may affect: A. Any land classified as a conservation district by the state land use commission B. A shoreline area C. Any historic site as designated in the National Register or Hawaii Register	The respective county planning department where the project is located processes the clearance of this trigger
9.	Propose any: A. Wastewater treatment unit, except an individual wastewater system or a wastewater treatment unit serving fewer than fifty single family dwellings or the equivalent B. Waste-to-energy facility C. Landfill D. Oil refinery E. Power-generating facility	The agencies of the State or County government that issue discretionary approvals for the listed items.

1.7 Thirteen Administrative Criteria for Significance

In most cases, an agency determines that an action may have a significant impact on the environment if it meets any of the following criteria (from Section 11-200-12, HAR):

- A. Involves an irrevocable commitment to loss or destruction of any natural or cultural resource
- B. Curtails the range of beneficial uses of the environment
- C. Conflicts with the state's long-term environmental policies or goals and guidelines as expressed in [Chapter] 344, HRS, and any revisions thereof and amendments thereto, court decisions, or executive orders
- D. Substantially affects the economic or social welfare of the community or State
- E. Substantially affects public health
- F. Involves substantial secondary impacts, such as population changes or effects on public facilities
- G. Involves a substantial degradation of environmental quality
- H. Is individually limited but cumulatively has considerable effect upon the environment or involves a commitment for larger actions
- I. Substantially affects a rare, threatened, or endangered species, or its habitat
- J. Detrimently affects air or water quality or ambient noise levels

- K. Affects or is likely to suffer damage by being located in an environmentally sensitive area such as a flood plain, tsunami zone, beach, erosion-prone area, geologically hazardous land, estuary, fresh water or coastal waters
- L. Substantially affects scenic vistas and view planes identified in county or state plans or studies
- M. Requires substantial energy consumption

It is important to note that in considering significance of potential environmental effects, the agency (either proposing or approving) must consider the sum of the effects on the quality of the environment and that the same agency must evaluate the overall and cumulative effects of a proposed action: the expected direct and indirect consequences, and the cumulative, as well as short-term and long-term effects of the proposed action.

Uses of the thirteen significance criteria include the following:

- A. Exemption Declarations: Under Section 11-200-8, HAR, proposed actions that have "minimal or no significant effect" on the environment can be declared exempt from the preparation of an EA by the agency.
- B. Environmental Assessments:
 1. Where an agency anticipates at the outset that a non-exempted proposed action will NOT have a "significant effect" on the environment, the agency is required to prepare a draft environmental assessment (DEA) that supports its determination that it anticipates that an EIS will not need to be prepared (see Anticipated Finding of No Significant Impact (FONSI), Section 11-200-11.1, HAR) and notify the OEQC.
 2. Where an agency determines at the outset that a non-exempted proposed action will have a "significant effect" on the environment, the agency will prepare a FEA that supports its determination that an EIS must be prepared (see Environmental Impact Statement Preparation Notice (EISPN), Section 11-200-11.2, HAR).

1.8 Statutory Exclusions

In Section 1.6, above, the nine statutory trigger conditions were articulated. Certain actions are excluded from the HEPA process. These are as follows:

- A. Section 343-5(a)(1), HRS, such as the use of State or county funds to be used for feasibility or planning studies that the agency has not approved, adopted, or funded, or the use of funds to be used for the acquisition of unimproved real property, provided that the agency shall consider environmental factors and available alternatives in its feasibility or planning studies; provided further that an environmental assessment for proposed uses under Section 205-2(d)(11), HRS, or 205-4.5(a)(13), (for agricultural tourism) HRS shall only be required pursuant to Section 205-5(b), HRS
- B. Fossil-fueled, electricity-generating facilities where the electrical output rating of the new equipment does not exceed 5.0 MW. Expansion in generating capacity of an existing, fossil-fueled, electricity-generating facility, where the incremental electrical output rating of the new equipment does not exceed 5.0 MW. (Section 343-2, HRS, definition of power generating facility)
- C. Individual wastewater system or a wastewater treatment unit servicing fewer than fifty (50) single family dwellings or the equivalent (Section 343-5[a][9], HRS)
- D. Actions proposing any new county general plan or amendments to any existing county general plan initiated by a County (Section 343-5(a)(6), HRS)

- E. Purchase of the assets of the Waiahole water system (Section 343-6.5, HRS)
- F. Proposed reconstruction, restoration, repair, or use of any Hawaiian fishpond, provided that compliance with certain conditions in Section 183B-2, HRS is met.
- G. Affordable housing, provided that compliance with certain conditions in Section 201H-38, HRS is met
- H. Broadband infrastructure, provided that compliance with certain conditions in Act 151, SLH 2011, is met

1.9 Phased Actions - Project Segmentation

Section 11-200-7, HAR, states that "[a] group of actions proposed by an agency or an applicant shall be treated as a single action when:

- A. The component actions are phases or increments of a larger total undertaking
- B. An individual project is a necessary precedent for a larger project
- C. An individual project represents a commitment to a larger project
- D. The actions in question are essentially identical and a single statement will adequately address the impacts of each individual action and those of the group of actions as a whole"

A proposed action must be described in its entirety and cannot be broken up into component parts, which if each is taken separately, may have minimal impact on the environment. Segmenting a project in this incremental way to avoid the preparation of an environmental impact statement is forbidden. If a project includes a later phase that cannot be fully described in the current EA because it is only likely to be implemented in the distant future (as opposed to the "reasonably foreseeable future"), the EA should disclose as much detail as possible about the future phase. Should the future phase of such a project eventually be proposed, a new environmental review document will be required at that time.

1.10 Early Consultation and Data Gathering

For a proposed action, at the earliest practicable time, Section 11-200-9, HAR, requires that an agency (proposing or approving) needs to consult (or direct an applicant to consult) with the respective county planning department(s) and other agencies or individuals that might have jurisdiction or expertise with respect to the proposed action. Early consultation is the most important element of the HEPA process. Who needs to be consulted? Which agencies and individuals to consult will depend on both the regulatory context, as well as the environmental context.



Consider the following example related to regulatory context. If you are seeking a discretionary approval as an applicant, it would be to your advantage to contact each of the approving agencies processing the various discretionary permits for your proposed action. Where the action involves more than one agency potentially responsible for complying with the requirements of Section 343-5(c), HRS, as the approving agency, you should speak with the agencies involved to ascertain if agreement can be reached as to which of them will process the EA and any subsequent EIS. Where such agreement cannot be reached, the statute mandates that the Office of Environmental Quality

Control (OEQC) shall determine this after consulting with each of the potential approving agencies, among other things.

As an example of environmental context, you are a county agency proposing to construct a new road linking two existing towns. You first need to examine the “environment” in which this road will be placed. Refer to the definition of “environment” (see Chapter 8, Glossary), Table 1-3, as well as Exhibit 1-1 at the end of this chapter, which presents the guidelines for assessing cultural impacts.

Federal agencies are valuable sources of information. Some Federal agencies, like the U.S. Army Corps of Engineers and the U.S. Environmental Protection Agency issue permits to State/County agencies and other persons. The U.S. Environmental Protection Agency may delegate its permitting and enforcement responsibilities to various State agencies under the auspices of a grant agreement.

Often, during the early consultation process (and also in the various other phases of the Chapter 343, HRS, process) various agencies, individuals, or organizations may be contacted a number of times, depending on information you receive and the questions that it raises. Early consultation is an *iterative process* to see if common understanding can be reached with the associated agencies, or to see if any information received may lead to more iterative queries until the information of interest is obtained / discovered.

Iterative Process = A process for arriving at a decision or result in a stepwise approach with new and more detailed information at each step

The ultimate goal of early consultation is the gathering of information or data. Data is either qualitative or quantitative, or a combination of both. At each iteration of consultation, you will need to ascertain the reliability of the data you have gathered. Is the data commonly accepted knowledge? Is the data reproducible? Is the person providing the data recognized as an expert in his or her area of expertise? It is to your advantage to have your data examined by several persons (i.e., “peer-reviewed”) in advance of a public comment period prior to publishing it in the form of an EA or an EIS. The table below is not intended to be a complete or exhaustive list of agencies and public organizations.

Table 0-3. Example Environmental Factors and Relevant Agencies and Public Organizations

Context / Proposed Activity	Agency	Community
Social conditions	Census, DHHS, UH School of Social Work, Judiciary.	Neighbors, community leaders, and property owners.
Air and water	Pollution control agencies in county and State governments (e.g., county public works department, Department of Health); for actions (such as dredging) that may impact waters of the U.S., contact the U.S.	Neighbors, community leaders, and property owners.

Context / Proposed Activity	Agency	Community
	Army Corps of Engineers.	
Flora and fauna	Agencies/organizations responsible for flora and fauna resources (e.g., the DLNR, the U.S. Fish and Wildlife Service).	Neighbors, community leaders, and property owners.
Ambient noise	State and County noise abatement programs (e.g., Noise and Radiation Branch, Environmental Health Services Division, Department of Health).	Neighbors, community leaders, and property owners.
Cultural conditions	OHA and DHHL	Kahea, Hawaiian community organizations, and nearby homestead communities Community members familiar with the cultural resources and practices in the geographical region the proposed action is situated in it.
Historic or aesthetic significance	County historic places review board, and State Historic Preservation Division of the DLNR.	Neighbors, community leaders, and property owners.
Conservation zoned sites or district	Department of Land and Natural Resources (DLNR); and possibly the Na Ala Hele (Trails) program of DLNR.	The Nature Conservancy, The Outdoor Circle, the Sierra Club, and Hawaii's 1000 Friends.
Coastal areas	County planning departments for a Special Management Area Permit and a Shoreline Setback.	Sierra Club and Sea Grant Program of the University of Hawaii.
Historic areas	State Historic Preservation Division.	Historic Hawaii Foundation.

To facilitate the process iterations in the early consultation period, the reader is encouraged to review the following guidance documents related to:

1. Biological surveys, ecosystem impact analysis and mitigation measures;
2. Guidelines for Assessing Cultural Impacts and the List of Cultural Impact Assessment Providers;
3. Guidelines for Assessing Water Well Development Projects;
4. Shoreline Hardening Policy;
5. Guidelines for Sustainable Building Design in Hawaii, all available online at <http://www.hawaii.gov/health/environmental/oegc/index.html>

GUIDELINES FOR ASSESSING CULTURAL IMPACTS

(Adopted by the Environmental Council, State of Hawaii, November 19, 1997)

I. INTRODUCTION

It is the policy of the State of Hawaii under Chapter 343, HRS, to alert decision makers through the environmental assessment process about significant environmental effects which may result from the implementation of certain actions. An environmental assessment of cultural impacts gathers information about cultural practices and cultural features that may be affected by actions subject to Chapter 343, and promotes responsible decision-making.

Articles IX and XII of the State Constitution, other state laws and the courts of the state require government agencies to promote and preserve cultural beliefs, practices, and resources of native Hawaiians and other ethnic groups. Chapter 343 also requires environmental assessment of cultural resources, in determining the significance of a proposed project.

The Environmental Council encourages preparers of environmental assessments and environmental impact statements to analyze the impact of a proposed action on cultural practices and features associated with the project area. The Council provides the following methodology and content protocol as guidance for any assessment of a project that may significantly affect cultural resources.

II. CULTURAL IMPACT ASSESSMENT METHODOLOGY

Cultural impacts differ from other types of impacts assessed in environmental assessments or environmental impact statements. A cultural impact assessment includes information relating to the practices and beliefs of a particular cultural or ethnic group or groups.

Such information may be obtained through scoping community meetings, ethnographic interviews and oral histories. Information provided by knowledgeable informants, including traditional cultural practitioners, can be applied to the analysis of cultural impacts in conjunction with information concerning cultural practices and features obtained through consultation and from documentary research.

In scoping the cultural portion of an environmental assessment, the geographical extent of the inquiry should, in most instances, be greater than the area over which the proposed action will take place. This is to ensure that cultural practices which may not occur within the boundaries of the project area, but which may nonetheless be affected, are included in the assessment. Thus, for example, a proposed action that may not physically alter gathering practices, but may affect access to gathering areas would be included in the assessment. An ahupua'a is usually the appropriate geographical unit to begin an assessment of cultural impacts of a proposed action, particularly if it includes all of the types of cultural practices associated with the project area. In some cases, cultural practices are likely to extend beyond the ahupua'a and the geographical extent of the study area should take into account those cultural practices.

The historical period studied in a cultural impact assessment should commence with the initial presence in the area of the particular group whose cultural practices and features are being assessed. The types of cultural practices and beliefs subject to assessment may include subsistence, commercial, residential, agricultural, access-related, recreational, and religious and spiritual customs.

The types of cultural resources subject to assessment may include traditional cultural properties or other types of historic sites, both man made and natural, including submerged cultural resources, which support such cultural practices and beliefs.

If the subject area is in a developed urban setting, cultural impacts must still be assessed. Many incorrectly assume that the presence of urban infrastructure effectively precludes consideration of current cultural factors. For example, persons are known to gather kauna`oa, `ilima, `uhaloa, noni or ki on the grassy slopes and ramps of the H-1 freeway and some state highways on the neighbor islands. Certain landmarks and physical features are used by Hawaiian navigators for sailing, and the lines of sight from landmarks to the coast by fisherman to locate certain fishing spots. Blocking these features by the construction of buildings or tanks may constitute an adverse cultural impact.

The Environmental Council recommends that preparers of assessments analyzing cultural impacts adopt the following protocol:

- A. Identify and consult with individuals and organizations with expertise concerning the types of cultural resources, practices and beliefs found within the broad geographical area, e.g. district or ahupua'a;
- B. Identify and consult with individuals and organizations with knowledge of the area potentially affected by the proposed action;
- C. Receive information from or conduct ethnographic interviews and oral histories with persons having knowledge of the potentially affected area;
- D. Conduct ethnographic, historical, anthropological, sociological, and other culturally related documentary research;
- E. Identify and describe the cultural resources, practices, and beliefs located within the potentially affected area; and
- F. Assess the impact of the proposed action, alternatives to the proposed action, and mitigation measures, on the cultural resources, practices and beliefs identified.

Interviews and oral histories with knowledgeable individuals may be recorded, if consent is given, and field visits by preparers accompanied by informants are encouraged. Persons interviewed should be afforded an opportunity to review the record of the interview, and consent to publish the record should be obtained whenever possible. For example, the precise location of human burials is likely to be withheld from a cultural impact assessment, but it is important that the document identify the impact a project would have on the burials. At times an informant may provide information only on the condition that it remains in confidence. The wishes of the informant should be respected.

Primary source materials reviewed and analyzed may include, as appropriate: Mahele, land court, census and tax records including testimonies; vital statistics records; family histories and genealogies; previously published or recorded ethnographic interviews and oral histories; community studies, old maps and photographs; and other archival documents, including correspondence, newspaper or almanac articles, and visitor journals. Secondary source materials such as historical, sociological and anthropological texts manuscripts, and similar materials published and unpublished, should also be consulted. Other materials, which should be examined, include prior land use proposals, decisions, and rulings, which pertain to the study area.

III. CULTURAL IMPACT ASSESSMENT CONTENTS

In addition to the content requirements for environmental assessments and environmental impact statements, which are set out in HAR §11-200-10 and 16 through 18, the portion of the assessment concerning cultural impacts should address, but not necessarily be limited to, the following matters:

- A. A discussion of the methods applied and results of consultation with individuals and organizations identified by the preparer as being familiar with cultural practices and features associated with the project area, including any constraints or limitations which might have affected the quality of the information obtained.
- B. A description of methods adopted by the preparer to identify, locate, and select the persons interviewed, including a discussion of the level of effort undertaken.
- C. Ethnographic and oral history interview procedures, including the circumstances under which the interviews were conducted, and any constraints or limitations which might have affected the quality of the information obtained.
- D. Biographical information concerning the individuals and organizations consulted, their particular expertise, and their historical and genealogical relationship to the project area, as well as information concerning the persons submitting information or interviewed, their particular knowledge and cultural expertise, if any, and their historical and genealogical relationship to the project area.
- E. A discussion concerning historical and cultural source materials consulted, the institutions and repositories searched and the level of effort undertaken. This discussion should include, if appropriate, the particular perspective of the authors, any opposing views, and any other relevant constraints, limitations or biases.
- F. A discussion concerning the cultural resources, practices and beliefs identified, and, for resources and practices, their location within the broad geographical area in which the proposed action is located, as well as their direct or indirect significance or connection to the project site.
- G. A discussion concerning the nature of the cultural practices and beliefs, and the significance of the cultural resources within the project area affected directly or indirectly by the proposed project.
- H. An explanation of confidential information that has been withheld from public disclosure in the assessment.
- I. A discussion concerning any conflicting information in regard to identified cultural resources, practices and beliefs.
- J. An analysis of the potential effect of any proposed physical alteration on cultural resources, practices or beliefs; the potential of the proposed action to isolate cultural resources, practices or beliefs from their setting; and the potential of the proposed action to introduce elements which may alter the setting in which cultural practices take place.
- K. A bibliography of references, and attached records of interviews which were allowed to be disclosed.

The inclusion of this information will help make environmental assessments and environmental impact statements complete and meet the requirements of Chapter 343, HRS. If you have any questions, please call 586-4185. You may ask OEQC if a directory of cultural impacts assessment providers is available.

Chapter 2: Environmental Assessment

For actions that trigger Chapter 343 review but are not declared exempt pursuant to Section 11-200-8, HAR, an EA is required. There are four instances where such an EA must be prepared:

DEA-AFONSI:	A proposing agency or an approving agency anticipates a finding of no significant impact (AFONSI) for a proposed action and prepares a DEA in accordance with Section 11-200-9, HAR, and Section 11-200-10, HAR;
FEA-FONSI:	A proposing agency or an approving agency has reviewed public comments (if any) on a DEA and prepares a FEA supporting a FONSI;
FEA-EISPN:	A proposing agency or an approving agency determines at the outset that a proposed action will have a significant impact on the environment requiring the preparation of a FEA supporting an environmental impact statement preparation notice (EISPN) determination; or,
FEA-EISPN:	A proposing agency or an approving agency has reviewed public comments on a DEA where the agency originally anticipated a finding of no significant impact (AFONSI). The public comments indicate that the proposed action may now have significant effects requiring the preparation of a FEA supporting an EISPN determination.

The proposing agency or approving agency shall prepare any DEA or FEA of each proposed action and determine whether the anticipated effects constitute a significant effect in the context of Chapter 343, HRS, and Section 11-200-12. Section 11-200-9, HAR, permits an approving agency to direct the preparation of an EA by the applicant. See the appropriate checklist in Chapter 6 (for agency actions) or Chapter 7 (for applicant actions). The EA must contain, but is not limited to, the information described in the following subsections. Please note that the EA should be made understandable to the general public using plain language, illustrations, and photographs.

The following sections describe the required minimum content for an EA, as prescribed in HAR 11-200-10.

2.1 Agency Action or Applicant Action?

For agency actions, identify the proposing agency. If the proposing agency determines that an EIS will be required then identify the "accepting authority," which will be either the governor, or the county mayor, or their authorized representatives.

For applicant actions, identify the applicant, and the approving agency. HAR §11-200-10(1). For applicant proposals the approving agency oversees both the preparation of an EA as well as the determination of acceptability on a FEIS.

Accepting authority → Agency actions
Approving agency → Applicant actions

In both instances, it is not required to list the agency making the determination on the need for an environmental impact statement since HEPA confers this responsibility on the proposing agency or the approving agency.

2.2 Identify the Approving Agency

The applicant needs to indicate who the approving agency is. HAR §11-200-10(2).

Approving agency = An agency that issues an approval prior to actual implementation of an action

2.3 Identify Agencies, Citizen Groups and Individuals in the Early Consultation Process

HAR §11-200-10(3). Append all written correspondence to the EA.

2.4 Describe the Proposed Action with Respect to its Technical, Economic, Social and Environmental Characteristics

HAR §11-200-10(4). Provide necessary technical details on the characteristics of the proposed action sufficient to provide a clear understanding of the proposed action. Include tax map key numbers of affected properties (or geographic coordinates if TMK numbers are not available), the names of property owners and lessees, state land use classification, county general plan designation and zoning, any special designations such as shoreline setback, special management area, or historic site or landmark. For proposed facilities, provide floor/lot plans and a rendering of any final appearance with the most detail possible. As a part of discussing the social aspects, describe in sufficient detail the cultural aspects of the proposed action. Provide the implementation schedule and permitting scheme for the action. For actions triggered by the use of state or county lands, disclose the amount of funds involved.

2.5 Provide a Summary Description of the Affected Environment

HAR §11-200-10(5). Concisely describe the affected environment, keeping in mind the HEPA meaning of "environment." Include suitable and adequate regional, location and site maps such as Flood Insurance Rate Maps, Floodway Boundary Maps, or United States Geological Survey topographic maps.

Describe the natural physical environment such as soil types, topographic features, ground water regime, surface water bodies, proximity to the coastline, flora and fauna, rare and threatened species, endangered species, critical habitats, plant enclosures, wetlands, marshes, streams, estuaries.

Describe the social and cultural environment, including political divisions, population, communities, cultural resources, cultural practices, economic geography, fishponds, recreation areas, surfing sites. Describe the historic-archaeological environment, including fishponds, historic sites, archaeological sites, and historic districts.

Describe sensitive areas such as flood plains, tsunami zones, beaches, streams, rivers, ocean, estuaries, anchialine ponds, submarine fresh water seeps, fresh or coastal waters, erosion-prone areas and geologically hazardous land.

2.6 Identify and Summarize Direct, Indirect and Cumulative Impacts, and Any Alternatives Considered

HAR §11-200-10(6):

- A. Determine relationships within the context of the environmental setting to identify direct, indirect and cumulative impacts of the proposed action on the surrounding environment and community.
- B. In the environmental setting, discuss the direct, indirect and cumulative impacts of the proposed action on the surrounding environment and community.
- C. Identify and summarize beneficial as well as adverse direct, indirect and cumulative impacts.

- D. Ensure that there is a direct correlation between impacts and the element affected in the environmental setting.
- E. Discuss alternative methods and modes for implementing the proposed action, selecting the one with the least detrimental effect on the environment. Some alternatives to consider include: different sites; different facility configurations; or, different implementation methods.
- F. Alternative analysis should include input from the community as a part of the early consultation process.

2.7 Formulate Measures to Mitigate Adverse Direct, Indirect, and Cumulative Impacts of the Proposed Action

HAR §11-200-10(7). Where direct, indirect or cumulative impacts of the proposed action on rare, threatened, or endangered species, or where direct, indirect or cumulative impacts of the proposed action on sensitive areas identified in any environmental setting, formulate measures to mitigate, reduce or rectify any adverse impacts.

2.8 Determination Based on the Analysis of Significance in Section 11-200-12, HAR

HAR §11-200-10(8). The proposing agency or the approving agency is responsible for:

- A. Making a determination on the need for an EIS Agency determination, or
- B. An anticipated determination for DEAs:

Where the agency prepares the EA, the determination can be included in the EA. For applicant actions where the agency directs the preparation of an EA, the determination section in the EA can include a reference by the applicant to the fact that the approving agency will issue its determination under Section 11-200-11.1, HAR, or Section 11-200-11.2, HAR in a notice of determination letter to the OEQC. The approving agency sends a letter to the OEQC, compliant with the provisions of the rules governing notice of determinations on DEAs and FEAs.

2.9 Findings and Reasons Supporting the Agency Determination or Anticipated Determination.

HAR §11-200-10(9). For agency actions, the proposing agency includes these findings and reasons, based on its analysis of significance in Section 11-200-12, HAR. For applicant actions where the agency directs the preparation of an EA, the findings and reasons section in the EA can include a reference by the applicant to the fact that the approving agency will issue its determination under Section 11-200-11.1, HAR, or Section 11-200-11.2, HAR in a notice of determination letter to the OEQC that will include the findings and reasons supporting its determination. The proposing agency or the approving agency should use written facts in the EA in light of the significance criteria to support its findings.

2.10 Agencies to be Consulted in the Preparation of the Environmental Impact Statement, if an Environmental Impact Statement is to be Prepared

HAR §11-200-10(10). This should have been determined during the early consultation process, or after the 30-day comment period on a DEA or FEA with an EISPN determination. Refer to the Flowcharts in Chapters 6 and 7.

2.11 List all Permits and Approvals

HAR §11-200-10(11). List all known or anticipated discretionary permits and approvals, as well as ministerial permits and approvals, for the proposed action. This list should include all state, county, and federal approvals.

2.12 Written Comments and Responses Under Early Consultation or Written Comments Under Public Comment Periods

HAR §11-200-10(12). Early consultation under Section 11-200-9, HAR, does not require written consultation. However, where such written consultation has taken place, include written comments and responses to the comments under the early consultation provisions. Where there was a public comment period include copies of all comments on the DEA. Comments on the FEA for an EISPN determination under Section 11-200-15, HAR, need to be included in the subsequent DEIS.

Chapter 3: Notices of Determination on Draft and Final Environmental Assessments

There are three notices of determination associated with an EA prepared under HEPA. They can be viewed as the conclusion of an analysis - that is, the disclosure of required premises needed to conduct the required level of analysis and answer the question as to whether the proposed action will or will not have a significant impact on the environment. These notices are as follows:

- **AFONSI**, always associated with a draft environmental assessment (See Section 11-200-11.1, HAR)
- **FONSI**, always associated with a final environmental assessment (See Section 11-200-11.2, HAR)
- **EISPN**, always associated with a final environmental assessment (See Section 11-200-11.2, HAR).

AFONSI = Anticipated Finding of No Significant Impact
FONSI = Finding of No Significant Impact
EISPN = Environmental Impact Statement Preparation Notice

For the purposes of HEPA, the notices of determination are usually submitted to OEQC on agency letterhead. They are required to contain the following elements (HAR 11-200-11.1(c)):

- | | |
|--|--|
| <ul style="list-style-type: none"> A. Identification of applicant or proposing agency B. Identification of accepting authority or approving agency C. A brief description of proposed action D. Determination E. Reasons supporting determination
 F. Name, address, and phone number of contact person for further information | <p>Include items in:</p> <ul style="list-style-type: none"> OEQC Publication Form OEQC Publication Form OEQC Publication Form Body of the letter - Agency actions: EA - Applicant actions: EA or body of the letter Body of the letter |
|--|--|

Make reference in the body of the letter to the OEQC Publication Form and to the associated EA, which should contain the reasons supporting the agency determination.

Chapters 3 (for agency actions) or Chapter 4 (for applicant actions) contain template letters for the various types of notices of determination.

The issuance of a notice of determination has various effects depending on type:

- For AFONSI, the publication of the notice of availability of DEA-AFONSI in The Environmental Notice initiates a 30-day statutorily-mandated comment period.
- For FONSI, the publication of the notice of availability of the FEA-FONSI in The Environmental Notice initiates a 30-day judicial challenge period under Section 343-7(b), HRS.
- For EISPN, the publication of the notice of availability of the FEA-EISPN in The Environmental Notice initiates a 30-day comment period under the auspices of Section 11-200-15, HAR, for the public to review the FEA-EISPN, request to become a consulted party, and to submit comments on the FEA-EISPN. Publication of the FEA-EISPN in The Environmental Notice also

affords an applicant a 60-day judicial challenge period to contest the approving agency's determination of EISPN, since the preparation of an EIS is resource and time intensive.

3.1 Document Submission Policy

Section 343-3, HRS, requires that the OEQC publish a periodic bulletin: *The Environmental Notice*.

3.1.1 Policy on the Number and Types of Copies of Documents Copies (2008)

The Hawai'i Administrative Rules (Sections 11-200-3, 11-200-9(a)(5), 11-200-9(b)(4), 11-200-20) currently specifies the number of copies of an EA or an EIS that need to be filed with the OEQC. The rules also require that such documents be accompanied by a completed bulletin publication form eight working days prior to the issue date.

Since 2008, the proposing agency (for agency actions) or the approving agency (for applicant actions) are required to submit to the office two paper copies of an environmental document along with an Adobe Acrobat Portable Document Format (PDF) file of the document as well as the necessary additional documentation (described in detail in Chapters 6 and 7).

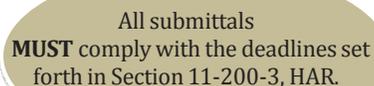
The requirement for paper copies remains because the OEQC remains the clearinghouse of HEPA documents. The courts have frequently requested that the OEQC certify that copies of certain documents required to be kept on file as authentic copies of the official file copy in the OEQC. These certifications require notarization, which in turn entails a physical examination of the official file copy in the OEQC by the notary public.

3.1.2 2010 Policy on Timeliness of Document Submission - Failure to Comply Deemed a Procedural Defect

Under Section 11-200-3, HAR, The Environmental Notice is published on the 8th and the 23rd of each month. By administrative rule, agencies must submit items for publication eight working days before the 8th or the 23rd of every month. Each year, the OEQC compiles a calendar compliant with Section 11-200-3, HAR, of submission deadlines and comment deadlines that set forth the 30 and 45-day comment period end dates. The calendar is generally available by December of the preceding calendar year.

Publication of items that are subject to Chapter 343, HRS, in The Environmental Notice has legal effect. For example, timely submittal of a DEA with a determination of AFONSI initiates a process whereby the OEQC must determine that statutory and administrative items are met. Also, timely submission of a DEIS will lead to publication in The Environmental Notice which in turn will initiate the mandatory 45-day public comment period set forth in Section 343-5, HRS.

Requests for submittals of “corrections” to timely-received submittals patently contravene deadlines set forth by administrative rule; approving the “corrections” would undermine the environmental review process set forth in Chapter 343, HRS. These requests also lead one to question the integrity of documents submitted pursuant to Chapter



All submittals **MUST** comply with the deadlines set forth in Section 11-200-3, HAR.

343, HRS - which may be deemed procedural defects for the purposes of Section 11-200-23, HAR.

Requests for any “corrections” for timely-received submittals will not be considered by the OEQC. Any revisions must be submitted as additional documents, withdrawals, or correction notices (as appropriate). Except for DEIS and FEIS, all submittals must be from either an approving agency, a proposing agency, or the accepting authority.

Chapter 4: Environmental Impact Statements

By virtue of the statutory language in HEPA, HRS §343-5(b) and (c), any and all EIS's must begin with an EA. The circumstances under which EISs begin vary as seen in two examples below.

Example #1:

A proposing agency may decide at the outset that its proposed action is of such magnitude that it will likely have significant effects on the environment. That proposing agency would then engage in the early consultation process set forth in Section 11-200-9, HAR, prepare an EA (termed "final" in the rules - even though it is the first document for public review under Section 11-200-15, HAR - to distinguish it from the "draft" which has a specific statutory meaning with respect to AFONSI).

Example #2:

An applicant submits a permit application for a shoreline setback variance to the county planning department. The department thoroughly reviews the application, and informs the applicant that under HEPA and county ordinance the proposed action under the permit application will likely have significant effect requiring the preparation of full environmental impact statement. The county also informs the applicant that prior to preparing the draft EIS, the applicant needs engage in early consultation with affected agencies, individuals and organizations having jurisdiction or expertise concerning its proposed action, and to prepare an environmental assessment compliant with the requirements set forth by rule to the county planning department. After successive reviews of the iterations of the document being prepared by applicant, the county planning department adopts the applicant's document as its own final EA and simultaneously issues a notice of determination on the applicant's EA. The approving agency then sends a copy of the notice of determination on the FEA to both the OEQC and the applicant. The OEQC published notice of availability of the FEA-EISPN in its periodic bulletin. With sixty days from the date of public notice of availability of the FEA-EISPN in the periodic bulletin, the applicant and his attorney may challenge the county planning department's determination of EISPN under Section 343-7(b), HRS. Absent any such challenge, the applicant also proceeds with the 30-day consultation process under Section 11-200-15, HAR prior to preparing a draft EIS

In each of the above examples, the proposing agency or applicant correctly engaged in early consultation prior to preparing an EA. The early consultation process is integral to HEPA. **The FEA generated as a result of the early consultation process provided valuable input and data for proposing agency or the applicant to use in the composition of the DEIS.** The consultation period set forth by Section 11-200-15, HAR, will further afford agencies, organization and individuals another opportunity to request to become a consulted party in the preparation of the EIS for the proposed action.

The EIS is a disclosure document that discloses the environmental setting of the proposed action, analyzes the effects of a proposed project or program on the environment in terms of direct, indirect and cumulative impacts, discusses alternative methods, modes or designs of the proposed action, and formulates mitigation to eliminate, reduce, rectify adverse impacts of the proposed action. The DEIS must include copies of comments received and response sent for the FEA and EISPN during the 30-day comment period authorized by Section 11-200-15, HAR.

Section 343-5, HRS, mandates a 45- day comment period for a DEIS. The EIS is a more complex screening tool than either the exemption declaration or the EA to examine proposed actions for probable impacts on the environment. Accordingly, the process around an EIS is augmented with additional tools (beyond those used in the EA) to ensure that the document is distributed for and reviewed by agencies, organizations and individuals, in a timely manner (see Section 11-200-21, HAR, concerning distribution of the draft and final

EIS), and to further ensure that comments are responded to by the proposing agency or applicant in a point-by-point manner (see Section 11-200-22, HAR, concerning public review of an EIS). Section 11-200-17, HAR, prescribes the required contents of a DEIS, while Section 11-200-18, HAR, prescribes the contents of a FEIS.

HEPA directs that in cases involving agency actions and applicant actions where an EIS is required, the preparing party (the proposing agency for agency actions, or the applicant for applicant actions) must prepare the EIS, submit it for review and comments, and revise it, taking into account all critiques and responses. As such, an EIS involves more than document preparation - it involves the entire process of early consultation, research, dialogue, document preparation and review. The EIS must be written in plain language to allow public understanding of its content. The rules that govern the EIS process require that the statement contain at least the following elements:

- A concise summary and table of contents
- A statement of purpose for the project
- A detailed project description including maps, technical data, economic and cultural effects and historical perspective
- An analysis of alternatives to the proposed project and an explanation why the alternatives were rejected
- A description of the environmental setting
- A statement of the relationship of the proposed action to land use plans, policies and controls for the affected area
- A description of the probable impacts of the project including the direct, indirect and cumulative impacts, as well as impacts on both the natural and human environments
- A description of the relationship between short-term uses of environmental resources and long-term productivity (sustainability analysis)
- A statement of the unavoidable environmental impacts caused by the project and a rationale for proceeding with the project in light of these impacts
- A consideration of all mitigation measures proposed to avoid, minimize, rectify, or reduce the project's adverse impacts
- A summary of unresolved issues and a discussion of how such issues will be resolved
- A listing of all agencies, organizations and individuals consulted during the preparation of the document
- Reproduction of all substantive comments received during the study process and the responses to those comments

HAR §11-200-17. The administrative rules set forth in Sub-Chapter 7, Preparation of Draft and Final EIS, are detailed and prescriptive, but self-explanatory. Consequently, this section will highlight those aspects of the EIS process that require special procedural attention.

4.1 Draft EIS and Final EIS Document Distribution and Advance of a Bulletin Proof

There is no process articulated in the HEPA statute or rules for the distribution of EAs. Mandatory document distribution is limited to the EIS process only. By policy (see Section 1.11.1) the OEQC began to accept electronic documents in PDF format in 2007 provided that two hard copies accompany the electronic submittal.

The OEQC recommends that prior to distributing documents for an EIS in paper format, the proposing agency or the applicant contact the parties identified in the distribution matrix at the earliest practicable time to determine the number of printed copies to produce.

DEIS and FEIS submissions to the OEQC and to the accepting authority or approving agency should be accompanied by a distribution list indicating what entities would be receiving copies of the EIS on or before the start of the 45-day comment period. The OEQC then verifies the accuracy of the distribution list under Section 11-200-21, HAR, usually within several days after the submittal deadline. Verification by OEQC allows the proposing agency or applicant to distribute the document to those on the list (which includes consulted parties under Section 11-200-15, HAR). The OEQC recommends that lists be examined in advance, with the understanding that additional requests for documents may be received after the 45-day comment period. The proposing agency or applicant should inform the OEQC of any additions as soon as possible. Exhibit 4-1 presents the EIS distribution matrices applicable to both agency and applicant actions.

4.1.1 OEQC Verifies the Accuracy of the Distribution List

When transmitting documents to persons on the OEQC-verified distribution lists for draft and final EIS's, the OEQC will transmit in advance of publication, *the portion of The Environmental Notice to the applicant or proposing agency detailing the particulars of the public comment process*. The distribution verification will also include this information for the applicant or proposing agency to include with its distribution of the particular document.

4.1.2 Determination of Acceptability

Agency actions	The accepting authority: Governor or county mayor	<ul style="list-style-type: none"> - Determines the acceptability of the FEIS (Section 11-200-23, HAR). - County governments have their own internal procedures for processing agency actions. 	OEQC: <ul style="list-style-type: none"> - Makes a recommendation on the acceptability of a FEIS prior to transmittal to the Governor after reviewing the FEIS, especially with respect to point-by-point responses to comments, and procedural compliance with the deadlines. - Abstracts the mitigation measures in the FEIS and appends these to its acceptance/non-acceptance report to the Governor.
Applicant actions	The approving agency:	<ul style="list-style-type: none"> - Determines the acceptability of the FEIS (Section 11-200-23, HAR). - If the approving agency does not make a determination within 30 days from its receipt of the FEIS, an applicant action FEIS is automatically accepted (Section 343-5(c), HRS). 	

Both agency and applicant actions acceptance/non-acceptance determination must be submitted to the OEQC for publication in The Environmental Notice. The publication of an acceptance notice opens up a judicial challenge period under Section 343-7(c), HRS.

For applicant actions, non-acceptance of an applicant's FEIS by the approving agency is grounds for administrative appeal to the Environmental Council within 60-days of the non-acceptance. HAR §11-200-24. The applicant may choose not to appeal to the Council, and simply prepare and submit a revised DEIS addressing the deficiencies that led to non-acceptance.

4.1.3 Supplemental Environmental Impact Statements

The HEPA statute makes no explicit mention of a "supplemental EIS." HEPA says that acceptance of an EIS satisfies the requirements of this chapter and no further EIS shall be required for that action, HRS 343-5(g). The Hawaii Supreme Court has held, however, that a supplemental EIS is required where there have been substantive changes in environmental effects. *Unite Here! Local 5 v. City and County of Honolulu and Kuilima Resort*. The criteria when a supplemental EIS needs to be prepared, namely, when there are changes in size, scope, location, intensity, use or timing, are set forth in Section 11-200-26, HAR. Under Section 343-5, HRS, once a final EIS is accepted, it is not required to be tracked by the accepting authority or approving agency, even if the action has not been implemented.

When an agency/entity looks at its previously accepted but not fully-implemented EIS, it generally needs to evaluate whether the document is still valid with respect to size, scope, location, intensity, use or timing. If it finds that the document is no longer valid, it requires the preparation of an EIS starting with the FEA-EISPN. If it finds that the document is still valid, it informs the OEQC (see Exhibits 4-2, and 4-3)

A supplemental EIS may need to be prepared when there are substantive changes in size, scope, location, intensity, use or timing.

4.1.4 National Environmental Policy Act

Often, a proposing agency (for agency actions) or an approving agency (for applicant actions) will need to comply with the provisions of the National Environmental Policy Act (NEPA), in addition to Chapter 343, HRS. Section 343-5(f), HRS states that “[w]henver an action is subject to both the National Environmental Policy Act of 1969 ... and the requirements of [Chapter 343, HRS], the [Office of Environmental Quality Control] and agencies shall cooperate with federal agencies to the fullest extent possible to reduce duplication between federal and state requirements. Such cooperation, to the fullest extent possible, shall include joint environmental impact statements with concurrent public review and processing at both levels of government. Where federal law has environmental impact statement requirements in addition to but not in conflict with [Chapter 343, HRS], the [OEQC] and agencies shall cooperate in fulfilling these requirements so that one document shall comply with all applicable laws.”

In order to understand the policy set forth by Section 343-5(f), HRS, it is important to understand both NEPA and Chapter 343, HRS, articulating the similarities and differences between both.

Going from the State EIS process to the NEPA process can be confusing, since the terminology is similar (i.e., EA, EIS, direct impacts, indirect impacts, cumulative impacts, etc.). It is important to note, in comparing the two processes, that the Federal process examines a proposal and results in one of three different determinations, namely a CE, an EIS, or an EA (which in turn can result in a FONSI or NOI). To the extent that the proposal also triggers Hawaii's process, the proposal would require a State or county agency to examine the proposal and issue an exemption declaration or an EA (with an AFONSI, or EISPN determination). The EA is the key document to the State process, unlike the NEPA process.

Section 343-5(a), HRS, clearly requires an EA, "except as otherwise provided" for proposed actions that includes nine different categories. The "except as otherwise provided" clause covers both the statutory exclusions described earlier, as well as exemption declarations. One key difference between NEPA and HEPA is that NEPA is under the oversight of one federal agency from disclosure/planning to design to implementation. HEPA has no oversight over design and implementation. Such oversight under HEPA belongs to the agencies that permit or implement the proposed action.

In addition to having no EA to begin the EIS process, the NEPA process also provides for a 30-day comment period on a FEIS prior to a record of decision (ROD). The State process begins with an EA that provides for a 30-day comment period. Outside of the common 45-day DEIS comment period, the State process does not have a comment period on a FEIS.

For more information on NEPA, please visit <http://www.nepa.gov>.

Matrices for the Distribution of EIS Documents

GOVERNMENT OF
THE STATE OF HAWAII(S)

Agency	Mailing Address	Electronic Mail or Internet Address	Telephone	DEIS	FEIS
State of Hawai'i Department of Agriculture	1428 S. King Str. Honolulu, HI 96814	hdoainfo@hawaii.gov	(808) 973-9550	Y	
State of Hawai'i Department of Accounting and General Services	P.O. Box 119 Honolulu, HI 96810	dags@hawaii.gov	(808) 586-0400	Y	
State of Hawai'i Department of Accounting and General Services Archives Division	P.O. Box 119 Honolulu, HI 96810	archives@hawaii.gov	(808) 586-0310		
State of Hawai'i Department of Business, Economic Development and Tourism	P.O. Box 2359 Honolulu, HI 96804	http://hawaii.gov/dbedt/main/about/about-dbedt	(808) 586-2355	Y	
State of Hawai'i Department of Business, Economic Development and Tourism, Research Division Library	No. 1, Capitol District Bldg. 250 S. Hotel Street, Ste. 435 Honolulu, HI 96813	http://hawaii.gov/dbedt/info/economic	(808) 586-2481	Y	
State of Hawai'i Department of Business, Economic Development and Tourism, Strategic Industries Division	235 S. Beretania St., 5 th Flr. Honolulu, HI 96813	http://hawaii.gov/dbedt/info/energy	(808) 587-3812	Y	
State of Hawai'i Department of Business, Economic Development and Tourism, Office of Planning	235 S. Beretania St., 6 th Floor Honolulu, HI 96813	http://hawaii.gov/dbedt/op/	(808) 587-2846	Y	
State of Hawai'i Department of Defense	3949 Diamond Head Road Honolulu, HI 96816	http://hawaii.gov/dod	(808) 733-4258	Y	
State of Hawai'i Department of Education	P.O. Box 2360 Honolulu, HI 96804	http://doe.k12.hi.us/	(808) 586-3310		
State of Hawai'i, Department of Education, Hawaii State Library, Hawai'i Documents Center	478 S. King Street Honolulu, HI 96813	http://www.librarieshawaii.org/locations/index.htm	(808) 586-3555	Y	Y
State of Hawai'i, Department of Education, Hawai'i State Library, Kaimuki Regional Library	1041 Koko Head Avenue Honolulu, HI 96813	http://www.librarieshawaii.org/locations/index.htm	(808) 733-8422	Y	Y

State of Hawai'i Department of Education Hawai'i State Library, Kane'ohe Regional Library	45-829 Kamehameha Highway Kane'ohe, HI 96744	http://www.librarieshawaii.org/locations/index.htm	(808) 233-5676	Y	Y
State of Hawai'i Department of Education Hawai'i State Library, Pearl City Regional Library	1138 Waimano Home Road Pearl City, HI 96782	http://www.librarieshawaii.org/locations/index.htm	(808) 453-6566	Y	Y
State of Hawai'i, Department of Education, Hawai'i State Library, Hawai'i Kai Regional Library	249 Lunalilo Home Road Honolulu, HI 96825	http://www.librarieshawaii.org/locations/index.htm	(808) 397-5833	Y	Y
State of Hawai'i Department of Education Hawai'i State Library, Hilo Regional Library	300 Waianuenue Avenue Hilo, HI 96720	http://www.librarieshawaii.org/locations/index.htm	(808) 933-8888	Y	Y
State of Hawai'i, Department of Education, Hawai'i State Library, Kahului Regional Library	90 School Street Kahului, HI 96732	http://www.librarieshawaii.org/locations/index.htm	(808) 873-3097	Y	Y
State of Hawai'i Department of Education Hawai'i State Library, Lihu'e Regional Library	4344 Hardy Street Lihu'e, HI 96766	http://www.librarieshawaii.org/locations/index.htm	(808) 241-3222	Y	Y
State of Hawai'i Department of Hawaiian Home Lands	P.O. Box 1879 Honolulu, HI 96805	http://hawaii.gov/dhhl/contact-info	(808) 620-9501	Y	Y
State of Hawai'i, Department of Health, Environmental Health Administration	P.O. Box 3378 Honolulu, HI 96801	http://hawaii.gov/health	(808) 586-4424	Y	Y
State of Hawai'i, Department of Land and Natural Resources	P.O. Box 621, Honolulu, HI 96809	http://hawaii.gov/dlnr	(808) 587-0400	Y	
State of Hawai'i Department of Land and Natural Resources State Historic Preservation Division	601 Kamokila Blvd., Rm. 555 Kapolei, HI 96707	http://hawaii.gov/dlnr/hpd/	(808) 692-8015	Y	
State of Hawai'i Department of Transportation	869 Punchbowl Street Honolulu, HI 96813	http://hawaii.gov/dot	(808) 587-2160	Y	
University of Hawai'i Office of Capital Improvement	1960 East-West Road, Biomed B-102, Honolulu, HI 96822	http://www.hawaii.edu/oci	(808) 956-7935		

University of Hawai'i Water Resources Research Center	2540 Dole Street, Room 283 Honolulu, HI 96822	http://www.wrcc.hawaii.edu/	(808) 956-7847	Y	
University of Hawai'i Environmental Center	2500 Dole Street Krauss Annex 19 Honolulu, HI 96822	http://www.hawaii.edu/envctr/evs/index.html	(808) 956-7362	Y	Y
University of Hawai'i Marine Program	2450 Campus Road Dean Hall 105A Honolulu, HI 96822	http://www.hawaii.edu/mop/site/	(808) 956-8433		
University of Hawai'i Thomas H. Hamilton Library	2550 McCarthy Mall Honolulu, HI 96822	http://library.manoa.hawaii.edu/departments/hp/	(808) 956-8264	Y	Y
University of Hawai'i at Hilo Edwin H. Mo'okini Library	200 W. Kawili Street Hilo, HI 96720	http://library.uhh.hawaii.edu/index.html	(808) 974-7346	Y	Y
University of Hawai'i Maui College Library	310 Ka'ahumanu Avenue Kahului, HI 96732	http://www.maui.hawaii.edu/library/	(808) 984-3233	Y	Y
University of Hawai'i Kaua'i Community College Library	3-1901 Kaumualii Highway Lihu'e, HI 96766	http://info.kauaicc.hawaii.edu/library/	(808) 245-8233	Y	Y
Office of Hawaiian Affairs	711 Kapi'olani Blvd., Suite 500 Honolulu, HI 96813	info@oha.org	(808) 594-1835	Y	
Legislative Reference Bureau Library	State Capitol 415 S. Beretania St., Rm. 005 Honolulu, HI 96813	http://hawaii.gov/lrb/	(808) 587-0690	Y	Y

**GOVERNMENT OF
THE COUNTY OF HAWAI'I (H)**

Agency	Mailing Address	Electronic Mail or Internet Address	Telephone	DEIS	FEIS
County of Hawai'i Department of Environmental Management	Pu'ainako Town Center 2100 Kanoelehua Avenue, Bay C-5, Hilo, HI 96720	http://www.co.hawaii.hi.us/directory/dir_envmng.htm	(808) 961-8083	Y	
County of Hawai'i Fire Department	25 Aupuni Street Hilo, HI 96720	fire@co.hi.us	(808) 932-2900		
County of Hawai'i Department of Parks and Recreation	101 Pauahi Street, Suite 6 Hilo, HI 96720	parks_recreation@co.hi.us	(808) 961-8311	Y	
County of Hawai'i Planning Department	101 Pauahi Street, Suite 3 Hilo, HI 96720	planning@co.hi.us	(808) 961-8288	Y	Y
County of Hawai'i Police Department	349 Kapi'olani Street Hilo, HI 96720	http://www.hawaiipolice.com/index.html	(808) 961-2243		
County of Hawai'i Department of Public Works	101 Pauahi Street, Suite 7 Hilo, HI 96720	public_works@co.hawaii.hi.us	(808) 961-8321	Y	
County of Hawai'i Department of Research and Development	25 Aupuni Street Hilo, HI 96720	http://hawaiicountyrandd.net/	(808) 961-8366		
County of Hawai'i Department of Water Supply	345 Kekuaano'a Street, Suite 20, Hilo, HI 96720	dws@hawaiiidws.org	(808) 961-8050	Y	

**GOVERNMENT OF THE COUNTY
OF KAUAI' (K)**

Agency	Mailing Address	Electronic Mail or Internet Address	Telephone	DEIS	FEIS
County of Kaua'i Fire Department	3083 Akahi St., Suite 101 Lihu'e, HI 96766	kfd@kauai.gov	(808) 241-4980		
County of Kaua'i Department of Planning	4444 Rice St., Suite 473 Lihu'e, HI 96766	http://www.kauai.gov/planning	(808) 241-6677	Y	Y
County of Kaua'i Police Department	3990 Ka'ana St., Suite 200 Lihu'e, HI 96766	http://www.kauai.gov/police	(808) 241-1600		
County of Kaua'i Department of Public Works	4444 Rice Street, Suite 275 Lihu'e, HI 96766	publicworks@kauai.gov	(808) 241-4992	Y	
County of Kaua'i Transportation Agency	3220 Ho'olako St., Suite 103 Lihu'e, HI 96766	thekauaiibus@kauai.gov	(808) 241-6410		

County of Kaua'i, Department of Water	P.O. Box 1706 Lihu'e, HI 6766	www.kauaiwater.org	(808) 245-5400	Y	
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**GOVERNMENT OF THE COUNTY
OF MAUI (M)**

Agency	Mailing Address	Electronic Mail or Internet Address	Telephone	DEIS	FEIS
County of Maui Department of Fire and Public Safety	200 Dairy Road Kahului, HI 96733	fire.dept@co.hi.maui.us	(808) 270-7561		
County of Maui Department of Environmental Management	2200 Main Street One Main Plaza Bldg. Ste.100 Wailuku, HI 96793-2155	http://www.co.maui.hi.us/index.aspx?nid=1736	(808) 270-8230		
County of Maui Department of Housing and Human Concerns	2200 Main Street One Main Plaza Bldg., Ste.546 Wailuku, HI 96793	http://www.co.maui.hi.us/index.aspx?nid=117	(808) 270-7805		
County of Maui Department of Parks and Recreation	700 Hali'a Nakoia Street War Memorial Complex Wailuku, HI 96793	http://www.co.maui.hi.us/index.aspx?nid=119	(808) 270-7230		
County of Maui Department of Planning	250 S. High Street Kalana Pakui Bldg., Ste. 200 Wailuku, HI 96793	http://www.co.maui.hi.us/index.aspx?nid=121	(808) 270-7735	Y	Y
County of Maui Police Department	55 Mahalani Street Wailuku, HI 96793	http://www.co.maui.hi.us/index.aspx?nid=122	(808) 244-6400		
County of Maui Department of Public Works	200 S. High Street Kalana O Maui Bldg., 4th Flr., Wailuku, HI 96793	http://www.co.maui.hi.us/index.aspx?nid=124	(808) 270-7845	Y	
County of Maui, Department of Transportation	2145 Ka'ohu Street, David Trask Building, Suite 102, Wailuku, HI 96793	http://www.co.maui.hi.us/index.aspx?nid=125	(808) 270-7511		
County of Maui Department of Water Supply	200 S. High Street, Kalana O Maui Building, 5 Floor, Wailuku, HI 96793	http://www.co.maui.hi.us/index.aspx?nid=126	(808) 270-7816		

GOVERNMENT OF THE CITY AND COUNTY OF HONOLULU (O)

Agency	Mailing Address	Electronic Mail or Internet Address	Telephone	DEIS	FEIS
City and County of Honolulu Board of Water Supply	630 S. Beretania Street Honolulu, HI 96813	http://www.hbws.org/cssweb/display.cfm?sid=1181	(808) 748-5000	Y	
City and County of Honolulu Department of Customer Services Municipal Library	558 S. King Street City Hall Annex Honolulu, HI 96813-3006	http://www1.honolulu.gov/csd/lrmb/references.htm	(808) 768-3757	Y	
City and County of Honolulu Department of Design and Construction	650 S. King St., 11 th Floor Honolulu, HI 96813	http://www1.honolulu.gov/ddc/aboutus.htm	(808) 768-8480	Y	
City and County of Honolulu Department of Environmental Services	1000 'Ulu'ohi'a St., Ste. 308 Kapolei, HI 96707	http://envhonolulu.org/	(808) 768-3486	Y	
City and County of Honolulu Department of Facility Maintenance	1000 'Ulu'ohi'a St., Ste. 215 Kapolei, HI 96707	http://www1.honolulu.gov/dfm/	(808) 768-3343	Y	
City and County of Honolulu Fire Department	636 South Street Honolulu, HI 96813-5007	http://www1.honolulu.gov/hfd/	(808) 723-7101		
City and County of Honolulu Department of Community Services	715 S. King St., Rm. 311 Honolulu, HI 96813	http://www1.honolulu.gov/dcs/	(808) 768-7760		
City and County of Honolulu Department of Planning and Permitting	650 S. King Str., 7 th Floor Honolulu, HI 96813	http://www.honoluludpp.org/	(808) 768-8000	Y	Y
City and County of Honolulu Department of Parks and Recreation	1000 'Ulu'ohi'a St., Ste. 309 Kapolei, HI 96707	http://www1.honolulu.gov/parks/	(808) 768-3001	Y	
City and County of Honolulu Police Department	801 S. Beretania Street Honolulu, HI 96813	http://www.honolulupd.org/	(808) 529-3162		
City and County of Honolulu Department of Transportation Services	650 S. King St., 3 rd Floor Honolulu, HI 96813	http://www1.honolulu.gov/dts/	(808) 768-8303	Y	

GOVERNMENT OF THE UNITED STATES OF AMERICA (USA)

Federal Agency	Mailing Address	Electronic Mail or Internet Address	Telephone	DEIS	FEIS
Department of the Interior, Geological Survey, Pacific Islands Water Science Center	677 Ala Moana Boulevard, Ste. 415, Honolulu, HI 96813	http://hi.water.usgs.gov/	(808) 587-2400	Y	
Department of the Interior Fish and Wildlife Service	300 Ala Moana Boulevard, Room 3-122, Honolulu, HI 96850-0056	http://www.fws.gov/pacificislands/	(808) 792-9400	Y	
Department of Commerce National Marine Fisheries Service	Pacific Islands Regional Office, 1611 Kapi'olani Boulevard, Suite 1110, Honolulu, HI 96814	http://www.fpir.noaa.gov/	(808) 944-2200	Y	
Department of the Interior National Parks Service	Pacific Islands Support Office, 300 Ala Moana Boulevard. Room 6-226, Honolulu, HI 96850	http://www.nps.gov/pwro/piso/	(808) 541-2693	Y	
Department of Agriculture National Resources Conservation Service	Pacific Islands Area Office, P.O. Box 50004, Honolulu, HI 96850	http://www.pia.nrcs.usda.gov/	(808) 541-2600	Y	
Department of the Army Army Corps of Engineers	Pacific Ocean Division, Building 525, Suite 300, Fort Shafter, HI 96858-5440	http://www.poh.usace.army.mil/	(808) 438-1500		
Department of the Navy	Pacific Division, Naval Facilities Engineering Command, 258 Makalapa Drive, Suite 100, Pearl Harbor, HI 96860-3130		(808) 472-1000		
Department of Transportation Federal Aviation Administration	300 Ala Moana Boulevard, Room 7-128 Honolulu, HI 96850-7128	http://www.faa.gov/airports/western_pacific/about/airports/honolulu/	(808) 541-1232	Y	
Department of Transportation Federal Transit Administration	201 Mission St., Ste. 1650 San Francisco, CA 94105-1839	http://www.fta.dot.gov/regional_offices_909.html	(415) 744-3133	Y	
Department of Transportation Federal Highways Administration	Hawaii Division, Box 50206, 300 Ala Moana Boulevard, Room 3306, Honolulu, HI 96850	http://www.fhwa.dot.gov/hidiv/index.htm	(808) 541-2700		

Department of Homeland Security Coast Guard	Commander, 14 th Coast Guard District, 300 Ala Moana Boulevard, Room 9-204, Honolulu, HI 96850-4982		(808) 535-3201	Y	
Environmental Protection Agency	Region IX, Pacific Islands Contact Office, P.O. Box 50003, Honolulu, HI 96850	http://www.epa.gov/region9/islands/pico.html	(808) 541-2710		

**LIBRARIES AND DEPOSITORIES
(LD)**

Library or Depository	Mailing Address	Electronic Mail or Internet Address	Telephone	DEIS	FEIS
Nearest public library		http://www.librarieshawaii.org/locations/index.htm		Y	Y

NEWS MEDIA (NM)

Organization	Mailing Address	Electronic Mail or Internet Address	Telephone	DEIS	FEIS
Honolulu Star Advertiser	Restaurant Row 7, Waterfront Plaza, Suite 210, 500 Ala Moana Boulevard, Honolulu, HI 96813	citydesk@staradvertiser.com	(808) 529-4747	Y	Y
Hawai`i Tribune Herald	P.O. Box 767, Hilo, HI 96721	http://www.hawaiitribune-herald.com/share/submit_news/	(808) 930-7324	Y	Y
West Hawai`i Today	P.O. Box 789, Kailua- Kona, HI 96745-0789	http://www.westhawaii.com/content/submit-content.html	(808) 329-9311	Y	Y
The Garden Island	P.O. Box 231, Lihu'e, HI 96766	neagle@thegardenisland.com	(808) 245-3681	Y	Y
Maui News	100 Mahalani Street, Wailuku, HI 96793	citydesk@mauinews.com	(808) 244-3981	Y	Y
Moloka`i Dispatch	P.O. Box 482219, Kaunakakai, HI 96748	editor@themolokaidispatch.com	(808) 552-2781	Y	Y
Honolulu Civil Beat		http://www.civilbeat.com/			

**ELECTED AND OTHER
OFFICIALS (EO)**

Official	Mailing Address	Electronic Mail or Internet Address	Telephone	DEIS	FEIS
U.S. Senator				Y	Y
U.S. Representative				Y	Y
State Senator				Y	Y
State Representative				Y	Y
County Council Representative				Y	Y
Neighborhood Board Representative				Y	Y

**CONSULTED PARTIES AND
COMMENTERS UNDER
SECTION 11-200-15, HAR (CP)**

Name	Mailing Address	Electronic Mail or Internet Address	Telephone	DEIS	FEIS
				Y	Y
				Y	Y
				Y	Y
				Y	Y
				Y	Y
				Y	Y
				Y	Y
				Y	Y
				Y	Y
				Y	Y
				Y	Y
				Y	Y
				Y	Y

‡ - distribute the document to required entities in the county where the proposed action is taking place.

* - required distribution to regional libraries statewide for all actions.

SAMPLE LETTER FOR AN ACCEPTING AUTHORITY DETERMINATION UNDER SECTION 11-200-27(d), HAR, THAT A SUPPLEMENTAL STATEMENT IS NOT REQUIRED (FOR AGENCY ACTIONS)

Accepting Authority Name
[Street Address]
[City, ST ZIP Code]
Date

Director
Office of Environmental Quality Control
Department of Health, State of Hawai'i
235 S. Beretania Street, Room 702
Honolulu, Hawai'i 96813

Dear Director:

The Final Environmental Impact Statement for the _____ was accepted by our agency on _____. The action has not yet been fully implemented and we have initiated a review of the FEIS with respect to changes in size, scope, location, intensity, use and timing. We found that our review indicated that no Supplemental Environmental Impact Statement will be required at this time.

Please publish appropriate notice of this in next available the Environmental Notice).

If there are any questions, please contact (Accepting Authority Contact Name) at (Contact Telephone Number).

Sincerely,

(Accepting Authority Official)

Enclosures

C: Proposing Agency

SAMPLE LETTER FOR AN APPROVING AGENCY DETERMINATION UNDER SECTION 11-200-27(d), HAR, THAT A SUPPLEMENTAL STATEMENT IS NOT REQUIRED (FOR APPLICANT ACTIONS)

Approving Agency Name
[Street Address]
[City, ST ZIP Code]
Date

Director
Office of Environmental Quality Control
Department of Health, State of Hawai'i
235 S. Beretania Street, Room 702
Honolulu, Hawai'i 96813

Dear Director:

The Final Environmental Impact Statement (FEIS) for the _____ was accepted by our agency on _____ (or was deemed accepted as a matter of law under Section 343-5(c), Hawaii Revised Statutes). The action has not yet been fully implemented and we have initiated a review of the FEIS with respect to changes in size, scope, location, intensity, use and timing. We found that our review indicated that no Supplemental Environmental Impact Statement will be required at this time.

Please publish appropriate notice of this in the next available the Environmental Notice.

If there are any questions, please contact (Approving Agency Contact Name) at (Contact Telephone Number).

Sincerely,

(Approving Agency Official)

Enclosures

C: Applicant

Chapter 5: Exemption Declarations

An agency may declare an action exempt from the environmental assessment requirements if it finds, after consulting with relevant agencies/experts, that the action will not have significant environmental effects.¹ The agency that can make such an exemption declaration is the State or County proposing agency (for agency actions), or an approving agency (for applicant actions). The relevant agencies/experts, from which the agency must obtain advice before declaring an action exempt, are “other outside agencies or individuals having jurisdiction or expertise as to the propriety of the exemption.” By rule, there are 11 classes of actions that agencies may use to find, after consultation, that an action is exempt. (See below, Section 11-200-8(a), HAR).

In addition, each agency is required by rule to develop, based on its experience, a list of specific types of actions that fall within the 11 classes. The lists must be consistent with both the letter and intent expressed in the 11 classes and Chapter 343. Each agency must submit such a list, and periodic amendments, to the Environmental Council for review and concurrence. Section 11-200-8(d), HAR. An agency’s exemption list, after concurrence by the Environmental Council, may be a useful tool guiding the agency in deciding whether to declare routine types of actions to be exempt from EA requirements.

By rule, each agency must maintain records of actions that it has found to be exempt from EA requirements and shall produce those records for review upon request. Section 11-200-8(e), HAR.

Additionally, Section 11-200-8(b), HAR, states that:

“All exemptions under the classes in this section are inapplicable when the cumulative impact of planned successive actions in the same place, over time, is significant, or when an action that is normally insignificant in its impact on the environment may be significant in a particularly sensitive environment.”

The eleven exempt classes of action under HEPA rules are:

- Operations, repairs, or maintenance of existing structure, facilities, equipment, or topographical features, involving negligible or no expansion or change of use beyond that previously existing.
- Replacement or reconstruction of existing structures and facilities where the new structure will be located generally on the same site and will have substantially the same purpose, capacity, density, height, and dimensions as the structure replaced.
- Construction and location of single, new, small facilities or structures and the alteration and modification of the same, including, but not limited to:
 - A. Single-family residences less than 3,500 square feet not in conjunction with the building of two or more units;

¹ The statute defines “significant effect” as “the sum of effects on the quality of the environment, including actions that irrevocably commit a natural resource, curtail the range of beneficial uses of the environment, are contrary to the State’s environmental policies or long-term environmental goals as established by law, or adversely affect the economic welfare, social welfare, or cultural practices of the community and State.” HRS §343-2. The rule provides additional direction for agencies in the “significance criteria.” Section 11-200-12, HAR and Section 1.7, *supra*.

- B. Multi-unit structures designed for not more than four dwelling units if not in conjunction with the building of two or more such structures;
 - C. Stores, offices, and restaurants designed for total occupant load of twenty persons or less per structure, if not in conjunction with the building of two or more such structures; and
 - D. Water, sewage, electrical, gas, telephone, and other essential public utility services extensions to serve such structures or facilities; accessory or appurtenant structures including garages, carports, patios, swimming pools, and fences; and, acquisition of utility easements;
- Minor alterations in the conditions of land, water, or vegetation;
 - Basic data collection, research, experimental management, and resource evaluation activities that do not result in a serious or major disturbance to an environmental resource;
 - Construction or placement of minor structures accessory to existing facilities;
 - Interior alterations involving things such as partitions, plumbing, and electrical conveyances;
 - Demolition of structures, except those structures located on any historic site as designated in the national register or Hawaii register as provided for in the National Historic Preservation Act of 1966, Public Law 89-665, 16 U.S.C. §470, as amended, or Chapter 6E, HRS;
 - Zoning variances except shoreline setback variances;
 - Continuing administrative activities including, but not limited to purchase of supplies and personnel-related actions; and
 - Acquisition of land and existing structures, including single or multi-unit dwelling units, for the provision of affordable housing, involving no material change of use beyond that previously existing, and for which the legislature has appropriated or otherwise authorized funding.

An exemption declaration template for both agency and applicant actions can be found in Exhibit 5-1. The proposing agency and the approving agency sign the declaration and keep it on file and when requested makes it available to a requestor. In all cases, each proposed exempted action must be reviewed and analyzed for potential environmental impacts. The exemption, if granted, must be documented and, said documentation made available to the public upon request.

5.1 How to Prepare an Agency Exemption List for Review and Concurrence by the Environmental Council

- A. Reviewing past exemption declarations for routine actions are one source of actions for a proposed list. Proposed lists should first be commented on by appropriate permitting agencies. When this has been done, the agency should submit the proposed list to the Council.
- B. If the agency is submitting a revised list for Council review and concurrence, or a brand new list, a paper copy as well as an electronic copy of the list should be provided to the Council. The agency should also clearly indicate the changes in Ramseyer from the exemption list previously concurred in by the Council.
- C. The Council will review the list and request that the OEQC publish notice in The Environmental Notice of availability for public comment on the list for a period of 30-days. The Environmental Notice will indicate that comments must be sent by postal mail, messenger or electronic mail (environmental.council@doh.hawaii.gov) on or before the 30-day deadline. Comments must be addressed to the Chairperson of the Council, with a copy to the OEQC.
- D. After the 30-day public comment period, the agency will be provided a set of comments received on the proposed list and the agency will respond to the public comments and provide copies of the same to the Council. The Council will then schedule a meeting to discuss the proposed list and the agency's response to public comments. This will be an iterative process,

depending on the issues raised and their mutually satisfactory resolution between the agency and the Council. During these meetings, subject to Chapter 92, HRS, requirements (Sunshine Law), an agency representative should be present to discuss the lists with the Council's Standing Committee on Exemption Lists.

- E. When any outstanding issues have been resolved with respect to the language of the list to be concurred in by the Council, the Standing Committee on Exemption Lists will notify the Chairperson of the Council, who in turn will set a date certain for the Council to formally act on the concurrence of the proposed list. The concurrence of the Council will occur during a public meeting subject to Sunshine Law, and eight affirmative votes of the members will be required to concur in the proposed list. If concurred, the agency files the list as concurred in by the Council with OEQC. The OEQC in turn will notify the public of the new agency list by publication of notice in the periodic bulletin. If not concurred, the agency may withdraw its request, or continue successive iterations of the process.

5.2 How to Add More Classes of Exempt Action to the Administrative Rules

Section 11-200-8(c), HAR, states that “[a]ny agency, at any time, may request that a new exemption class be added, or that an existing one be amended or deleted. The request shall be submitted to the [Council], in writing, and contain detailed information to support the request as set forth in [Section] 11-201-16, [HAR], Environmental Council Rules.”

5.3 Gubernatorial Emergency Declarations and HEPA

Section 11-200-8(f), HAR states that “[i]n the event the governor declares a state of emergency, the governor may exempt any affected program or action from complying with this chapter.”

5.4 Judicial Review of HEPA Exemption Declarations

Section 343-7(a), HRS, authorizes aggrieved parties to complain in court about agency or applicant actions for which no EA was prepared within one-hundred-twenty days of the agency’s decision to carry out or approve the action, or if a proposed action is undertaken without a formal determination by the agency that a statement is or is not required, a judicial proceeding shall be instituted within one-hundred-twenty days after the proposed action is started.

5.5 Sample Exemption Declaration

Refer to Exhibit 5-1.

**SAMPLE EXEMPTION DECLARATION FORM
FOR AGENCY AND APPLICANT ACTIONS**

[Agency Name]
[Street Address]
[City, State, Zip Code]

TO: 1. Agency-Maintained Public Files for Chapter 343 HRS Exemption
Determinations, Hawai‘i Revised Statutes
2. Office of Environmental Quality Control
3. [Applicant, if applicable]

FROM: Director of [Agency Name]

SUBJECT: Exemption Declaration

DATE: [Date of Declaration]

BASES OF EXEMPTION

Check applicable box

- This Exemption Declaration for the action described below above is based on the Exemption List for the [name of agency], reviewed and concurred in by the Environmental Council on [date of concurrence], Exemption Class and Number ____.
- This Exemption Declaration for the action described below is based on Exemption Class ____, Section 11-200-8(a), Hawai‘i Administrative Rules (HAR).

AGENCY OR APPLICANT ACTION

Check applicable box

- The exempted action is an agency action as defined by Section 11-200-5, HAR
- The exempted action is an applicant action as defined by Section 11-200-6, HAR

DESCRIPTION OF ACTION

Name of Agency or Applicant _____

Brief Description of the Action _____

Beginning Date Anticipated Start of Action _____

Anticipated Ending Date Completion of Action _____

Island and District and Island of Action Location

Tax Map Key of Action _____

CONSULTATION

List the name, title, affiliation, and date of consultation for any parties consulted about the exemption of this action:

CONCERNS/POTENTIAL IMPACTS

Check all applicable boxes

- None
- Land Use Impact and Zoning Conformance
- Traffic (Vehicles, Bicycles, Pedestrian)
- Compliance
- Waste (Solid, Hazardous, Liquid)
- Increased Demand on Infrastructure
- Social and Economic Impacts
- Health and Safety
- Property Acquisition Requirement
- Natural Resources, including
- Rare, Threatened, and Endangered Species
- Surface and Ground Water Resources,
- Wetlands or
- Floodplains
- Cultural Resources and Practices
- Access to Public Access Resources (such as beach access)
- Health and Safety
- Air Quality Pollutant Emissions
- Noise Emissions
- Infrastructure
- Traffic (Vehicles, Bicycles, Pedestrian)
- Waste (Solid, Hazardous, Liquid)
- Social Economic
- Visual/Aesthetic Impact
- Environmental Justice (disproportionate adverse impact in disadvantaged areas)
- Degree of Controversy
- Other

Briefly describe concerns and potential adverse environmental, social, and cultural impacts relating to the action, and/or exemption, and remediation (mitigation) measures, and basis for exempting the action from further environmental review.

SENSITIVE ENVIRONMENTS

Describe any sensitive environments related to the exempted action

CUMULATIVE IMPACTS

Briefly describe any cumulative impacts by the action described above. “Cumulative impact” is the impact on the environment, which 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 such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time. Section 11-200-2.

APPROVAL OF EXEMPTION

I have considered the direct, cumulative, and potential impacts of the action described above pursuant to provided by Chapter 343, Hawai‘i Revised Statutes and Chapter 11-200, Hawai‘i Administrative Rules. I declare that the action described above will have minimal or no significant impact on the environment and is therefore exempt from the preparation of an environmental assessment.

This document is on file in our office and is available for public review.

[Signature of Director or Delegate]

[Date]

Chapter 6: Agency Actions Under HEPA

HEPA includes the following statutes and administrative rules:

- HRS Chapter 343, Environmental Impact Statements
- HAR 11-200, Environmental Impact Statement Rules
- HAR 11-201, Environmental Council Rules of Practice and Procedure

6.1 Goals of this Chapter

This chapter will provide you with the specific requirements for agency actions (*not declared exempt*) under HEPA. You will learn to use the proper terminology associated with agency actions, as well as the specific steps of the process for actions.

6.2 Proper Terminology for Agency Actions

The agency initiating an action, also initiates the EA process, and is termed the "**proposing agency**." The proposing agency also makes an initial determination on the need for an EA (exemption declaration) and the need for an EIS (FONSI or EISPN).

The proposing agency engages in the early consultation process prior to preparation of an EA. The proposing agency submits the EA (including copies of written early consultation comments and responses) and its appropriate notice of determination to the OEQC.

In the event that the proposing agency determines from the EA that a full EIS is required (EISPN), the entity that determines the acceptability of the subsequent FEIS is termed the "**accepting authority**." This is either the Governor or the County Mayor.

6.3 Process Flow Charts, Forms, Sample Letters, and Checklists for Agency Actions

Please refer to Exhibits 6.1 to 6-11.

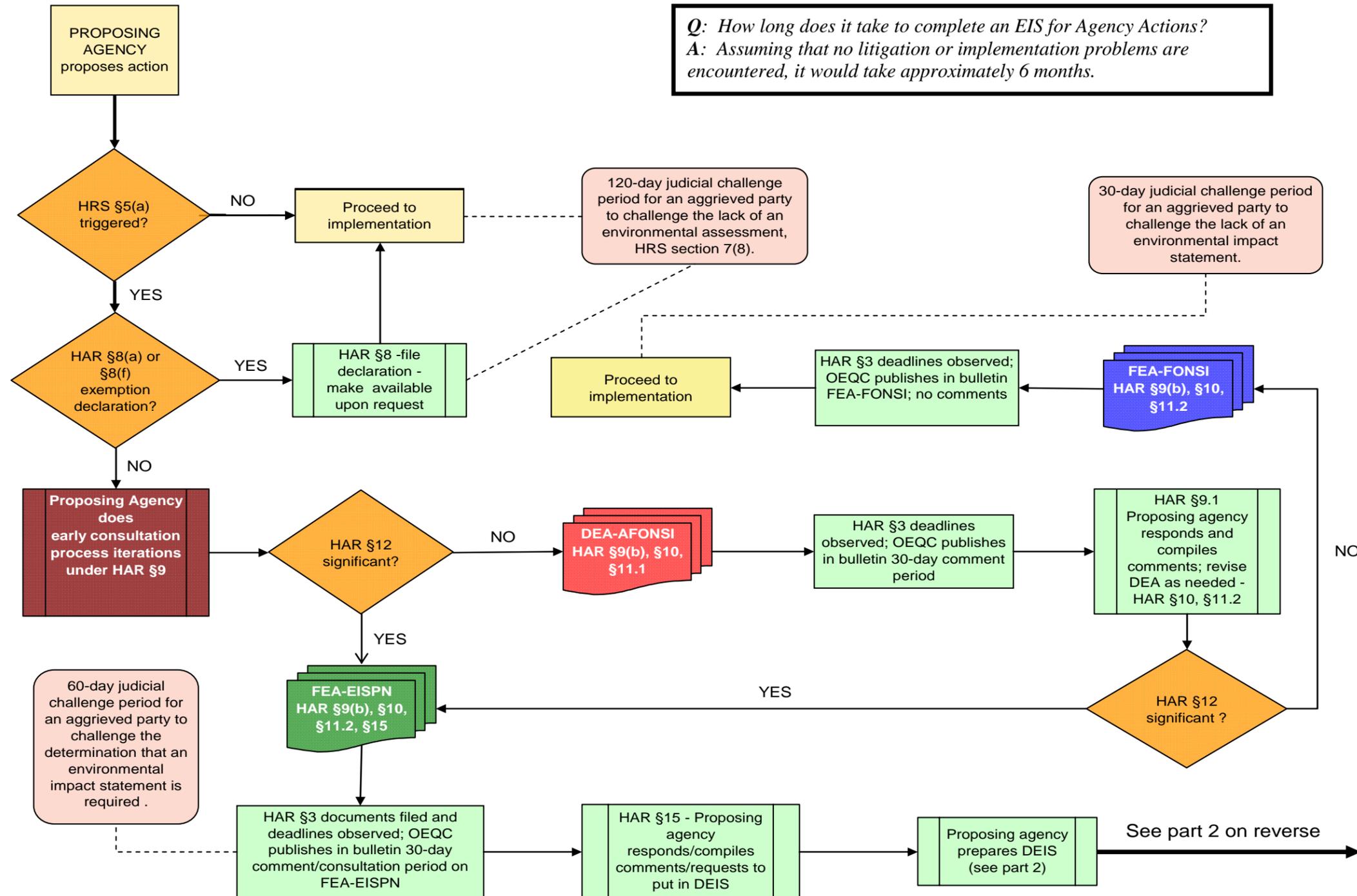
For a step-by-step guide through the EIS process agency actions, see Flowcharts on pages 49-50

THIS GUIDEBOOK IS FOR GENERAL INFORMATION ONLY. CONSULT THE STATUTE AND THE RULES FOR SPECIFIC APPLICABILITY, JUDICIAL CHALLENGE AND DETAILED STEPS TO IMPLEMENTATION AND PROCESS OF HEPA.

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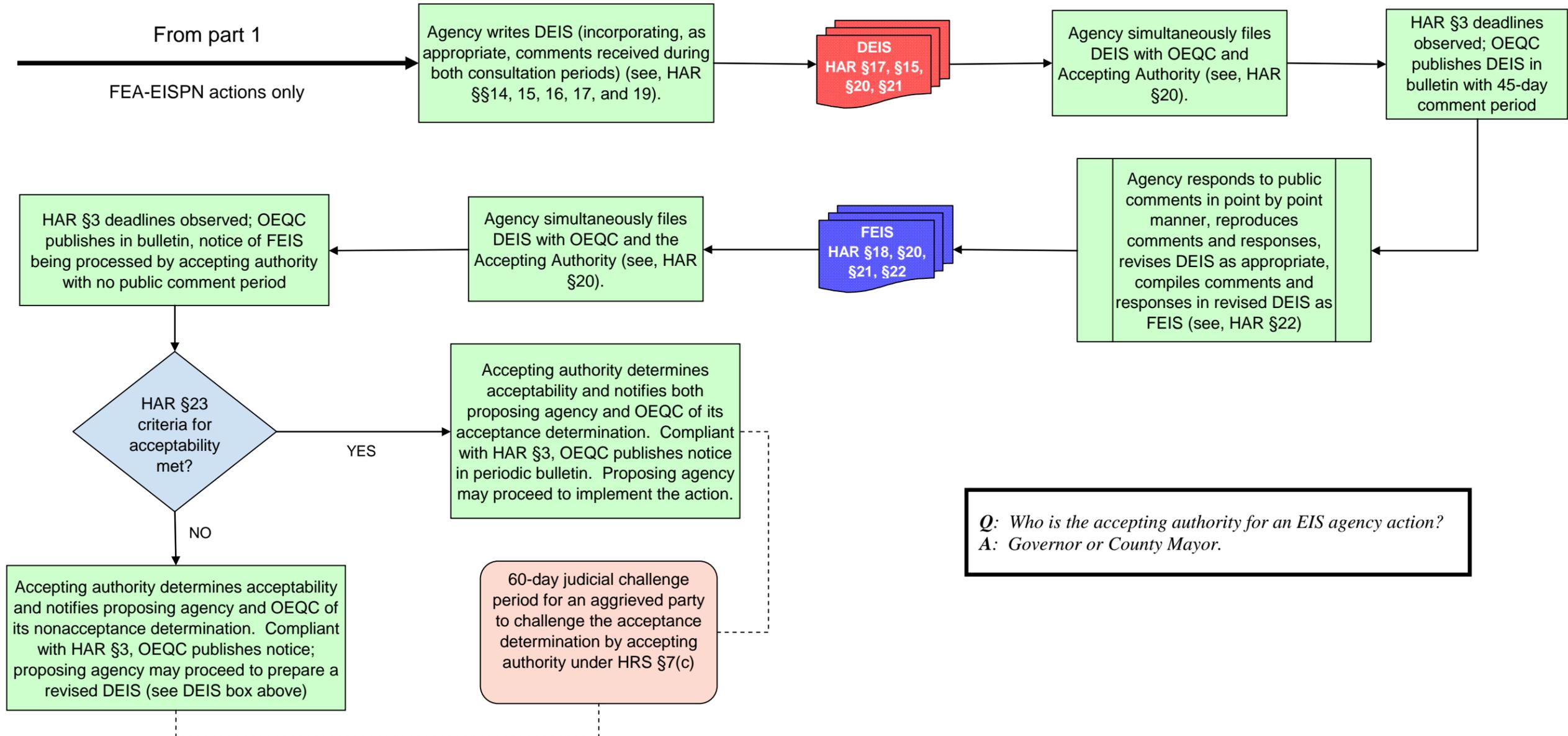
HEPA FLOWCHART, AGENCY ACTIONS, PART 1

Important: This flowchart is a guide to the milestone events in the process and is not a substitute for reading and complying with the HEPA statute and administrative rules. HAR in this flowchart refers to Chapter 11-200, and section numbers are provided for brevity. HRS in this flowchart refers to Chapter 343, and section numbers are provided for brevity. This guidebook is for general guidelines only. Consult the statute and the rules for specific applicability, judicial challenge, and detailed steps to implementation and process of HEPA.



HEPA FLOWCHART, AGENCY ACTIONS, PART 2

Important: This flowchart is a guide to the milestone events in the process and is not a substitute for reading and complying with the HEPA statute and administrative rules. HAR in this flowchart refers to Chapter 11-200, and section numbers are provided for brevity. HRS in this flowchart refers to Chapter 343, and section numbers are provided for brevity. This guidebook is for general guidelines only. Consult the statute and the rules for specific applicability, judicial challenge, and detailed steps to implementation and process of HEPA.



Q: Who is the accepting authority for an EIS agency action?
A: Governor or County Mayor.

SAMPLE LETTER FOR PROPOSING AGENCY FILING A DRAFT ENVIRONMENTAL ASSESSMENT AND ANTICIPATED FINDING OF NO SIGNIFICANT IMPACT WITH THE OEQC (FOR AGENCY ACTIONS)

Proposing Agency Name
[Street Address]
[City, ST ZIP Code]
Date

Director
Office of Environmental Quality Control
Department of Health, State of Hawai‘i
235 S. Beretania Street, Room 702
Honolulu, Hawai‘i 96813

Dear Director:

With this letter, the (Proposing Agency Name) hereby transmits the draft environmental assessment and anticipated finding of no significant impact (DEA-AFONSI) for the (Action Name) situated at (TMK Number), in the (District Name) on the island of (Island Name) for publication in the next available edition of the Environmental Notice.

Enclosed is a completed OEQC Publication Form, two copies of the DEA-AFONSI, an Adobe Acrobat PDF file of the same, and an electronic copy of the publication form in MS Word. Simultaneous with this letter, we have submitted the summary of the action in a text file by electronic mail to your office.

If there are any questions, please contact (Proposing Agency Contact Name) at (Contact Telephone Number).

Sincerely,

(Proposing Agency Official)

Enclosures

SAMPLE LETTER FOR PROPOSING AGENCY FILING A FINAL ENVIRONMENTAL ASSESSMENT AND FINDING OF NO SIGNIFICANT IMPACT WITH THE OEQC (FOR AGENCY ACTIONS)

Proposing Agency Name
[Street Address]
[City, ST ZIP Code]
Date

Director
Office of Environmental Quality Control
Department of Health, State of Hawai‘i
235 S. Beretania Street, Room 702
Honolulu, Hawai‘i 96813

Dear Director:

With this letter, the (Proposing Agency Name) hereby transmits the final environmental assessment and finding of no significant impact (FEA-FONSI) for the (Action Name) situated at (TMK Number), in the (District Name) on the island of (Island Name) for publication in the next available edition of the Environmental Notice.

The (Proposing Agency Name) has included copies of comments and responses that it received during the 30-day public comment period on the draft environmental assessment and anticipated finding of no significant impact (DEA-AFONSI).

Enclosed is a completed OEQC Publication Form, two copies of the FEA-FONSI, an Adobe Acrobat PDF file of the same, and an electronic copy of the publication form in MS Word. Simultaneous with this letter, we have submitted the summary of the action in a text file by electronic mail to your office.

If there are any questions, please contact (Proposing Agency Contact Name) at (Contact Telephone Number).

Sincerely,

(Proposing Agency Official)

Enclosures

**SAMPLE LETTER FOR PROPOSING AGENCY FILING A FINAL ENVIRONMENTAL
ASSESSMENT AND ENVIRONMENTAL IMPACT STATEMENT PREPARATION
NOTICE WITH THE OEQC (FOR AGENCY ACTIONS)**

Proposing Agency Name
[Street Address]
[City, ST ZIP Code]
Date

Director
Office of Environmental Quality Control
Department of Health, State of Hawai‘i
235 S. Beretania Street, Room 702
Honolulu, Hawai‘i 96813

Dear Director:

With this letter, the (Proposing Agency Name) hereby transmits the final environmental assessment and environmental impact statement preparation notice (FEA-EISPN) for the (Action Name) situated at (TMK Number), in the (District Name) on the island of (Island Name) for publication in the next available edition of the Environmental Notice.

We understand that publication of the FEA-EISPN in the Environmental Notice will initiate a 30-day public consultation period for parties to comment on the action and to request to become consulted parties in the preparation of the draft environmental impact statement.

Enclosed is a completed OEQC Publication Form, two copies of the FEA-EISPN, an Adobe Acrobat PDF file of the same, and an electronic copy of the publication form in MS Word. Simultaneous with this letter, we have submitted the summary of the action in a text file by electronic mail to your office.

We are copying the (Accepting Authority) to inform them that a subsequent draft EIS will be prepared at the conclusion of the public consultation period.

If there are any questions, please contact (Proposing Agency Contact Name) at (Contact Telephone Number).

Sincerely,

(Proposing Agency Official)

Enclosures

C: Accepting Authority

SAMPLE LETTER FOR PROPOSING AGENCY FILING A FINAL ENVIRONMENTAL ASSESSMENT AND ENVIRONMENTAL IMPACT STATEMENT PREPARATION NOTICE FOLLOWING A DRAFT ENVIRONMENTAL ASSESSMENT AND ANTICIPATED FINDING OF NO SIGNIFICANT IMPACT WITH THE OEQC (FOR AGENCY ACTIONS)

Proposing Agency Name
[Street Address]
[City, ST ZIP Code]
Date

Director
Office of Environmental Quality Control
Department of Health, State of Hawai'i
235 S. Beretania Street, Room 702
Honolulu, Hawai'i 96813

Dear Director:

Prior to this letter, the (Proposing Agency Name) had transmitted to you a draft environmental assessment and anticipated finding of no significant impact (DEA-AFONSI), notice of which was published in the _____, 201_, edition of the Environmental Notice. At the conclusion of the 30-day public comment period, the (Proposing Agency Name) reviewed the information and comments in light of the significant criteria set forth in Section 11-200-12, Hawaii Administrative Rules. We now find that the proposed action may have a significant effect on the environment.

With this letter, the (Proposing Agency Name) hereby transmits the final environmental assessment and environmental impact statement preparation notice (FEA-EISPN) for the (Action Name) situated at (TMK Number), in the (District Name) on the island of (Island Name) for publication in the next available edition of the Environmental Notice.

We understand that publication of the FEA-EISPN in the Environmental Notice will initiate a 30-day public consultation period for parties to comment on the action and to request to become consulted parties in the preparation of the draft environmental impact statement.

Enclosed is a completed OEQC Publication Form, two copies of the FEA-EISPN, an Adobe Acrobat PDF file of the same, and an electronic copy of the publication form in MS Word. Simultaneous with this letter, we have submitted the summary of the action in a text file by electronic mail to your office.

We are copying the (Accepting Authority) to inform them that a subsequent draft EIS will be prepared at the conclusion of the public consultation period.

If there are any questions, please contact (Proposing Agency Contact Name) at (Contact Telephone Number).

Sincerely,

(Proposing Agency Official)

Enclosures

C: Accepting Authority

**SAMPLE LETTER FOR PROPOSING AGENCY FILING A DRAFT ENVIRONMENTAL
IMPACT STATEMENT SIMULTANEOUSLY WITH THE OEQC AND THE
ACCEPTING AUTHORITY (FOR AGENCY ACTIONS)**

Proposing Agency Name
[Street Address]
[City, ST ZIP Code]
Date

Director
Office of Environmental Quality Control
Department of Health, State of Hawai‘i
235 S. Beretania Street, Room 702
Honolulu, Hawai‘i 96813

The Honorable (Mayor/Governor)
County of ___ or State of Hawai‘i
Street Address
City, Hawai‘i 96___

Dear Director and Honorable (Mayor/Governor):

With this letter, the (Proposing Agency Name) hereby transmits the documents package for the draft environmental impact statement for the (Action Name) situated at (TMK Number) in the (District Name) on the island of (Island Name) for publication of a notice of availability for public comment for 45-days in the next available edition of the Environmental Notice. The draft EIS has included copies of all written comments received during the early consultation period and during the 30-day public consultation period for the FEA-EISPN.

Also enclosed is a distribution list for the verification of OEQC under Section 11-200-20, Hawai‘i Administrative Rules. Upon receiving verification from OEQC (along with the bulletin proof of the notice containing the pertinent details for commenters), we will make the draft EIS and the bulletin proof available to those so indicated on the distribution list so that they will have the full 45-day statutory period to review and comment on the draft EIS.

Finally, enclosed is a completed OEQC Publication Form, two copies of the draft EIS, an Adobe Acrobat PDF file of the same, and an electronic copy of the publication form in MS Word. Simultaneous with this letter, we have submitted the summary of the action in a text file by electronic mail to the OEQC.

If there are any questions, please contact (Proposing Agency Contact Name) at (Contact Telephone Number).

Sincerely,

(Official of the Proposing Agency)

Enclosures

**SAMPLE LETTER FOR PROPOSING AGENCY FILING A FINAL ENVIRONMENTAL
IMPACT STATEMENT SIMULTANEOUSLY WITH THE OEQC AND THE
ACCEPTING AUTHORITY (FOR AGENCY ACTIONS)**

Proposing Agency Name
[Street Address]
[City, ST ZIP Code]
Date

Director
Office of Environmental Quality Control
Department of Health, State of Hawai'i
235 S. Beretania Street, Room 702
Honolulu, Hawai'i 96813

The Honorable (Mayor/Governor)
County of ___ or State of Hawai'i
Street Address
City, Hawai'i 96___

Dear Director and Honorable (Mayor/Governor):

With this letter, the (Proposing Agency Name) hereby transmits the documents package for the final environmental impact statement for the (Action Name) situated at (TMK Number) in the (District Name) on the island of (Island Name) for publication of a notice of availability in the next available edition of the Environmental Notice and for evaluation for acceptability under Section 11-200-23, Hawai'i Administrative Rules.

Also enclosed is a distribution list for the verification of OEQC under Section 11-200-20, Hawai'i Administrative Rules. Upon receiving verification from OEQC (along with the bulletin proof of the notice containing the pertinent details for commenters), we will make the final EIS and the bulletin proof available to those so indicated on the distribution list.

Finally, enclosed is a completed OEQC Publication Form, two copies of the final EIS, an Adobe Acrobat PDF file of the same, and an electronic copy of the publication form in MS Word. Simultaneous with this letter, we have submitted the summary of the action in a text file by electronic mail to the OEQC.

If there are any questions, please contact (Proposing Agency Contact Name) at (Contact Telephone Number).

Sincerely,

(Official of the Proposing Agency)

Enclosures

HRS 343-5(b) – AGENCY ACTION ENVIRONMENTAL ASSESSMENT CHECKLIST

Name of Action: _____

Island and Tax Map Key: _____

Proposing Agency: _____

FOR OEQC USE ONLY
Date Received:
Date Published:
Staff reviewer:
Comment Deadline:
Public Library:

PART A: Draft Environmental Assessment (accompanied by Anticipated Finding of No Significant Impact (AFONSI) determination by the proposing agency with 30-day public comment period)

Identification of Section 343-5(a), HRS, trigger(s):

Applicable sections (check all that apply):

- | | |
|---|--|
| <input type="checkbox"/> Use of state or county lands or funds | <input type="checkbox"/> Use in the Waikiki district |
| <input type="checkbox"/> Use in the conservation district | <input type="checkbox"/> Amendment to county general plan |
| <input type="checkbox"/> Use within shoreline setback area | <input type="checkbox"/> Reclassification of conservation lands to urban |
| <input type="checkbox"/> Use of historic site or district | <input type="checkbox"/> Construction or modification of helicopter facilities |
| <input type="checkbox"/> Waste water facility, waste-to-energy facility, landfill, oil refinery, or power-generating facility | |

Content Requirements (see HAR §11-200-10, items 1 thru 13)

- Notice of determination² letter from the proposing agency requesting publication of its notice of determination of an anticipated finding of no significant impact (AFONSI) based on the attached draft environmental assessment.
- Identification of agencies, citizen groups, and individuals consulted in making the assessment
- General description of the action's technical, economic, social, and environmental characteristics; time frame; funding source
- Summary description of the affected environment, including cultural resources and practices, suitable and adequate regional, location and site maps such as Flood Insurance Rate Maps, Floodway Boundary Maps, or United States Geological Survey topographic maps
- Identification and summary of impacts (direct, indirect and cumulative) to the affected environment described above and proposed mitigation measures
- Alternatives considered
- Discussion of findings and reasons supporting the agency anticipated determination
- List of all required permits and approvals (both discretionary and ministerial at the state, federal, or county levels), if any
- Written comments and responses to comments under the early consultation provisions under HAR 11-200-9(a)(1), and 11-200-9(b)(1)

PART B: Final Environmental Assessment (accompanied by Finding of No Significant Impact (FONSI) determination by the proposing agency with no public comment period)

- Notice of determination³ letter from the proposing agency requesting publication of its notice of determination of a finding of no significant impact (FONSI) based on the attached final environmental assessment.
- Written comments and responses to the comments under the statutorily prescribed public review periods for the draft environmental assessment

FOR OEQC USE ONLY
Date Received:
Date Published:

² AFONSI – by rule (Section 11-200-11.1, HAR), the notice of determination from the proposing agency shall indicate: (1) the identity of the proposing agency; (2) the identity of the accepting authority; (3) a brief description of the proposed action; (4) the determination by the proposing agency; (5) the reasons supporting the determination; and (6), the name, address, and telephone number of a person at the proposing agency to contact for more information.

³ FONSI – by rule (Section 11-200-11.2, HAR), the notice of determination from the proposing agency shall indicate: (1) the identity of the proposing agency; (2) the identity of the accepting authority if an EIS was required; (3) a brief description of the proposed action; (4) the determination by the proposing agency; (5) the reasons supporting the determination; and (6), the name, address, and telephone number of a person at the proposing agency to contact for more information.

PART C: Final Environmental Assessment (accompanied by Environmental Impact Statement Preparation Notice (EISPN) determination by the proposing agency with 30-day public comment period)

FOR OEQC USE ONLY
Date Received:
Date Published:
Staff reviewer:
Comment Deadline:

Identification of Section 343-5(a), HRS, trigger(s) (omit if this is a FEA-EISPN following a DEA):

Applicable sections (check all that apply):

- | | |
|---|--|
| <input type="checkbox"/> Use of state or county lands or funds | <input type="checkbox"/> Use in the Waikiki district |
| <input type="checkbox"/> Use in the conservation district | <input type="checkbox"/> Amendment to county general plan |
| <input type="checkbox"/> Use within shoreline setback area | <input type="checkbox"/> Reclassification of conservation lands to urban |
| <input type="checkbox"/> Use of historic site or district | <input type="checkbox"/> Construction or modification of helicopter facilities |
| <input type="checkbox"/> Waste water facility, waste-to-energy facility, landfill, oil refinery, or power-generating facility | |

Content Requirements (see HAR §11-200-10, items 1 thru 13)

- Notice of determination⁴ letter from the proposing agency requesting publication of its notice of determination of an environmental impact statement preparation notice (EISPN) based on the attached final environmental assessment
- Identification of proposing agency
- Identification of agencies, citizen groups, and individuals consulted in making the assessment
- General description of the action's technical, economic, social, and environmental characteristics; time frame; funding source
- Summary description of the affected environment, including cultural resources and practices, suitable and adequate regional, location and site maps such as Flood Insurance Rate Maps, Floodway Boundary Maps, or United States Geological Survey topographic maps
- Identification and summary of impacts (direct, indirect and cumulative) to the affected environment described above and proposed mitigation measures
- Alternatives considered
- Discussion of findings and reasons supporting the agency determination
- List of all required permits and approvals (both discretionary and ministerial at the state, federal, and county levels), if any
- Written comments and responses to the comments under the early consultation under HAR 11-200-9(a)(1), 11-200-9(b)(1), and 11-200-15

With the submittal of the draft environmental impact statement, an **HRS 343-5(b) AGENCY ACTIONS EIS CHECKLIST** will be generated and used until the completion of the EIS process (acceptance or non-acceptance).

⁴ EISPN – by rule (Section 11-200-11.2, HAR), a notice of determination from the proposing agency shall indicate: (1) the identity of the proposing agency; (2) the identity of the accepting authority; (3) a brief description of the proposed action; (4) the determination by the proposing agency; (5) the reasons supporting the determination; and (6), the name, address, and telephone number of a person to contact at the proposing agency for more information.

HRS 343-5(b), AGENCY ACTION ENVIRONMENTAL IMPACT STATEMENT CHECKLIST

Action (Project) Name: _____
 Proposing Agency _____
 Accepting Authority: _____
 Island and Tax Map Key _____

FOR OEQC USE ONLY
Date DEIS Received:
Date of Publication:
Comment Deadline:

PART A: DRAFT ENVIRONMENTAL IMPACT STATEMENT (filed by the proposing agency and accompanied by a transmittal letter from the proposing agency and distribution list - with 45-day public comment period)

Content Requirements (see Section 11-200-17, HAR)

- ___ 1. Summary sheet (abstract) which concisely discusses the following:
 - ___ Brief description of the action
 - ___ Significant beneficial and adverse impacts (including cumulative and secondary impacts)
 - ___ Proposed mitigation measures
 - ___ Alternatives considered
 - ___ Unresolved issues
 - ___ Compatibility with land use plans and policies
 - ___ Listing of permits and approvals
- ___ 2. Table of contents
- ___ 3. Statement of purpose and need for the proposed action
- ___ 4. Project description, which shall include the following:
 - ___ A detailed map (U. S. Geological Survey topographic, Flood Insurance Rate Maps, or Floodway Boundary Maps) and a related regional map
 - ___ Statement of objectives
 - ___ General description of the action's technical, economic, social and environmental characteristics
 - ___ Use of public funds or lands for the action (if any), or other trigger
 - ___ Phasing and timing of action
 - ___ Summary technical data, diagrams and other information necessary to permit an evaluation of potential environmental impact by commenting agencies and the public
 - ___ Historic (archaeological and cultural) perspective
- ___ 5. Discussion of alternatives that could attain the objectives of the action, regardless of cost, in sufficient detail to explain why they were rejected
 - ___ Rigorous exploration and objective evaluation of the environmental impacts of all such alternative actions
 - ___ Alternatives that enhance environmental quality or avoid, reduce, or minimize some or all of the adverse environmental effects, costs, and risks (if any)
 - ___ No action alternative
 - ___ Alternatives requiring actions of a significantly different nature that would provide similar benefits with different environmental impacts (if any)
 - ___ Alternatives related to different designs or details of the proposed actions which would present different environmental impacts (if any)
 - ___ Alternative of postponing the action pending further study (if any)
 - ___ Alternative locations for the proposed project (if any)

- Comparative evaluation of the environmental benefits, costs, and risks of the proposed action and each reasonable alternative
- Detailed explanation(s) why alternatives were rejected

6. Description of the environmental setting

- Description of the environment¹ in the vicinity of the action as it exists before commencement of the action from a local and regional perspective
- Environmental resources that are rare or unique to the region and the project site (including natural or human-made resources of historic, archaeological, contemporary cultural, or aesthetic significance)
- Reference to related projects, public and private, existent or planned in the region
- Population and growth characteristics, population and growth assumptions used to justify the action
- Identification of data sources used to identify, qualify, or evaluate any and all environmental consequences

7. Relationship to land use plans, policies, and controls

- Discussion of how the proposed action may conform or conflict with objectives and specific terms of approved or proposed land use plans, policies, and controls, if any
- Where a conflict or inconsistency exists, explain reasons why the agency has decided to proceed notwithstanding the absence of full reconciliation
- List and status of necessary approvals from governmental agencies, boards or commissions or other similar groups having jurisdiction

8. Probable impact (using the environmental setting described above as the backdrop for analysis and discussion)

- Impacts (direct, indirect, and cumulative) of the project on the environment
- Impacts (direct, indirect, and cumulative) of the natural physical and human environment on the project
- Consideration of all phases of the action and consideration of all environmental consequences
- Discussion of direct and indirect effects
- Discussion of cumulative environmental impacts in the reasonably foreseeable future of the proposed action in relation to other projects
- Population and growth impacts of an action
- Discussion and incorporation of necessary data (if the proposed action constitutes a direct or indirect source of pollution determined by a government agency)

9. Relationship between local short-term uses of humanity's environment and the maintenance and enhancement of long-term productivity

- Discussion of the extent to which the proposed action involves trade-offs among short-term and long-term gains and losses
- Discussion of the extent to which the proposed action forecloses future options, narrows the range of beneficial uses of the environment

NOTE: *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.*

10. Separate and distinct section containing the 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
- Identification of the extent to which the action makes use of non-renewable resources during the phases of the action

NOTE: *Agencies shall avoid construing the term "resources" to mean only the labor and materials devoted to an action. "Resources" also means the natural and cultural resources committed to loss or destruction by the action.*

11. Address all probable adverse environmental effects which cannot be avoided:

- Water or air pollution
- Urban congestion

- Threats to public health
 - Consequences adverse to environmental goals and guidelines established by environmental response laws, coastal zone management laws, pollution control and abatement laws, and environmental policy
 - Rationale for proceeding with proposed action notwithstanding unavoidable effects
 - Discussion of other interests and considerations of governmental policies that are thought to offset the adverse environmental effects of the proposed action
 - Discussion of the extent to which 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
12. Mitigation measures proposed to avoid, minimize, rectify or reduce impact:
- Provision for compensation for losses of cultural, community, historical, archaeological, fish and wildlife resources, including the acquisition of land, waters and interests therein (if any)
 - Discussion of measures to reduce significant, unavoidable, adverse impacts to insignificant levels, and the basis for considering these levels acceptable
 - Where a particular mitigation measure has been chosen from among several alternatives, the measures have been discussed and the reasons for the choice have been disclosed.
 - Timing of each step in the mitigation process
 - What performance bonds (if any) may be posted
 - Provisions proposed to assure that the mitigation measures will be taken
13. Separate and distinct section summarizing unresolved issues
- Discussion of how such issues will be resolved prior to commencement of the action or discussion of the overriding reasons for proceeding without resolving the problems
14. Separate and distinct section containing a list that identifies all government agencies, other organizations and private individuals consulted in preparing the statement (consulted parties and commenters during the FEA-EISPN process)
- Identity of all persons, firms, or agency preparing the statement by contract or by authorization
15. Separate and distinct section containing reproduction of all substantive comments and responses made during the consultation process
- List of persons or agencies who were consulted and had no comment

EIS Style (see Section 11-200-19, HAR)

- 1. The draft EIS is written in a way that conveys the required information succinctly in a form easily understood by members of the public and public decision makers
- 2. The scope of the draft EIS is commensurate with the scope of the proposed action and its impact
- 3. Data and analyses in the draft EIS are commensurate with the importance of the impact
- 4. Less important material is summarized, consolidated, or simply referenced
- 5. The draft EIS indicates 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
- 6. The draft EIS focuses on important issues
- 7. The draft EIS is an essentially self-contained document, capable of being understood by the reader without the need for undue cross-reference

Filing of an EIS (see Section 11-200-20, HAR, 2008 Distribution Policy)

- 1. The proposing agency files the draft EIS with the accepting authority along with the minimum amount of copies required by the accepting authority.

- ___ 2. The proposing agency simultaneously files two printed copies of the draft EIS (or alternatively, one electronic copy and two hard copies) with the Office of Environmental Quality Control
- ___ 3. The proposing agency signs the draft EIS and indicates that the draft EIS and all ancillary documents were prepared under the proposing agency's direction or supervision and that the information submitted, to the best of the proposing agency's knowledge fully addresses document content requirements as set for in Section 11-200-17, HAR.

Distribution (see Section 11-200-21, HAR, and 2008 Distribution Policy)

- ___ 1. The proposing agency submits a distribution list with the draft EIS for verification by the Office of Environmental Quality Control
- ___ 2. The Office of Environmental Quality Control issues a written verification of the distribution list before the issue date of The Environmental Notice announcing the draft EIS.
- ___ 3. The Office of Environmental Quality Control receives the third printed copy (or the third copy for applicants submitting an electronic copy) by mail/courier, thus confirming the distribution of the document on _____

PART B: FINAL ENVIRONMENTAL IMPACT STATEMENT (accompanied by transmittal letter from the proposing agency and distribution list with no public comment period).

Content Requirements (see Section 11-200-18, HAR)

- ___ 1. The draft EIS was revised as the final EIS to incorporate substantive comments received during the 45-day public review period
- ___ 2. Reproductions of all timely-received letters received containing substantive comments and, as applicable, summaries of any scoping meetings
- ___ 3. A list of persons, organizations, and public agencies commenting on the draft EIS
- ___ 4. The point-by-point responses of the applicant to each substantive question, comment, or recommendation received in the review and consultation process
- ___ 5. The text of the final EIS is written in a format that allows the reader to easily distinguish changes made to the draft EIS

FOR OEQC USE ONLY
Date FEIS Received:
Date of Decision: ___ Acceptance ___ Non-acceptance
Date Decision Received:
Date Decision Published:

EIS Style (see Section 11-200-19, HAR)

- ___ 1. The final EIS is written in a way that conveys the required information succinctly in a form easily understood by members of the public and public decision makers
- ___ 2. The scope of the final EIS is commensurate with the scope of the proposed action and its impacts
- ___ 3. Data and analyses in the final EIS are commensurate with the importance of the impacts
- ___ 4. Less important material is summarized, consolidated, or simply referenced
- ___ 5. The final EIS indicates at appropriate points in the text any underlying studies, reports and other information obtained and considered in preparing the EIS including cost benefit analyses and reports required under other legal authorities
- ___ 6. The final EIS focuses on important issues

- ___ 7. The final EIS is an essentially self-contained document, capable of being understood by the reader without the need for undue cross-reference

Filing of an EIS (see Section 11-200-20, HAR, 2008 Distribution Policy)

- ___ 1. The proposing agency files the final EIS with the accepting authority along with the minimum amount of copies required by the accepting authority
- ___ 2. The proposing agency simultaneously files two printed copies of the final EIS (or alternatively, one electronic copy and two hard copies) with the Office of Environmental Quality Control
- ___ 3. The proposing agency signs the final EIS and indicates that the final EIS and all ancillary documents were prepared under the proposing agency's direction or supervision and that the information submitted, to the best of the proposing agency's knowledge, fully addresses document content requirements as set for in Sections 11-200-17, and 11-200-18, HAR

Distribution (see Section 11-200-21, HAR, and 2008 Distribution Policy)

- ___ 1. The proposing agency submitted a distribution list with the final EIS for verification by the Office of Environmental Quality Control
- ___ 2. The Office of Environmental Quality Control issues a written verification of the distribution list before the issue date of The Environmental Notice announcing the final EIS
- ___ 3. The Office receives the third printed copy (or the third copy for applicants submitting an electronic copy) of the final EIS by mail/courier, thus confirming the distribution of the document on _____

Public Review Requirements (see Section 11-200-22, HAR)

- ___ 1. The responses to timely received (postmark or time stamped) comments include:
- ___ Point-by-point discussion of the validity, significance, and relevance of comments
 - ___ Discussion as to how each comment was evaluated and considered in planning the proposed action
 - ___ Response letters reproduced in the final EIS indicate verbatim changes that have been made to the text of the draft EIS
 - ___ Response letters describe the disposition of significant environmental issues raised
 - ___ Issues raised when the applicant's position is at variance with the recommendations and objections raised in the comments are addressed in detail, giving reasons why specific comments were not accepted, and factors of overriding importance warranting an override of the suggestions

NOTE: *An addendum document to the draft environmental impact statement shall reference the original draft environmental impact statement it attaches to and comply with all applicable filing, public review, and comment requirements set forth in Sub-Chapter 7, Chapter 11-200, HAR*

Determination of Acceptability (see Section 11-200-23, HAR)

- ___ 1. Certification of satisfactory completion of the procedures for environmental assessment (Section 11-200-9, HAR), consultation (Section 11-200-15, HAR), public review (Section 11-200-22, HAR), preparation and submission of the statement (Sub-Chapter 7, HAR 11-200)
- ___ 2. Certification of satisfactory completion of the content requirements (for environmental assessment and environmental impact statement (Chapter HAR 11-200)
- ___ 3. Certification that comments received during the review process have received responses satisfactory to the accepting authority

¹ Section 11-200-2, HAR, defines "environment" as "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, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance."

**SECTION 343-5(b), HRS, AGENCY ACTION
SECTION 11-200-3(d), HAR, FORM FOR PUBLICATION IN THE PERIODIC BULLETIN OF
THE OFFICE OF ENVIRONMENTAL QUALITY CONTROL**

Please read the instructions on page 3 of this form.

- A. DATE: _____

- B. TITLE OF ACTION: _____

- C. TYPE OF DOCUMENT:
 - (1) DEA with AFONSI
 - (2) FEA with FONSI
 - (3) FEA with EISPN
 - (4) DEIS simultaneously filed with accepting authority/OEQC
 - (5) FEIS simultaneously filed with accepting authority/OEQC

- D. NOTICE OF PROPOSING AGENCY (OR ACCEPTING AUTHORITY) DETERMINATION ATTACHED (if any):
 - (1) AFONSI
 - (2) FONSI
 - (3) EISPN
 - (4) Acceptance/Non-acceptance of FEIS
 - (5) Section 11-200-27, HAR, Notice that SEIS not required
 - (6) Withdrawal

- E. PROPOSING AGENCY: _____
CONTACT FOR PROPOSING AGENCY: _____
CONSULTANT FOR PROPOSING AGENCY (if any): _____

- F. ACCEPTING AUTHORITY: _____
CONTACT FOR ACCEPTING AUTHORITY: _____

- G. ISLANDS AFFECTED BY THE ACTION: _____

- H. TAX MAP KEY NUMBERS: _____

- I. STREET ADDRESSES: _____

- J. NEAREST GEOGRAPHICAL LANDMARKS: _____

- K. LATITUDINAL/LONGITUDINAL COORDINATES: _____

- L. STATUTORY/ADMINISTRATIVE AUTHORITIES: _____

M. BRIEF NARRATIVE SUMMARY OF PROPOSED ACTION:

N. FORM PREPARER:

O. CONTACT INFORMATION:

INSTRUCTIONS FOR COMPLETING THE INFORMATION FORM FOR PUBLICATION IN THE PERIODIC BULLETIN (FOR AGENCY ACTIONS, 2011 REVISION)

1. Ascertain if you have the right form. Are you an applicant or approving agency? If so, you are using the wrong form.
2. Enter the date in item A.
3. Enter the title of the proposed action in item B.
4. Circle the type of document being submitted in item C. All environmental assessments must be accompanied by a notice of determination from the proposing agency. Environmental impact statements must be filed simultaneously with the accepting authority and the Office of Environmental Quality Control.
5. Circle (if any) the type of notice of proposing agency (or accepting authority) determination attached in item D. For environmental assessments this should correspond to the documents listed in item C of the form. No agency determination letter is required for proposing agency filings of FEIS documents. Withdrawals must be on agency letterhead, and signed and dated.
6. In item E, list the name, mailing address, telephone, email (if any) of the proposing agency, including the name of the contact for the proposing agency. If there is a consultant for the proposing agency, list the name, address, telephone, email (if any) of the consultant, including the name of the contact for the consultant. Use more paper if necessary.
7. In item F, list the name, mailing address, telephone, email (if any) of the accepting authority, including the name of the contact for the accepting authority.
8. In item G, list the islands affected by the proposed action (e.g., Kaua'i, Ni'ihau, O'ahu, Moloka'i, Lana'i, Kaho'olawe, Maui, Hawai'i, Northwestern Hawaiian Islands, etc.)
9. In item H, list the tax map key numbers affected by the proposed action.
10. In item I, list the street addresses and city of the location of the proposed action.
11. In item J, list the nearest geographical landmarks.
12. In item K, list the latitudinal/longitudinal coordinates.
13. In item L, list the statutory/administrative authorities:
 - Use of state/county lands/funds – Section 343-5(a)(1), HRS
 - Use of conservation district – Section 343-5(a)(2), HRS
 - Use within the shoreline setback area – Section 343-5(a)(3), HRS
 - Use within any historic site – Section 343-5(a)(4)
 - Use within the Waikiki Special District – Section 343-5(a)(5), HRS
 - Amendments to existing county general plans – Section 343-5(a)(6), HRS
 - Reclassification of conservation district lands – Section 343-5(a)(7), HRS
 - Helicopter facilities, construction/expansion/modification – Section 343-5(a)(8), HRS
 - Wastewater treatment units; waste to energy facility; landfill; oil refinery; or, power generating facility – Section 343-5(a)(9), HRS
 - Major federal action – National Environmental Policy Act
14. In item M, provide a summary in two-hundred-fifty words or less of the proposed action.
15. In items, N and O, list the name of the person who prepared this form along with their contact information (address, telephone number, email, facsimile, etc.)
16. For DEA, FEA documents: Submit this form, along with four hard copies of the supporting environmental assessment (or two hard copies and an Adobe Acrobat PDF file of the supporting environmental assessment), along with the notice of determination on the environmental assessment.
For DEIS, FEIS documents: Submit this form, along with four hard copies of the supporting environmental impact statement (or two hard copies and an Adobe Acrobat PDF file of the supporting environmental impact statement).
For other documents (withdrawals, acceptance/nonacceptance, Section 11-200-27, HAR determinations, etc.): submit this form with the original document.
Documents submitted with this form are subject to the timeliness requirements set forth in Section 11-200-3, HAR.

Chapter 7: Applicant Actions under HEPA

Note that the following Administrative Rules and Statutes will be referred to extensively throughout this chapter:

- Chapter 343, HRS Environmental Impact Statements
- Chapter 11-200, HAR Environmental Impact Statement Rules
- Chapter 11-200-8(11), HAR Exempt classes of action for the acquisition of land
- Chapter 11-201, HAR Environmental Council Rules of Practice and Procedure

7.1 Goals of this Chapter

This chapter will provide you with the specific requirements for applicant actions (not declared exempt) under HEPA. You will learn to use the proper terminology associated with agency actions, as well as the specific steps of the process for actions.

7.2 Proper Terminology for Applicant Actions

For applicant actions, the person that seeks a discretionary approval from an agency is termed the "**applicant.**" The agency issuing the discretionary approval and that oversees the HEPA process for the applicant is termed the "**approving agency.**"

For applicant actions, the process begins with the applicant engaging in the early consultation process with ongoing dialogue with the approving agency.

The approving agency also makes an initial determination on the need for an EA (exemption declaration) and the need for an EIS (FONSI or EISPN). In the event that the proposing agency determines from the EA that a full EIS is required (EISPN), the entity that determines the acceptability of the subsequent FEIS is the "**approving agency.**"

7.3 Process Flow Charts, Forms, Sample Letters and Checklists

Please refer to Exhibits 7-1 to 7-11.

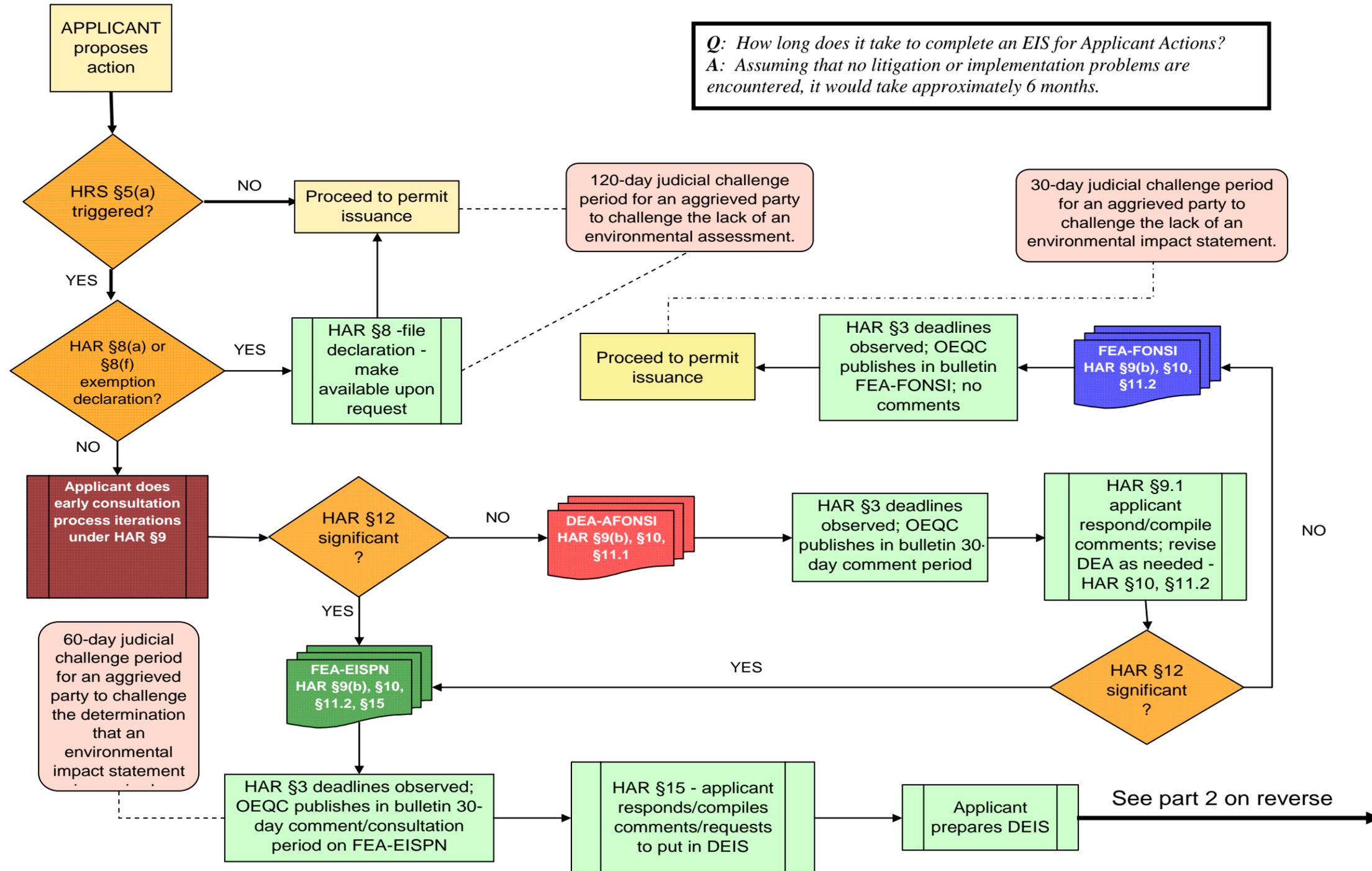
For a step-by-step guide through the EIS process applicant actions, see Flowcharts on pages 69-70

THIS GUIDEBOOK IS FOR GENERAL INFORMATION ONLY. CONSULT THE STATUTE AND THE RULES FOR SPECIFIC APPLICABILITY, JUDICIAL CHALLENGE AND DETAILED STEPS TO IMPLEMENTATION AND PROCESS OF HEPA.

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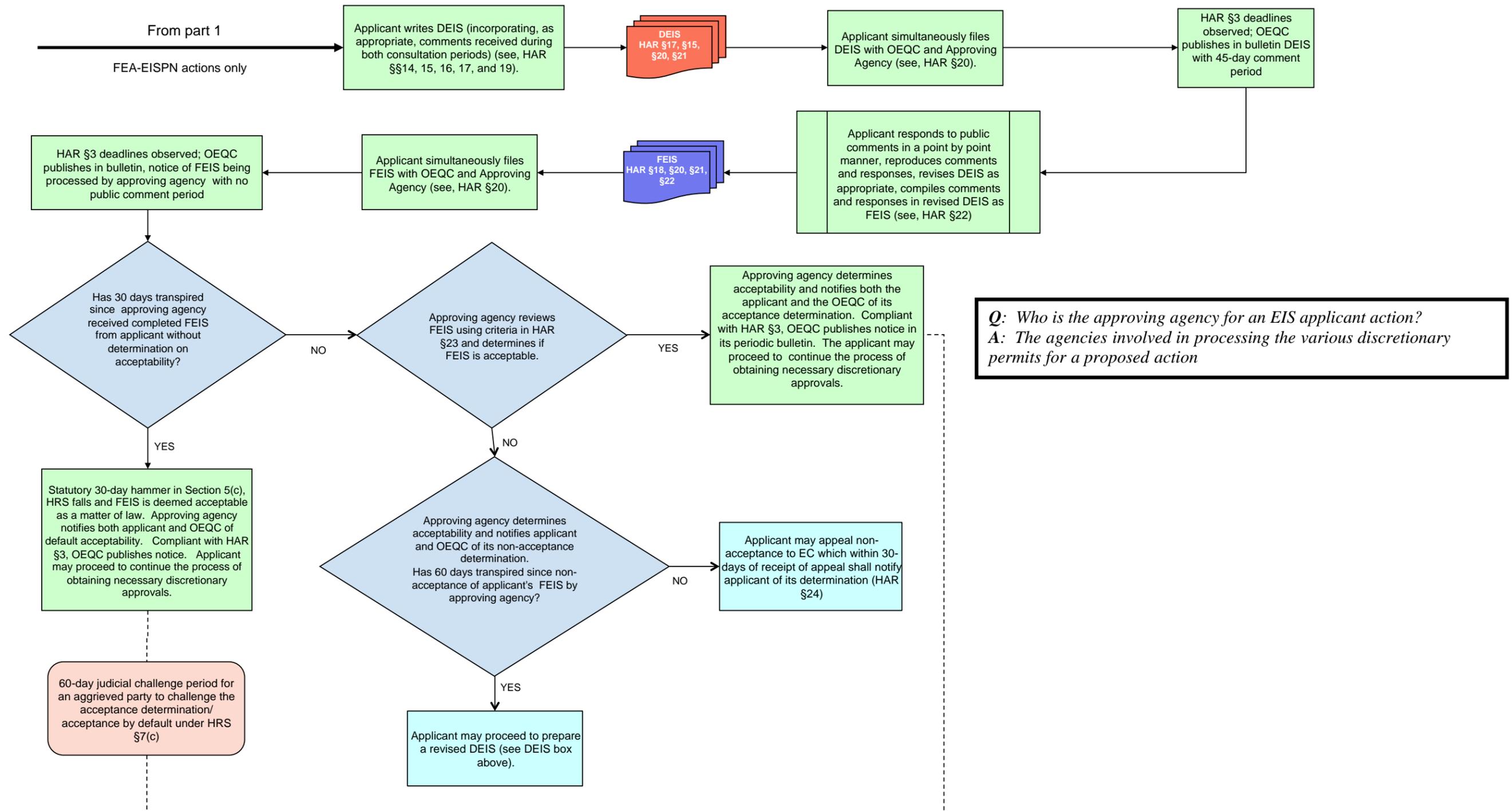
HEPA FLOWCHART, APPLICANT ACTIONS, PART 1

Important: This flowchart is a guide to the milestone events in the process and is not a substitute for reading and complying with the HEPA statute and administrative rules. HAR in this flowchart refers to Chapter 11-200, and section numbers are provided for brevity. HRS in this flowchart refers to Chapter 343, and section numbers are provided for brevity. This guidebook is for general guidelines only. Consult the statute and the rules for specific applicability, judicial challenge, and detailed steps to implementation and process of HEPA.



HEPA FLOWCHART, APPLICANT ACTIONS, PART 2

Important: This flowchart is a guide to the milestone events in the process and is not a substitute for reading and complying with the HEPA statute and administrative rules. HAR in this flowchart refers to Chapter 11-200, and section numbers are provided for brevity. HRS in this flowchart refers to Chapter 343, and section numbers are provided for brevity. This guidebook is for general guidelines only. Consult the statute and the rules for specific applicability, judicial challenge, and detailed steps to implementation and process of HEPA.



**SAMPLE LETTER FOR APPROVING AGENCY FILING A DRAFT ENVIRONMENTAL
ASSESSMENT AND ANTICIPATED FINDING OF NO SIGNIFICANT IMPACT
WITH THE OEQC (FOR APPLICANT ACTIONS)**

Approving Agency Name
[Street Address]
[City, ST ZIP Code]
Date

Director
Office of Environmental Quality Control
Department of Health, State of Hawai‘i
235 S. Beretania Street, Room 702
Honolulu, Hawai‘i 96813

Dear Director:

With this letter, the (Approving Agency Name) hereby transmits the draft environmental assessment and anticipated finding of no significant impact (DEA-AFONSI) for the (Action Name) situated at (TMK Number), in the (District Name) on the island of (Island Name) for publication in the next available edition of the Environmental Notice.

Enclosed is a completed OEQC Publication Form, two copies of the DEA-AFONSI, an Adobe Acrobat PDF file of the same, and an electronic copy of the publication form in MS Word. Simultaneous with this letter, we have submitted the summary of the action in a text file by electronic mail to your office.

If there are any questions, please contact (Approving Agency Contact Name) at (Contact Telephone Number).

Sincerely,

(Approving Agency Official)

Enclosures

C: Applicant

**SAMPLE LETTER FOR APPROVING AGENCY FILING A FINAL ENVIRONMENTAL
ASSESSMENT AND FINDING OF NO SIGNIFICANT IMPACT
WITH THE OEQC (FOR APPLICANT ACTIONS)**

Approving Agency Name
[Street Address]
[City, ST ZIP Code]
Date

Director
Office of Environmental Quality Control
Department of Health, State of Hawai'i
235 S. Beretania Street, Room 702
Honolulu, Hawai'i 96813

Dear Director:

With this letter, the (Approving Agency Name) hereby transmits the final environmental assessment and finding of no significant impact (FEA-FONSI) for the (Action Name) situated at (TMK Number), in the (District Name) on the island of (Island Name) for publication in the next available edition of the Environmental Notice.

The (Approving Agency Name) has included copies of public comments and the corresponding responses from the applicant that were received during the 30-day public comment period on the draft environmental assessment and anticipated finding of no significant impact (DEA-AFONSI).

Enclosed is a completed OEQC Publication Form, two copies of the FEA-FONSI, an Adobe Acrobat PDF file of the same, and an electronic copy of the publication form in MS Word. Simultaneous with this letter, we have submitted the summary of the action in a text file by electronic mail to your office.

If there are any questions, please contact (Approving Agency Contact Name) at (Contact Telephone Number).

Sincerely,

(Approving Agency Official)

Enclosures

C: Applicant

SAMPLE LETTER FOR APPROVING AGENCY FILING A FINAL ENVIRONMENTAL ASSESSMENT AND ENVIRONMENTAL IMPACT STATEMENT PREPARATION NOTICE WITH THE OEQC (FOR APPLICANT ACTIONS)

Approving Agency Name
[Street Address]
[City, ST ZIP Code]
Date

Director
Office of Environmental Quality Control
Department of Health, State of Hawai'i
235 S. Beretania Street, Room 702
Honolulu, Hawai'i 96813

Dear Director:

With this letter, the (Approving Agency Name) hereby transmits the final environmental assessment and environmental impact statement preparation notice (FEA-EISPN) for the (Action Name) situated at (TMK Number), in the (District Name) on the island of (Island Name) for publication in the next available edition of the Environmental Notice.

We understand that publication of the FEA-EISPN in the Environmental Notice will initiate a 30-day public consultation period for parties to comment on the action and to request to become consulted parties in the preparation of the draft environmental impact statement.

Enclosed is a completed OEQC Publication Form, two copies of the FEA-EISPN, an Adobe Acrobat PDF file of the same, and an electronic copy of the publication form in MS Word. Simultaneous with this letter, we have submitted the summary of the action in a text file by electronic mail to your office.

We understand that the applicant will prepare a subsequent draft EIS at the conclusion of the public consultation period for simultaneous filing with your office and our agency.

If there are any questions, please contact (Approving Agency Contact Name) at (Contact Telephone Number).

Sincerely,

(Approving Agency Official)

Enclosures

C: Applicant

SAMPLE LETTER FOR APPROVING AGENCY FILING A FINAL ENVIRONMENTAL ASSESSMENT AND ENVIRONMENTAL IMPACT STATEMENT PREPARATION NOTICE FOLLOWING A DRAFT ENVIRONMENTAL ASSESSMENT AND ANTICIPATED FINDING OF NO SIGNIFICANT IMPACT WITH THE OEQC (FOR APPLICANT ACTIONS)

Approving Agency Name
[Street Address]
[City, ST ZIP Code]
Date

Director
Office of Environmental Quality Control
Department of Health, State of Hawai'i
235 S. Beretania Street, Room 702
Honolulu, Hawai'i 96813

Dear Director:

Prior to this letter, we had transmitted to you a draft environmental assessment and anticipated finding of no significant impact (DEA-AFONSI), notice of which was published in the _____, 20__, edition of the Environmental Notice. At the conclusion of the 30-day public comment period, the (Approving Agency Name) reviewed the information and comments in light of the significant criteria set forth in Section 11-200-12, Hawai'i Administrative Rules. We now find that the proposed action may have a significant effect on the environment. With this letter, the (Approving Agency Name) hereby transmits the final environmental assessment and environmental impact statement preparation notice (FEA-EISPN) for the (Action Name) situated at (TMK Number), in the (District Name) on the island of (Island Name) for publication in the next available edition of the Environmental Notice.

We understand that publication of the FEA-EISPN in the Environmental Notice will initiate a 30-day public consultation period for parties to comment on the applicant's action and to request to become consulted parties in the applicant's preparation of the draft environmental impact statement. At the conclusion of the public consultation period on the FEA-EISPN, we further understand that the applicant will simultaneously file a draft EIS with your office and our agency.

Enclosed is a completed OEQC Publication Form, two copies of the FEA-EISPN, an Adobe Acrobat PDF file of the same, and an electronic copy of the publication form in MS Word. Simultaneous with this letter, we have submitted the summary of the action in a text file by electronic mail to your office.

If there are any questions, please contact (Approving Agency Contact Name) at (Contact Telephone Number).

Sincerely,

(Approving Agency Official)

Enclosures

C: Applicant

SAMPLE LETTER FOR APPLICANT FILING A DRAFT ENVIRONMENTAL IMPACT STATEMENT SIMULTANEOUSLY WITH THE OEQC AND THE APPROVING AGENCY (FOR APPLICANT ACTIONS)

Applicant
[Street Address]
[City, ST ZIP Code]
Date

Director
Office of Environmental Quality Control
Department of Health, State of Hawai‘i
235 S. Beretania Street, Room 702
Honolulu, Hawai‘i 96813

Name of Official, Title
Name of Approving Agency
Street Address
City, Hawai‘i 96____

Dear Director and Mr./Ms. Official:

With this letter, (Applicant Name) hereby transmits the documents package for the draft environmental impact statement for the (Action Name) situated at (TMK Number) in the (District Name) on the island of (Island Name) for publication of a notice of availability for public comment for 45-days in the next available edition of the Environmental Notice. The draft EIS has included copies of all written comments received during the early consultation period and during the 30-day public consultation period for the FEA-EISPN.

Also enclosed is a distribution list for the verification of OEQC under Section 11-200-20, Hawai‘i Administrative Rules. Upon receiving verification from OEQC (along with the bulletin proof of the notice containing the pertinent details for commenters), we will make the draft EIS and the bulletin proof available to those so indicated on the distribution list so that they will have the full 45-day statutory period to review and comment on the draft EIS.

Finally, enclosed is a completed OEQC Publication Form, two copies of the draft EIS, an Adobe Acrobat PDF file of the same, and an electronic copy of the publication form in MS Word. Simultaneous with this letter, we have submitted the summary of the action in a text file by electronic mail to the OEQC.

If there are any questions, please contact (Applicant) at (Applicant Telephone Number).

Sincerely,

(Applicant)

Enclosures

SAMPLE LETTER FOR AN APPLICANT FILING A FINAL ENVIRONMENTAL IMPACT STATEMENT SIMULTANEOUSLY WITH THE OEQC AND THE APPROVING AGENCY (FOR APPLICANT ACTIONS)

Applicant Name
[Street Address]
[City, ST ZIP Code]
Date

Director
Office of Environmental Quality Control
Department of Health, State of Hawai‘i
235 S. Beretania Street, Room 702
Honolulu, Hawai‘i 96813

Name of Official, Title
Name of Approving Agency
Street Address
City, Hawai‘i 96____

Dear Director and Mr./Ms. Approving Agency Official:

With this letter, the (Applicant Name) hereby transmits the documents package for the final environmental impact statement for the (Action Name) situated at (TMK Number) in the (District Name) on the island of (Island Name) for publication of a notice of availability in the next available edition of the Environmental Notice and for evaluation for acceptability under Section 11-200-23, Hawai‘i Administrative Rules.

Also enclosed is a distribution list for the verification of OEQC under Section 11-200-20, Hawai‘i Administrative Rules. Upon receiving verification from OEQC (along with the bulletin proof of the notice containing the pertinent details for commenters), we will make the final EIS and the bulletin proof available to those so indicated on the distribution list.

Finally, enclosed is a completed OEQC Publication Form, two copies of the final EIS, an Adobe Acrobat PDF file of the same, and an electronic copy of the publication form in MS Word. Simultaneous with this letter, we have submitted the summary of the action in a text file by electronic mail to the OEQC.

If there are any questions, please contact (Applicant Name) at (Contact Telephone Number).

Sincerely,

(Name of Applicant)

Enclosures

HRS 343-5(c) – APPLICANT ACTION ENVIRONMENTAL ASSESSMENT CHECKLIST

Name of Action: _____
 Island and Tax Map Key: _____
 Applicant: _____
 Approving Agency: _____

FOR OEQC USE ONLY
Date Received:
Date Published:
Staff reviewer:
Comment Deadline:
Public Library:

PART A: Draft Environmental Assessment (accompanied by Anticipated Finding of No Significant Impact (AFONSI) determination by the approving agency with 30-day public comment period)

Identification of Section 343-5(a), HRS, trigger(s):

Applicable sections (*check all that apply*):

- | | |
|---|--|
| <input type="checkbox"/> Use of state or county lands or funds | <input type="checkbox"/> Use in the Waikiki district |
| <input type="checkbox"/> Use in the conservation district | <input type="checkbox"/> Amendment to county general plan |
| <input type="checkbox"/> Use within shoreline setback area | <input type="checkbox"/> Reclassification of conservation lands to urban |
| <input type="checkbox"/> Use of historic site or district | <input type="checkbox"/> Construction or modification of helicopter facilities |
| <input type="checkbox"/> Waste water facility, waste-to-energy facility, landfill, oil refinery, or power-generating facility | |

Content Requirements (see HAR §11-200-10, items 1 thru 13)

- Notice of determination⁵ letter from the approving agency requesting publication of its notice of determination of an anticipated finding of no significant impact (AFONSI) based on the attached draft environmental assessment.
- Identification of agencies, citizen groups, and individuals consulted in making the assessment
- General description of the action's technical, economic, social, and environmental characteristics; time frame; funding source
- Summary description of the affected environment, including cultural resources and practices, suitable and adequate regional, location and site maps such as Flood Insurance Rate Maps, Floodway Boundary Maps, or United States Geological Survey topographic maps
- Identification and summary of impacts (direct, indirect and cumulative) to the affected environment described above and proposed mitigation measures
- Alternatives considered
- Discussion of findings and reasons supporting the agency anticipated determination
- List of all required permits and approvals (both discretionary and ministerial at the state, federal, or county levels), if any
- Written comments and responses to comments under the early consultation provisions under HAR 11-200-9(a)(1), and 11-200-9(b)(1)

PART B: Final Environmental Assessment (accompanied by Finding of No Significant Impact (FONSI) determination by the approving agency with no public comment period)

- Notice of determination⁶ letter from the approving agency requesting publication of its notice of determination of a finding of no significant impact (FONSI) based on the attached final environmental assessment.
- Written comments and responses to the comments under the statutorily prescribed

FOR OEQC USE ONLY
Date Received:
Date Published:

⁵ AFONSI – by rule (Section 11-200-11.1, HAR), the notice of determination from the approving agency shall indicate: (1) the identity of the applicant; (2) the identity of the accepting authority (which in the case of applicant actions is the approving agency that determines acceptability); (3) a brief description of the proposed action; (4) the determination by the approving agency; (5) the reasons supporting the determination; and (6), the name, address, and telephone number of a person at the approving agency to contact for more information.

⁶ FONSI – by rule (Section 11-200-11.2, HAR), the notice of determination from the approving agency shall indicate: (1) the identity of the applicant; (2) the identity of the accepting authority (which in the case of applicant actions is the approving agency that determines acceptability); (3) a brief description of the proposed action; (4) the determination by the approving agency; (5) the reasons supporting the determination; and (6), the name, address, and telephone number of a person at the approving agency to contact for more information.

public review periods for the draft environmental assessment

PART C: Final Environmental Assessment (accompanied by Environmental Impact Statement Notice (EISPN) determination by the approving agency with 30-day public comment period)

FOR OEQC USE ONLY
Date Received:
Date Published:
Staff reviewer:
Comment Deadline:

Identification of Section 343-5(a), HRS, trigger(s) (omit if this is a FEA-EISPN following a DEA):

Applicable sections (check all that apply):

- | | |
|---|--|
| <input type="checkbox"/> Use of state or county lands or funds | <input type="checkbox"/> Use in the Waikiki district |
| <input type="checkbox"/> Use in the conservation district | <input type="checkbox"/> Amendment to county general plan |
| <input type="checkbox"/> Use within shoreline setback area | <input type="checkbox"/> Reclassification of conservation lands to urban |
| <input type="checkbox"/> Use of historic site or district | <input type="checkbox"/> Construction or modification of helicopter facilities |
| <input type="checkbox"/> Waste water facility, waste-to-energy facility, landfill, oil refinery, or power-generating facility | |

Content Requirements (see HAR §11-200-10, items 1 thru 13)

- Notice of determination⁷ letter from the approving agency requesting publication of its notice of determination of an environmental impact statement preparation notice (EISPN) based on the attached final environmental assessment
- Identification of the proposing agency
- Identification of agencies, citizen groups, and individuals consulted in making the assessment
- General description of the action's technical, economic, social, and environmental characteristics; time frame; funding source
- Summary description of the affected environment, including cultural resources and practices, suitable and adequate regional, location and site maps such as Flood Insurance Rate Maps, Floodway Boundary Maps, or United States Geological Survey topographic maps
- Identification and summary of impacts (direct, indirect and cumulative) to the affected environment described above and proposed mitigation measures
- Alternatives considered
- Discussion of findings and reasons supporting the agency anticipated determination
- List of all required permits and approvals (both discretionary and ministerial at the state, federal, and county levels), if any
- Written comments and responses to the comments under the early consultation under HAR 11-200-9(a)(1), 11-200-9(b)(1), and 11-200-15

With the submittal of the draft environmental impact statement, an **HRS 343-5(c) APPLICANT ACTIONS EIS CHECKLIST** will be generated and used until the completion of the EIS process (acceptance or non-acceptance).

⁷ EISPN – by rule (Section 11-200-11.2, HAR), a notice of determination from the approving agency shall indicate: (1) the identity of the applicant; (2) the identity of the accepting authority (which in the case of applicant actions is the approving agency that determines acceptability); (3) a brief description of the proposed action; (4) the determination by the approving agency; (5) the reasons supporting the determination; and (6), the name, address, and telephone number of a person at the approving agency to contact for more information.

HRS 343-5(c), APPLICANT ACTION ENVIRONMENTAL IMPACT STATEMENT CHECKLIST

Append to FEA-EISPN Applicant Actions Checklist

Action (Project) Name: _____

Applicant: _____

Approving Agency¹ _____

Island and Tax Map Key _____

FOR OEQC USE ONLY
Date DEIS Received:
Date of Publication:
Comment Deadline:

PART A: DRAFT ENVIRONMENTAL IMPACT STATEMENT (filed by the applicant simultaneously with OEQC and the Approving Agency with OEQC Publication Form and Distribution List for verification by OEQC - with 45-day public comment period)

Content Requirements (see Section 11-200-17, HAR)

- ___ 1. Summary sheet (abstract) which concisely discusses the following:
 - ___ Brief description of the action
 - ___ Significant beneficial and adverse impacts (including cumulative and secondary impacts)
 - ___ Proposed mitigation measures
 - ___ Alternatives considered
 - ___ Unresolved issues
 - ___ Compatibility with land use plans and policies
 - ___ Listing of permits or approvals

- ___ 2. Table of contents

- ___ 3. Statement of purpose and need for the proposed action

- ___ 4. Project description which shall include the following:
 - ___ A detailed map (U. S. Geological Survey topographic, Flood Insurance Rate Maps, or Floodway Boundary Maps) and a related regional map
 - ___ Statement of objectives
 - ___ General description of the action's technical, economic, social and environmental characteristics
 - ___ Use of public funds or lands for the action (if any)
 - ___ Phasing and timing of action
 - ___ Summary of technical data, diagrams and other information necessary to permit an evaluation of potential environmental impact by commenting agencies and the public
 - ___ Historic (archaeological and cultural) perspective

- ___ 5. Discussion of alternatives that could attain the objectives of the action, regardless of cost, in sufficient detail to explain why they were rejected
 - ___ Rigorous exploration and objective evaluation of the environmental impacts of all such alternative actions
 - ___ Alternatives that enhance environmental quality or avoid, reduce, or minimize some or all of the adverse environmental effects, costs, and risks (if any)
 - ___ No action alternative
 - ___ Alternatives requiring actions of a significantly different nature that would provide similar benefits with different environmental impacts (if any)
 - ___ Alternatives related to different designs or details of the proposed actions, which would present different environmental impacts (if any)

- ___ Alternative of postponing the action pending further study (if any)
- ___ Alternative locations for the proposed project (if any)
- ___ Comparative evaluation of the environmental benefits, costs, and risks of the proposed action and each reasonable alternative
- ___ Detailed explanation(s) why alternatives were rejected

___ 6. Description of the environmental setting

- ___ Description of the environment² in the vicinity of the action as it exists before commencement of the action from a local and regional perspective
- ___ Environmental resources that are rare or unique to the region and the project site (including natural or human-made resources of historic, archaeological, contemporary cultural, or aesthetic significance)
- ___ Reference to related projects, public and private, existent or planned in the region
- ___ Population and growth characteristics, population and growth assumptions used to justify the action
- ___ Identification of data sources used to identify, qualify, or evaluate any and all environmental consequences

___ 7. Relationship to land use plans, policies, and controls

- ___ Discussion of how the proposed action may conform or conflict with objectives and specific terms of approved or proposed land use plans, policies, and controls, if any
- ___ Where a conflict or inconsistency exists, reasons why the agency or applicant has decided to proceed notwithstanding the absence of full reconciliation
- ___ List and status of necessary approvals from governmental agencies, boards or commissions or other similar groups having jurisdiction

___ 8. Probable impact (using the environmental setting described above as the backdrop for analysis and discussion)

- ___ Impacts (direct, indirect, and cumulative) of the project on the environment
- ___ Impacts (direct, indirect, and cumulative) of the natural physical and human environment on the project
- ___ Consideration of all phases of the action and consideration of all environmental consequences
- ___ Discussion of direct and indirect effects
- ___ Discussion of cumulative environmental impacts in the reasonably foreseeable future of the proposed action in relation to other projects
- ___ Population and growth impacts of an action
- ___ Discussion and incorporation of necessary data (if the proposed action constitutes a direct or indirect source of pollution determined by a government agency)

___ 9. Relationship between local short-term uses of humanity's environment and the maintenance and enhancement of long-term productivity

- ___ Discussion of the extent to which the proposed action involves trade-offs among short-term and long-term gains and losses
- ___ Discussion of the extent to which the proposed action forecloses future options, narrows the range of beneficial uses of the environment

NOTE: *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.*

___ 10. Separate and distinct section containing the 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
- ___ Identification of the extent to which the action makes use of non-renewable resources during the phases of the action

NOTE: *Agencies shall avoid construing the term "resources" to mean only the labor and materials devoted to an action. "Resources" also means the natural and cultural resources committed to loss or destruction by the action.*

___ 11. Addresses all probable adverse environmental effects which cannot be avoided

- Water or air pollution
 - Urban congestion
 - Threats to public health
 - Consequences adverse to environmental goals and guidelines established by environmental response laws, coastal zone management laws, pollution control and abatement laws, and environmental policy
 - Rationale for proceeding with proposed action notwithstanding unavoidable effects
 - Discussion of other interests and considerations of governmental policies that are thought to offset the adverse environmental effects of the proposed action.
 - Discussion of the extent to which 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.
12. Mitigation measures proposed to avoid, minimize, rectify or reduce impact
- Provision for compensation for losses of cultural, community, historical, archaeological, fish and wildlife resources, including the acquisition of land, waters and interests therein (if any)
 - Discussion of measures to reduce significant, unavoidable, adverse impacts to insignificant levels, and the basis for considering these levels acceptable
 - Where a particular mitigation measure has been chosen from among several alternatives, the measures have been discussed and the reasons for the choice have been disclosed
 - Timing of each step in the mitigation process
 - What performance bonds (if any) may be posted
 - Provisions proposed to assure that the mitigation measures will be taken
13. Separate and distinct section summarizing unresolved issues
- Discussion of how such issues will be resolved prior to commencement of the action or discussion of the overriding reasons for proceeding without resolving the problems
14. Separate and distinct section containing a list that identifies all government agencies, other organizations and private individuals consulted in preparing the statement (consulted parties and commenters during the FEA-EISPN process)
- Identity of all persons, firms, or agency preparing the statement by contract or by authorization
15. Separate and distinct section containing reproduction of all substantive comments and responses made during the consultation process
- List of persons or agencies who were consulted and had no comment

EIS Style (see Section 11-200-19, HAR)

- 1. The draft EIS is written in a way that conveys the required information succinctly in a form easily understood by members of the public and public decision makers
- 2. The scope of the draft EIS is commensurate with the scope of the proposed action and its impact
- 3. Data and analyses in the draft EIS are commensurate with the importance of the impact
- 4. Less important material is summarized, consolidated, or simply referenced
- 5. The draft EIS indicates 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
- 6. The draft EIS focuses on important issues
- 7. The draft EIS is an essentially self-contained document, capable of being understood by the reader without the need for undue cross-reference

Filing of an EIS (see Section 11-200-20, HAR, 2008 Distribution Policy)

- 1. The applicant filed the draft EIS with the approving agency along with the minimum amount of copies required by the approving agency
- 2. The applicant simultaneously filed four printed copies (or alternatively, one electronic copy and two hard copies) of the draft EIS with the Office of Environmental Quality Control
- 3. The applicant signed the draft EIS and indicated that the draft EIS and all ancillary documents were prepared under the applicant's direction or supervision and that the information submitted, to the best of the applicant's knowledge fully addresses document content requirements as set for in Section 11-200-17, HAR

Distribution (see Section 11-200-21, HAR, and 2008 Distribution Policy)

- 1. The applicant submitted a distribution list with the draft EIS for verification by the Office of Environmental Quality Control
- 2. The Office of Environmental Quality Control issued a written verification of the distribution list before the issue date of The Environmental Notice announcing the draft EIS
- 3. The Office received the fifth printed copy (or the third copy for applicants submitting an electronic copy) of the draft EIS by mail/courier, thus confirming the distribution of the document on ____

PART B: FINAL ENVIRONMENTAL IMPACT STATEMENT (filed by the applicant simultaneously with OEQC and the Approving Agency with OEQC Publication Form and Distribution List for verification by OEQC – with public comment period).

Content Requirements (see Section 11-200-18, HAR)

- 1. The draft EIS was revised as the final EIS to incorporate substantive comments received during the 45-day public review period
- 2. Reproductions of all timely-received letters received containing substantive comments and, as applicable, summaries of any scoping meetings
- 3. A list of persons, organizations, and public agencies commenting on the draft EIS
- 4. The point-by-point responses of the applicant to each substantive question, comment, or recommendation received in the review and consultation process
- 5. The text of the final EIS is written in a format that allows the reader to easily distinguish changes made to the draft EIS

FOR OEQC USE ONLY
Date FEIS Received:
Date of Decision: <input type="checkbox"/> Acceptance <input type="checkbox"/> Non-acceptance
Statutory Hammer falls <input type="checkbox"/> Yes (date _____) <input type="checkbox"/> No
Date Decision Received:
Date Decision Published:

EIS Style (see Section 11-200-19, HAR)

- 1. The final EIS is written in a way that conveys the required information succinctly in a form easily understood by members of the public and public decision makers
- 2. The scope of the final EIS is commensurate with the scope of the proposed action and its impact

- ___ 3. Data and analyses in the final EIS are commensurate with the importance of the impact
- ___ 4. Less important material is summarized, consolidated, or simply referenced
- ___ 5. The final EIS indicates at appropriate points in the text any underlying studies, reports and other information obtained and considered in preparing the final EIS including cost benefit analyses and reports required under other legal authorities
- ___ 6. The final EIS focuses on important issues
- ___ 7. The final EIS is an essentially self-contained document, capable of being understood by the reader without the need for undue cross-reference

Filing of an EIS (see Section 11-200-20, HAR, 2008 Distribution Policy)

- ___ 1. The applicant filed the final EIS with the approving agency along with the minimum amount of copies required by the approving agency
- ___ 2. The applicant simultaneously filed two printed copies (or alternatively, one electronic copy and two hard copies) of the final EIS with the Office of Environmental Quality Control
- ___ 3. The applicant signed the final EIS and indicated that the final EIS and all ancillary documents were prepared under the applicant's direction or supervision and that the information submitted, to the best of the applicant's knowledge fully addresses document content requirements as set forth in Sections 11-200-17 and 11-200-18, HAR

Distribution (see Section 11-200-21, HAR, and 2008 Distribution Policy)

- ___ 1. The applicant submitted a distribution list with the final EIS for verification by the Office of Environmental Quality Control
- ___ 2. The Office of Environmental Quality Control issued a written verification of the distribution list before the issue date of The Environmental Notice announcing the final EIS
- ___ 3. The Office received the fifth printed copy (or the third copy for applicants submitting an electronic copy) of the final EIS by mail/courier, thus confirming the distribution of the document on ___

Public Review Requirements (see Section 11-200-22, HAR)

- ___ 1. The responses to timely received (postmark or time stamped) comments includes:
 - ___ Point-by-point discussion of the validity, significance, and relevance of comments
 - ___ Discussion as to how each comment was evaluated and considered in planning the proposed action
 - ___ Response letters reproduced in the final EIS indicate verbatim changes that have been made to the text of the draft EIS
 - ___ Response letters describe the disposition of significant environmental issues raised
 - ___ Issues raised when the applicant's position is at variance with the recommendations and objections raised in the comments are addressed in detail, giving reasons why specific comments were not accepted, and factors of overriding importance warranting an override of the suggestions

NOTE: *An addendum document to the draft environmental impact statement shall reference the original draft environmental impact statement it attaches to and comply with all applicable filing, public review, and comment requirements set forth in Sub-Chapter 7, Chapter 11-200, HAR*

Determination of Acceptability (see Section 11-200-23, HAR)

- _____ 1. Certification of satisfactory completion of the procedures for environmental assessment (Section 11-200-9, HAR), consultation (Section 11-200-15, HAR), public review (Section 11-200-22, HAR), preparation and submission of the statement (Sub-Chapter 7, HAR 11-200)
- _____ 2. Certification of satisfactory completion of the content requirements (for environmental assessment and environmental impact statement (Chapter HAR 11-200)
- _____ 3. Certification that comments received during the review process have received responses satisfactory to the approving agency (or agency with authority to determine acceptability - see end note 1)

¹ Section 343-5(c), HRS, states in pertinent part that "[t]he authority to accept a final statement shall rest with the agency initially receiving and agreeing to process the request for approval. The final decision-making body or **approving agency** for the request for approval is not required to be the accepting authority. The planning department for the county in which the proposed action will occur shall be a permissible accepting authority for the final statement." [Emphasis supplied].

² Section 11-200-2, HAR, defines "environment" as "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, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance."

**SECTION 343-5(c), HRS, APPLICANT ACTION
SECTION 11-200-3(d), HAR, INFORMATION FORM FOR PUBLICATION IN THE
ENVIRONMENTAL NOTICE OF THE OEQC**

Please read the instructions on page 3 of this form.

- A. DATE: _____
- B. TITLE OF ACTION: _____
- C. TYPE OF DOCUMENT:
 - (1) DEA with AFONSI
 - (2) FEA with FONSI
 - (3) FEA with EISPN
 - (4) DEIS simultaneously filed with approving agency/OEQC
 - (5) FEIS simultaneously filed with approving agency/OEQC
- D. NOTICE OF APPROVING AGENCY DETERMINATION ATTACHED (if any):
 - (1) AFONSI
 - (2) FONSI
 - (3) EISPN
 - (4) Acceptance/Non-acceptance of FEIS
 - (5) Section 11-200-27, HAR, Notice that SEIS not required
 - (6) Withdrawal
- E. APPLICANT: _____
CONTACT FOR APPLICANT: _____
CONSULTANT FOR APPLICANT (if any): _____
- F. APPROVING AGENCY: _____
CONTACT FOR APPROVING AGENCY: _____
- G. ISLANDS AFFECTED BY THE ACTION: _____
- H. TAX MAP KEY NUMBERS: _____
- I. STREET ADDRESS: _____
- J. NEAREST GEOGRAPHICAL LANDMARKS: _____
- K. LATITUDINAL/LONGITUDINAL COORDINATES: _____
- L. STATUTORY/ADMINISTRATIVE AUTHORITIES: _____

M. BRIEF NARRATIVE SUMMARY OF PROPOSED ACTION:

N. FORM PREPARER:

O. CONTACT INFORMATION:

INSTRUCTIONS FOR COMPLETING THE INFORMATION FORM FOR PUBLICATION IN THE ENVIRONMENTAL NOTICE (FOR APPLICANT ACTIONS, REVISION 2011)

1. Ascertain if you have the right form. Are you a proposing agency? If so, you are using the wrong form. Are you an approving agency with authority to grant a permit to an applicant? If so, continue. For draft and final EIS documents, are you an applicant seeking a permit from the approving agency? If so, continue.
2. Enter the date in item A.
3. Enter the title of the proposed action in item B.
4. Circle the type of document being submitted in item C. A notice of determination must accompany all environmental assessments from the approving agency. Environmental impact statements must be filed simultaneously with the approving agency and the Office of Environmental Quality Control.
5. Circle (if any) the type of notice of approving agency determination attached in item D. For environmental assessments this should correspond to the documents listed in item C of the form. No agency determination letter is required for applicant filings of FEIS documents. Withdrawals must be on agency letterhead, signed, and dated.
6. In item E, list the name, mailing address, telephone, email (if any) of the applicant, including the name of the contact for the applicant. If there is a consultant for the applicant, list the name, address, telephone, email (if any) of the consultant, including the name of the contact for the consultant. Use more paper if necessary.
7. In item F, list the name, mailing address, telephone, email (if any) of the approving agency, including the name of the contact for the approving agency.
8. In item G, list the islands affected by the proposed action (e.g., Kaua'i, Ni'ihau, O'ahu, Moloka'i, Lana'i, Kaho'olawe, Maui, Hawai'i, Northwestern Hawaiian Islands, etc.)
9. In item H, list the tax map key numbers affected by the proposed action.
10. In item I, list the street addresses and city of the location of the proposed action.
11. In item J, list the nearest geographical landmarks.
12. In item K, list the latitudinal/longitudinal coordinates.
13. In item L, list the statutory/administrative authorities.
 - Use of state/county lands/funds – Section 343-5(a)(1), HRS
 - Use of conservation district – Section 343-5(a)(2), HRS
 - Use within the shoreline setback area – Section 343-5(a)(3), HRS
 - Use within any historic site – Section 343-5(a)(4)
 - Use within the Waikiki Special District – Section 343-5(a)(5), HRS
 - Amendments to existing county general plans – Section 343-5(a)(6), HRS
 - Reclassification of conservation district lands – Section 343-5(a)(7), HRS
 - Helicopter facilities, construction/expansion/modification – Section 343-5(a)(8), HRS
 - Wastewater treatment units; waste to energy facility; landfill; oil refinery; or, power generating facility – Section 343-5(a)(9), HRS
 - Major federal action – National Environmental Policy Act
14. In item M, provide a summary in two-hundred-fifty words or less of the proposed action.
15. In items, N and O, list the name of the person who prepared this form along with their contact information (address, telephone number, email, facsimile, etc.)
16. For DEA, FEA documents: Submit this form, along with four hard copies of the supporting environmental assessment (or two hard copies and an Adobe Acrobat PDF file of the supporting environmental assessment), along with the notice of determination on the environmental assessment.
For DEIS, FEIS documents: Submit this form, along with four hard copies of the supporting environmental impact statement (or two hard copies and an Adobe Acrobat PDF file of the supporting environmental impact statement).
For other documents (withdrawals, acceptance/non-acceptance, Section 11-200-27, HAR determinations, etc.): submit this form with the original document.
Documents submitted with this form are subject to the timeliness requirements set forth in Section 11-200-3, HAR.

Chapter 8: Glossary of Terms

Acceptance – A formal determination that the document is required to be filed pursuant to Section 343-5 fulfills the definition of an environmental impact statement, adequately describes identifiable environmental impacts, and satisfactorily responds to comments received during the review of the statement (see Section 343-2, HRS).

Accepting Authority – The final official or agency that determines the acceptability of the EIS document.

Action – Any program or project to be initiated by any agency or applicant. Examples: the purchase of office equipment and supplies; the purchase of private land; the use of conservation district land; the purchase of unwanted county highway remnants; the demolition of an old building, etc. A subset of these actions does meet certain criteria that require attention under HEPA.

Anticipated Finding of No Significant Impact (AFONSI) – A proposed action is anticipated to have minimal or no significant impact on the environment.

Agency – Any department, office, board, or commission of the [State] or county government which is a part of the executive branch of that government. In practice, HEPA agencies are found in the executive branch of State and County governments. The judicial or legislative branches of State or county governments do not meet this statutory definition. Furthermore, the government of the United States of America and its various executive branch entities do not meet the statutory definition of agency under HEPA.

Agency actions – Refers to those proposed by a government agency. The agency proposing the action is responsible for preparing an EA, reviewing the document, submitting the document to OEQC for publication, and issuing a notice of determination on the need for an EIS.

Applicant – Any person who, pursuant to statute, ordinance, or rule, officially requests approval for a proposed action. Under HEPA, an applicant cannot be an agency, nor can an agency be an applicant. This mutual exclusivity establishes an important boundary in HEPA and serves to divide the universe of actions in one of two different areas: applicant actions (see Section 343-5(c), HRS) or agency actions (see Section 343-5(b), HRS). This is described further in Section 1.10.1.

Applicant actions – Refers to those that are initiated by a private party and “triggers” an environmental review. The agency with the authority to grant approval of the project requires the applicant to prepare an EA prior to permitting its development.

Approval - A discretionary consent required from an agency prior to actual implementation of an action. Under HEPA, an agency proposing an action (e.g., the Department of Transportation), may require "approval" of another agency (e.g., the Department of Land and Natural Resources, who holds title to the land that the Department of Transportation proposes to use). Therefore, one "approving agency" will emerge from the many to clear the environmental review process. Both “agency actions” and “applicant actions” may require approvals.

Approving agency – An agency that issues an approval prior to actual implementation of an action.

Draft Environmental Assessment (DEA) – The environmental assessment submitted by a proposing agency or an approving agency for public review and comment when that agency anticipates a negative declaration determination.

Draft environmental impact statement (DEIS) – The initial statement filed for public review

Discretionary consent – A consent, sanction, or recommendation from an agency for which judgment and free will may be exercised by the issuing agency, as distinguished from ministerial consent.

Environmental assessment (EA) – An informational review document prepared by the proposing agency or the private applicant and used to evaluate the possible environmental effects of a proposed action.

Environmental Impact Statement (EIS) – An informational document prepared in compliance with the rules adopted under Section 343-6 and which discloses the environmental effects of a proposed action, effects of a proposed action on the economic welfare, social welfare, and cultural practices of the community and State, effects of the economic activities arising out of the proposed action, measures proposed to minimize adverse effects, and alternatives to the action and their environmental effects.

Environmental Impact Statement Preparation Notice (EISPN) – A determination based on an EA that the subject action may have a significant effect on the environment and therefore, will require the preparation of an EIS.

Exemption – Although a project may touch one of the above triggers, it does not necessarily require the preparation of an environmental review document. Certain classes of activities that are routine and minor in scope are exempt from the EA requirement.

Final Environmental Assessment (FEA) – Either the EA submitted by a proposing agency or an approving agency following the public review and comment period for the DEA and in support of either a negative declaration or a preparation notice determination; or the EA submitted by a proposing agency or an approving agency subject to a public consultation period when such an agency clearly determines at the outset that the proposed action may have a significant effect and hence will require the preparation of a statement.

Final Environmental Impact Statement (FEIS) – The document that has incorporated the public's comments and responses to those comments. It shall be evaluated for acceptability by the respective accepting authority.

Finding of No Significant Impact (FONSI) – A document that briefly states why an action will not significantly affect the environment, thus voiding the requirement for an EIS. It will include a summary of the conclusions of the environmental assessment and will note any environmental documents related to it. If the EA is attached, it need not repeat any of the EA's discussion, but may incorporate it by reference. It is also always signed by the decision maker.

Hawaii Environmental Policy Act (HEPA) – Enacted in 1974, it established environmental policies and guidelines for state agencies.

NEPA (National Environmental Policy Act) – 1969, Public Law 91-190, 42 U.S.C. §4321-4347, as amended. It requires federal agencies to integrate environmental values into their decision making processes by considering the environmental impacts of their proposed actions and reasonable alternatives to those actions.

Notice of Intent (NOI) – A notice that an environmental impact statement will be prepared and considered.

Notice of Determination (FONSIs and Prep Notices) – issued by an agency and accompanies a FEA. The determination states that the action will either have no significant impact (FONSI), or may have a significant impact. If a FONSI is issued, the project may proceed without further study. Without a FONSI determination, an agency must issue an EISPN stating that a full EIS will be required.

Office of Environmental Quality Control (OEQC) – Established in 1970, its goal is to maintain the optimum quality of the State’s environment by implementing Chapter 343, HRS, Environmental Impact Statements.

Person - Includes any individual, partnership, firm, association, trust, estate, private corporation, or other legal entity other than an agency.

Proposing agency – Responsible for preparing an EA, reviewing the document, submitting the document to OEQC for publication, and issuing a notice of determination on the need for an EIS.

Significance - Under HEPA, it has been operationally defined in the administrative rules (Section 11-200-12, HAR) that set forth the thirteen criteria that a proposing agency or an approving agency must use in determining whether a proposed action has a significant effect on the environment.

Significant effect - “... the sum of effects on the quality of the environment, including actions that irrevocably commit a natural resource, curtail the range of beneficial uses of the environment, are contrary to the State’s environmental policies or long term environmental goals as established by law, or adversely affect the economic welfare, social welfare, or cultural practices of the community and State” (see Section 343-2, HRS).

Triggers – Specific instances when a proposing agency or an approving agency must prepare an EA. There are nine types of actions that constitute the “triggers.

Acronyms and Abbreviations

AFONSI	Anticipated Finding of No Significant Impact
CE	Categorical Exclusion
DEA	Draft Environmental Assessment
DEIS	Draft Environmental Impact Statement
DLNR	Department of Land and Natural Resources
EA	Environmental Assessment
EIS	Environmental Impact Statement
EISPN	Environmental Impact Statement Preparation Notice
FEA	Final Environmental Assessment
FEIS	Final Environmental Impact Statement
FONSI	Finding of No Significant Impact
HAR	Hawaii Administrative Rules
HEPA	Hawaii Environmental Policy Act
HRS	Hawaii Revised Statutes
NEPA	National Environmental Policy Act
NOI	Notice of Intent
OEQC	Office of Environmental Quality Control
SLH	Session Laws of Hawaii

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