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Office of Environmental Quality Control

## THE ENVIRONMENTAL NOTICE

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Section 343-3, Hawai'i Revised Statutes

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## DIRECTOR'S MESSAGE . . .

Aloha and mahalo for subscribing to The Environmental Notice. In this issue, there are nine (9) actions published under the state's environmental review process; some interesting projects for review are the Kohala Shoreline LLC Project Draft Environmental Assessment in Hawai'i Island on page 5, and the Kumu Camp Draft Environmental Assessment in Kaua'i, on page 8.

### MAHALO TO ALL ENVIRONMENTAL COUNCIL MEMBERS!!!

The Office of Environmental Quality Control supports and often works with the state's Environmental Council ("EC"), responsible for advising the governor (and all agencies) and the legislature on environmental issues. On June 30th, two members ended their service as members of the Environmental Council: Mary Steiner and Mark Ambler. Mark most recently served as the chair of the EC; Mary, who served the maximum of eight years on the EC, also served as chair. We thank them for all their hard work over the years.

During the EC's last meeting, the Department of Health Director, Dr. Virginia Pressler, congratulated all of the Environmental Council members and presented a plaque to commemorate their service. In addition to Mark Ambler and Mary Steiner, we want to say mahalo to those who served between 2013 and 2014, including Malia Akutagawa, David Atkin, Paul Chang, Shannon Mears, Iris Terashima, Azita Quon, and Marjorie Ziegler, and those still serving on the EC, including Scott Glenn (Vice Chair), Joseph Shacat (Chair), Koalani Kaulukukui, Charles Prentiss, John Richards, and Glenn Teves.

Just recently, Rob Parsons of Maui, was appointed to the Environmental Council by the governor, confirmed by the Senate, and warmly welcomed by all the EC members.

Each volunteer board member has done a great deal of work for the people of Hawai'i. We can't thank you enough.

On June 30, 2015, the Environmental Council approved four agency exemption lists. These exemption lists provide agencies with a tool to evaluate proposed actions that are subject to the environmental review process under Hawai'i Revised Statutes, Chapter 343, but will have no significant effect on the environment (e.g., actions that are repetitive and uncontroversial, such as re-paving a road). These lists allow agencies to be more efficient and streamlined while also ensuring that the state's environmental review is properly completed. [Congratulations to the agencies \(and the EC\) for completing this process.](#) All current exemption lists can be found on the OEQC website, <http://health.hawaii.gov/oeqc/> (go to [Quick Links](#) on the right and click on [Exemption Lists by Department](#)).

The Environmental Council should be able to meet next during the week of August 10. Contact OEQC for more information or go to their Facebook page at <https://www.facebook.com/HawaiiEnvironmentalCouncil>.



EC member John Richards, Deputy Attorney General Ted Bohlen, outgoing EC Chair Mark Ambler, and newly elected EC Chair Joseph Shacat, during DOH Director Virginia Pressler's plaque presentation to recognize the service of Environmental Council members.



EC member Joseph Shacat, EC member Chuck Prentiss, EC member Glenn Teves, EC member Robert Parsons, DOH Director Dr. Pressler, OEQC Director and EC member Jessica Wooley, EC member Scott Glenn, and outgoing member Mary Steiner

## GLOSSARY OF TERMS AND DEFINITIONS

### Agency Actions

Any department, office, board, or commission of the state or county government which is part of the executive branch of that government per [HRS 343-2](#).

### Applicant Actions

Any person who, pursuant to statute, ordinance, or rule, requests approval for a proposed action per [HRS 343-2](#).

### Draft Environmental Assessment

When an Agency or Applicant proposes an action that [triggers](#) HRS 343, an Environmental Assessment shall be prepared at the earliest practicable time to determine whether an environmental impact statement shall be required per [HRS 343-5\(b\)](#), for Agency actions and [HRS 343-5\(e\)](#), for Applicant actions. For actions for which the agency anticipates a Finding of No Significant Impact (AFNSI), a Draft EA (DEA) shall be made available for public review and comment for 30 days and public notice is published in this periodic bulletin.

### Final Environmental Assessment and Finding of No Significant Impact

The Agency shall respond in writing to comments on a DEA received during the review and prepare a Final EA (FEA) to determine whether an environmental impact statement shall be required. The FEA must respond to all public comments. If there are no significant impacts, then the Agency will issue a Finding of No Significant Impact (FONSI). An Environmental Impact Statement will not be required and the project may then be implemented. The public has 30 days from the notice of a FONSI in this bulletin to ask a court to require the preparation of an EIS.

### Final Environmental Assessment and Environmental Impact Statement Preparation Notice

An EIS shall be required if the Agency finds that the proposed action may have a significant effect on the environment. The Agency shall file notice of such determination with OEQC, called an EIS Preparation Notice (EISPN) along with the supporting Final EA. After the notice of the FEA-EISPN is published in this bulletin, the public has 30 days to request to become a consulted party and make written comments. The public (including the Applicant) has 60 days from the notice of the EISPN in this bulletin to ask a court to not require the preparation of an EIS.

### Act 172-2012, Direct-to-EIS, Environmental Impact Statement Preparation Notice (with no EA)

Act 172-2012, amended HRS 343, by providing for an agency to bypass the preparation of an environmental assessment for various actions that in the experience of the agency would clearly require the preparation of an EIS. Until administrative rules have been drafted, the agency must submit its determination that an EIS is required for an action (Act 172-2012, EISPN) with a completed OEQC publication form detailing the specifics of the action to enable the public to request for a period of thirty-days, to be consulted parties in the preparation of the Draft EIS. Comments and responses must be incorporated into the subsequent Draft EIS.

### Act 312-2012, Secondary Actions in the Highway or Public Right Of Way

Act 312-2012, amended HRS 343, by adding a new section (HRS 343-5.5., entitled "Exception to applicability of chapter.") HEPA now allows for a statutory exception for "secondary actions" (those that involve infrastructure in the highway or public right-of-way) provided that the permit or approval of the related "primary action" (those outside of the highway or public-right-of-way and on private property) is not subject to discretionary consent and further provided that the applicant for the primary action submits documentation from the appropriate agency confirming that no further discretionary approvals are required. An aid to understanding this is to visualize residential driveway improvements in the public right-of-way, versus, retail outlet driveway improvements in the public right-of-way.

### Draft Environmental Impact Statement

After receiving the comments on the EISPN, the Agency or Applicant must prepare a Draft Environmental Impact Statement (DEIS). The [content requirements](#) of the DEIS shall contain an explanation of the environmental consequences of the proposed action including the direct, indirect and cumulative impacts and their mitigative measures. The public has 45 days from the first publication date in this bulletin to comment on a DEIS. The DEIS must respond to comments received during the EISPN comment period in a point-by-point manner.

### Final Environmental Impact Statement

After considering all public comments filed during the DEIS stage, the Agency or Applicant must prepare a [Final EIS](#) (FEIS). The FEIS must respond in a point-by-point manner to all comments from the draft and must be included in the FEIS. See here for [style](#) concerns. For Applicant projects, the Approving Agency is authorized to accept the FEIS and must do so within 30-days or the FEIS is accepted as a matter of law. For an Agency project, the Governor or the Mayor (or their designated representative) is the Accepting Authority, and unlike applicant actions, there is no time limit on the accepting authority reviewing the FEIS. Only after the FEIS is accepted may the project be implemented.

### Acceptability

If the FEIS is [accepted](#), notice of this action is published in this bulletin. The public has 60 days from the date of notice of acceptance to ask a court to vacate the acceptance of a FEIS. For Applicant actions, non-acceptance by the Approving Agency is cause for the Applicant to administratively appeal to the Environmental Council. For Agency actions, there is no such administrative appeal. In both instances, the Applicant or the proposing Agency can prepare a revised DEIS after a nonacceptance determination.

### National Environmental Policy Act

The National Environmental Policy Act (NEPA) requires federal projects to prepare an EA or EIS. In many ways it is similar to Hawaii's law. Some projects require both a State and Federal EIS and the public comment procedure should be [coordinated](#). OEQC publishes NEPA notices in this bulletin to help keep the public informed of important federal actions.

### Conservation District

Any use of land in the State Conservation District requires a Conservation District Use Application (CDUA). These applications are reviewed and approved by the Board of Land and Natural Resources. Members of the public may intervene in the permit process. Notices of permit applications are published in this bulletin.

### Special Management Area and Shoreline Setback Area

The Special Management Area (SMA) is along the coastline of all islands and development in this area is generally regulated by [HRS 205A](#), and county ordinance. A special subset of the SMA that is regulated by HRS 343, is the [Shoreline Setback Area](#). Most development in this area requires a Special Management Permit. This bulletin posts notice of these SMA applications to encourage public input.

### Shoreline Certifications

State law requires that Hawai'i shorelines be surveyed and certified when necessary to clearly establish the shoreline setback from the certified shoreline. The public may participate in the process to help assure accurate regulatory boundaries. Private land owners often petition to have their shoreline certified by the State surveyor prior to construction. This bulletin publishes notice from the Department of Land and Natural Resources of shoreline certification applicants and final certifications or rejections.

### Environmental Council

The [Environmental Council](#) is a 15-member citizen board appointed by the Governor. They serve as a liaison between the Director of OEQC and the general public concerning ecology and environmental quality. The Council makes the rules that govern the Environmental Impact Statement process (HRS 343). [Agendas](#) of their regular meetings are posted on the Internet and the public is invited to attend.

### Administrative Exemption Lists

Government agencies must keep a list describing the minor activities they regularly perform that are [exempt](#) from the environmental review process. These lists and any amendments shall be submitted to the Council for review and concurrence ([HAR 11-200-8\(d\)](#)). This bulletin will publish an agency's draft exemption list for public comment prior to Council decision making, as well as notice of the Council's decision on the list.

### Endangered Species

This bulletin is required by [HRS 343-3\(c\)](#), to publish notice of public comment periods or public hearings for [Habitat Conservation Plans](#) (HCP), [Safe Harbor Agreements](#) (SHA), or [Incidental Take Licenses](#) (ITL) under the federal Endangered Species Act, as well as availability for public inspection of a proposed HCP or SHA, or a proposed ITL (as a part of an HCP or SHA).

## COASTAL ZONE MANAGEMENT NOTICES

### Special Management Area (SMA) Minor Permits

The SMA Minor permits below have been approved (HRS 205A-30). For more information, contact the county/state Planning Department. Honolulu (768-8014); Hawai'i (East 961-8288, West 323-4770); Kaua'i (241-4050); Maui (270-7735); Kaka'ako or Kalaeloa Community Development District (587-2841).

Location (TMK)	Description (File No.)	Applicant/Agent
Hawai'i: South Hilo (2-7-027: 065; 2-7-004: 119)	Pruning and/or Removal of Designated Trees on Parcel 65 and Parcel 119, with Two Composting Sites on Parcel 119 (SMM 15-335)	Charlene Prickett
Hawai'i: North Kohala (5-5-008: 066)	Construction of a Single-Family Dwelling, Detached Garage, Additional Farm Dwelling and Related Improvements (SMM 15-336)	Matthew Kilgore
Maui: (2-9-002: 052)	Second Farm Dwelling/Pool/Deck/Agricultural Structure (SM2 20140048)	Peter Niess
Maui: Lahaina (4-6-001: 009 and 010; 4-6-008: 006)	Minor Structures Accessory (SM2 20150044)	OED & Lahaina Town Action Committee
Maui: Kihei (2-1-008: 082)	Mechanical Exterior Chase (SM2 20150045)	Forrest Larson
Maui: Lahaina (4-6-001: 007 and 010)	Landscape Restoration (SM2 20150046)	Maui Friends of the Library
Maui: Lahaina (4-6-007: 001 and 002)	Fence Improvements (SM2 20150047)	Department of Management
Maui: (4-3-003: 017)	Dwelling Addition (SM2 20150048)	Jones, James L.
Maui: Kahului (3-7-002: 018)	Install PV System (SM2 20150049)	Harbor Lights AOA
Maui: Makawao (2-1-004: 073)	Temporary Fence (SM2 20150050)	Scott Fretz
Maui: Wailuku (3-3-001: 103)	Dwelling Addition/Alteration (SM2 20150051)	Bush Modene Neely Family Trust
Maui: Moloka'i (5-3-002: 042)	Awning, Sign, Interior Alterations (SM6 20150003)	Beatrice Sproat-Augistiro
Maui: Moloka'i (5-4-017: 015)	After-the-Fact Main Dwelling Addition (SM6 20150004)	Richard Young
O'ahu: Hale'iwa (5-9-011: 070)	Two New Detached One-Story Retail Buildings with Covered Patios, a New Detached Restroom Building, Landscape Screening, Paved Parking Lot Expansion, and New Loading Area (2015/SMA-24)	Gregory A. Quinn, Architect

## SHORELINE NOTICES

### Shoreline Certification Applications

The shoreline certification applications below are available for review at the Department of Land and Natural Resources Offices on Kaua'i, Hawai'i, Maui, and Honolulu, 1151 Punchbowl Street, Room 220 (HRS 205A-42 and HAR 13-222-12). All comments shall be submitted in writing to the State Land Surveyor, 1151 Punchbowl Street, Room 210, Honolulu, Hawai'i 96813 and postmarked no later than 15 calendar days from the date of the public notice of the application. For more information, call Ian Hirokawa at (808) 587-0420.

File No.	Date	Location	Applicant/Owner	TMK
OA-1654	5/26/15	Lot 2 of "Mokulēia Beach Tract" being portion of Grant 242 to Kaiaikawaha as shown on Map 1 of Land Court Application 609 situate at Mokulēi'a, Waialua, O'ahu Address: 68-617 Crozier Drive Purpose: Applying for building permit	Ace Land Surveying LLC/ Irmgard Degener	6-8-004:005
MA-615	6/24/15	Lot 106 (Map 92) of Land Court Application 1744 situate at Hanakao, Honokōwai, Ka'anapali, Lahaina, Maui Address: 2780 Keka'a Drive Purpose: Design and permitting purposes	ControlPoint Surveying, Inc./ Pleasant Travel Service	4-4-008:007
HA-512	6/15/15	Lot 27, Land Court Application 1800, Map 6 situate at Pohoiki, Puna, Island of Hawai'i Address: 13-105 Pohoiki Road Purpose: Conservation District Use Application	The Independent Hawaii Surveyors, Inc./ Luka Hale Land Trust	1-3-008:086