
A BILL FOR AN ACT

RELATING TO ENERGY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The purpose of this Act is to revise the
2 consolidated renewable energy facility siting process enacted by
3 Act 207, Session Laws of Hawaii 2008. The revisions are
4 intended to provide for an acceleration of the process while
5 maintaining environmental and land use safeguards. The
6 legislature finds that this Act is necessary to address the
7 crisis caused by the excessive dependence upon fossil fuel.

8 SECTION 2. Chapter 201N, Hawaii Revised Statutes, is
9 amended by adding six new sections to be appropriately
10 designated and to read as follows:

11 "§201N-A Public hearing by coordinator. (a) If a
12 federal, state, or county law requires a state or county agency
13 to hold a public hearing on a state or county permit application
14 before making a decision on the permit, the coordinator shall
15 hold the public hearing in place of the state or county agency;
16 provided that the state or county agency shall hold the public
17 hearing if the substitution of the coordinator for the agency is
18 expressly prohibited by federal law. To the extent practicable,



1 the coordinator shall hold one consolidated public hearing to
2 cover all permit applications and required public hearings.

3 (b) Nothing in this section shall prevent a county agency
4 from voluntarily holding a public hearing on a county permit
5 after the coordinator submits to the county agency a
6 recommendation on that permit pursuant to section 201N-6. If a
7 county agency voluntarily holds a public hearing on a county
8 permit, it shall do so within the forty-five-day period provided
9 for review and action on the permit.

10 §201N-B Land use, zoning, building, and construction
11 status of renewable energy facility; state and county permits.

12 (a) A renewable energy facility, all necessary state and county
13 permits for which have been approved under this chapter, shall
14 be deemed a permitted principal use on the land parcel upon
15 which it is situated. The land use commission, department of
16 land and natural resources, and the relevant county shall
17 appropriately revise any state land use district map and county
18 zoning map to reflect this status.

19 (b) The final plans and specifications of the renewable
20 energy facility, as set forth in the relevant state and county
21 permits approved pursuant to this chapter, shall be deemed to



1 constitute the zoning, building, and construction standards for
2 the facility and the land parcel upon which it is situated.

3 For the purpose of applicable state and county law:

4 (1) The facility shall be deemed a conforming use; and

5 (2) Any building or structure associated with or related
6 to a facility shall be deemed a conforming building or
7 structure.

8 (c) Nothing in this section shall be deemed to prohibit
9 the amendment of the state land use classification, county
10 zoning map, or other zoning, building, or construction standard
11 with respect to facilities approved under this chapter. Any
12 amendment, if made, shall be accomplished in accordance with
13 applicable state or county law; except that no amendment shall
14 remove the conforming status conferred under subsection (b) with
15 respect to any facility or any associated building or structure.

16 §201N-C Power purchase agreement; inapplicability of
17 chapter. A power purchase agreement between a renewable energy
18 facility and a public utility shall not be a "permit" subject to
19 approval by the coordinator. Any power purchase agreement shall
20 be subject to the applicable provisions of chapter 269.

21 §201N-D Judicial review of dispute regarding approved
22 permit; inapplicability of contested case procedures. Any



1 person aggrieved by the approval of a state or county permit or
2 term or condition of any approved permit may file an action for
3 relief in the circuit court without regard to the contested case
4 procedures of chapter 91.

5 §201N-E Inapplicability of maximum time period rule
6 requirement. Section 91-13.5 shall not apply to the
7 coordinator. The deadlines for review and action upon a
8 consolidated application for a renewable energy facility shall
9 be subject to this chapter.

10 §201N-F Superiority of chapter over conflicting state or
11 county law. The provisions of this chapter shall supersede any
12 conflicting state or county law."

13 SECTION 3. Section 91-1, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "§91-1 Definitions. For the purpose of this chapter:

16 [~~(1) "Agency" means each state or county board, commission,~~
17 ~~department, or officer authorized by law to make rules~~
18 ~~or to adjudicate contested cases, except those in the~~
19 ~~legislative or judicial branches.~~

20 ~~(2) "Persons" includes individuals, partnerships,~~
21 ~~corporations, associations, or public or private~~
22 ~~organizations of any character other than agencies.~~



- 1 ~~(3) "Party" means each person or agency named or admitted~~
2 ~~as a party, or properly seeking and entitled as of~~
3 ~~right to be admitted as a party, in any court or~~
4 ~~agency proceeding.~~
- 5 ~~(4) "Rule" means each agency statement of general or~~
6 ~~particular applicability and future effect that~~
7 ~~implements, interprets, or prescribes law or policy,~~
8 ~~or describes the organization, procedure, or practice~~
9 ~~requirements of any agency. The term does not include~~
10 ~~regulations concerning only the internal management of~~
11 ~~an agency and not affecting private rights of or~~
12 ~~procedures available to the public, nor does the term~~
13 ~~include declaratory rulings issued pursuant to section~~
14 ~~91-8, nor intra-agency memoranda.~~
- 15 ~~(5) "Contested case" means a proceeding in which the legal~~
16 ~~rights, duties, or privileges of specific parties are~~
17 ~~required by law to be determined after an opportunity~~
18 ~~for agency hearing.~~
- 19 ~~(6) "Agency hearing" refers only to such hearing held by~~
20 ~~an agency immediately prior to a judicial review of a~~
21 ~~contested case as provided in section 91-14.]~~



1 "Agency" means each state or county board, commission,
2 department, or officer authorized by law to make rules or to
3 adjudicate contested cases, except those in the legislative or
4 judicial branches.

5 "Agency hearing" refers only to such hearing held by an
6 agency immediately prior to a judicial review of a contested
7 case as provided in section 91-14.

8 "Contested case" means a proceeding in which the legal
9 rights, duties, or privileges of specific parties are required
10 by law to be determined after an opportunity for agency hearing.
11 The term shall not include the review, processing, or approval
12 of state or county permits for any renewable energy facility
13 under chapter 201N.

14 "Party" means each person or agency named or admitted as a
15 party, or properly seeking and entitled as of right to be
16 admitted as a party, in any court or agency proceeding.

17 "Persons" includes individuals, partnerships, corporations,
18 associations, or public or private organizations of any
19 character other than agencies.

20 "Rule" means each agency statement of general or particular
21 applicability and future effect that implements, interprets, or
22 prescribes law or policy, or describes the organization,



1 procedure, or practice requirements of any agency. The term
2 does not include regulations concerning only the internal
3 management of an agency and not affecting private rights of or
4 procedures available to the public, declaratory rulings issued
5 pursuant to section 91-8, and intra-agency memoranda."

6 SECTION 4. Section 201N-1, Hawaii Revised Statutes, is
7 amended as follows:

8 1. By amending the definition of "renewable energy
9 facility" or "facility" to read:

10 "Renewable energy facility" or "facility" means a [new]
11 facility located in the State with the capacity to produce from
12 renewable energy at least two hundred megawatts of electricity.

13 The term includes any of the following associated with the
14 [~~initial permitting and construction of the~~] facility:

- 15 (1) The land parcel on which the facility is situated;
- 16 (2) Any renewable energy production structure or
17 equipment;
- 18 (3) Any energy transmission line from the facility to a
19 public utility's electricity transmission or
20 distribution system;
- 21 (4) Any on-site infrastructure; and



1 (5) Any on-site building, structure, other improvement, or
2 equipment necessary for the production of electricity
3 or biofuel from the renewable energy site,
4 transmission of the electricity or biofuel, or any
5 accommodation for employees of the facility."

6 2. By repealing the definition of "permit plan".

7 ~~["Permit plan" means the aggregated set of required~~
8 ~~permits for a renewable energy facility, coordinated by the~~
9 ~~department of business, economic development, and tourism."]~~

10 SECTION 5. Section 201N-3, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "~~[~~§201N-3~~]~~ **General duties of the coordinator.** The
13 coordinator shall:

14 (1) ~~[Consult with appropriate state and county agencies to~~
15 ~~develop and establish a permit plan application format~~
16 ~~and procedure designed to ensure a timely review to~~
17 ~~obtain required permits and approvals for renewable~~
18 ~~energy facilities;~~

19 ~~(2) Receive a permit plan application, in a form as the~~
20 ~~coordinator shall prescribe, from an applicant for the~~
21 ~~approval of the siting, development, construction, and~~
22 ~~operation of a renewable energy facility, with an~~



- 1 ~~appropriate initial application fee as determined by~~
2 ~~the coordinator;]~~ Accept a consolidated application,
3 in a form as the coordinator shall prescribe, for the
4 approval of the siting, development, construction, and
5 operation of a renewable energy facility;
- 6 ~~[(3)]~~ (2) Identify all state and county permits necessary
7 for approval of the renewable energy facility;
- 8 ~~[(4)]~~ ~~Assist in the permit plan application process by~~
9 ~~coordinating permitting processes, giving technical~~
10 ~~assistance, overseeing the creation of the permit~~
11 ~~plan, and providing general oversight to facilitate~~
12 ~~the timely review and permitting of the siting of a~~
13 ~~renewable energy facility;~~
- 14 ~~+(5)]~~ (3) Gather from the applicant any information the
15 coordinator finds relevant and necessary [~~for the~~
16 ~~reviewing and processing of a]~~ to review, process, and
17 make a decision on the permit application by the
18 federal, state, and county agencies; and
- 19 ~~[(6)]~~ ~~Coordinate public meetings on the island where a~~
20 ~~renewable energy facility is proposed to be developed~~
21 ~~to:~~



- 1 ~~(A) Allow members of the affected communities to~~
- 2 ~~provide input regarding the development of the~~
- 3 ~~renewable energy facility;~~
- 4 ~~(B) Promote public awareness of the plan for the~~
- 5 ~~renewable energy facility in the proposed area;~~
- 6 ~~and~~
- 7 ~~(C) Allow the coordinator, the applicant, and any~~
- 8 ~~applicable agency to gain public sentiment and~~
- 9 ~~input regarding the proposed development of the~~
- 10 ~~renewable energy facility, and incorporate the~~
- 11 ~~public sentiment and input into the planning of~~
- 12 ~~the proposed renewable energy facility; and~~
- 13 ~~(7)]~~ (4) Work with [the] other federal, state, and county
- 14 agencies and the applicant to determine the terms and
- 15 conditions of the [permit plan and] permits that are
- 16 necessary to effectuate this chapter and to protect
- 17 the public health and safety and promote the general
- 18 welfare."

19 SECTION 6. Section 201N-4, Hawaii Revised Statutes, is
 20 amended to read as follows:

21 " [†] §201N-4 [‡] ~~Permit plan~~ Consolidated application;
 22 ~~[coordinator,]~~ fee; pre-application conference [·]; public notice



1 of receipt of application. (a) The coordinator shall establish
2 a consolidated application and require the applicant to pay a
3 fee for the coordinator's [~~services in overseeing the permit~~
4 ~~plan process.~~] review and processing of and decision on the
5 consolidated application. The coordinator shall set the fee at
6 an amount sufficient to cover the costs and expenses of the
7 coordinator, coordinator's staff [~~and~~], any contractor
8 contracted by the coordinator to assist the applicant, and
9 relevant state and county agencies [~~, if necessary,~~] to provide
10 input and advice on the state and county permits necessary for
11 the facility [~~and in obtaining the permits~~]. Upon collection of
12 the fee or periodically thereafter, the coordinator [~~, if~~
13 ~~necessary,~~] shall transmit to each relevant state or county
14 agency the portion of the fee that reflects the cost to that
15 state or county agency for providing its input or advice [~~or~~
16 ~~issuing the required permits~~].

17 (b) Before accepting a [~~permit plan~~] consolidated
18 application, the coordinator may hold a pre-application
19 conference [~~, without regard to acceptance of the final~~
20 ~~environmental impact statement,~~] with the prospective applicant
21 to discuss all the state and county permits necessary for the
22 facility and notify the prospective applicant of the information



1 that must be submitted [~~for the necessary permits under the~~
 2 ~~permit plan. After receiving a permit plan application, the~~
 3 ~~coordinator shall accept the application after determining that~~
 4 ~~the application is complete and complies with the permit plan~~
 5 ~~format and procedure.] with the consolidated application.~~

6 (c) Within ten days of [~~acceptance of a permit plan]~~
 7 receipt of a consolidated application, the coordinator shall
 8 publish public notice of the [~~acceptance~~] receipt of the
 9 application in [~~two consecutive publications of the office of~~
 10 ~~environmental quality control's environmental notice, published~~
 11 ~~pursuant to section 343-3.~~] a statewide publication. The public
 12 notice shall include:

- 13 (1) The name of the applicant;
- 14 (2) The location of the proposed renewable energy
 15 facility;
- 16 (3) A summarized description of the facility;
- 17 (4) The state and county permits required for the
 18 facility; and
- 19 (5) Any other information deemed necessary or desirable by
 20 the coordinator.

21 [~~(d) In conjunction with the pre-application conference,~~
 22 ~~the initial public meeting, and any subsequent coordinating~~



1 ~~meetings with permitting agencies, the coordinator shall compile~~
2 ~~a permit plan, which shall include:~~

- 3 ~~(1) All state and county permits needed;~~
- 4 ~~(2) All applicant information required;~~
- 5 ~~(3) A plan for permits to be processed concurrently;~~
- 6 ~~(4) A list of required state and county technical support~~
7 ~~and data required;~~
- 8 ~~(5) Agreement on timeline and coordination for potential~~
9 ~~environmental impact statements and permit~~
10 ~~concurrence, review, and issuance;~~
- 11 ~~(6) Agreement on conditions by which any timelines may be~~
12 ~~extended; and~~
- 13 ~~(7) Agreement on cost reimbursement agreement.~~

14 ~~(e) The permit plan shall be a working document, available~~
15 ~~to the public and posted on the department of business, economic~~
16 ~~development, and tourism's website, and shall be regularly~~
17 ~~updated with current information. The permit plan shall be used~~
18 ~~to promote efficiency and transparency in the permitting process~~
19 ~~and to achieve the purposes of this chapter through efficiencies~~
20 ~~in processes and procedures, including the coordinated and~~
21 ~~concurrent processing of permits where possible, while ensuring~~
22 ~~opportunities for appropriate public comment and participation,~~



1 including hearings normally required for permits and mitigation
2 of potential environmental impacts.

3 ~~(f) The permit plan shall be designed to ensure that all~~
4 ~~permits identified in the permit plan shall be processed and~~
5 ~~either denied or approved no later than twelve months after the~~
6 ~~date that the project permit plan application is accepted by the~~
7 ~~coordinator, subject to any extensions that may be requested by~~
8 ~~the applicant.~~

9 ~~(g) Each appropriate state and county agency shall~~
10 ~~diligently endeavor to process and approve or deny any permit in~~
11 ~~the permit plan no later than twelve months after a completed~~
12 ~~permit plan application is approved by the coordinator. If a~~
13 ~~permit is not approved or denied within twelve months after~~
14 ~~approval of a completed permit plan application, the permitting~~
15 ~~agency shall provide the coordinator with a report identifying~~
16 ~~diligent measures that are being taken by the agency to complete~~
17 ~~processing and action as soon as practicable. If a permitting~~
18 ~~agency fails to provide this report and if the permit has not~~
19 ~~been approved or denied within eighteen months following the~~
20 ~~approval of a completed permit plan application by the~~
21 ~~coordinator, the permit shall be deemed approved.] "~~



1 SECTION 7. Section 201N-5, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "[~~f~~] §201N-5 [~~h~~] **Approval of state permits.** (a) When the
4 coordinator [~~accepts a permit plan~~] receives an application for
5 a renewable energy facility that requires state permits, the
6 coordinator [~~shall facilitate the timely processing of the~~
7 ~~permit plan with the state agency or agencies responsible for~~
8 ~~approving, monitoring, and enforcing the terms and conditions of~~
9 ~~the permit in accordance with the permit plan.~~], after
10 consultation with relevant federal, state, and county agencies,
11 shall determine the terms and conditions to be imposed on the
12 state permits to protect the public health and safety and
13 promote the general welfare. The terms and conditions may
14 require the applicant to improve off-site infrastructure or
15 establish measures to mitigate significant adverse environmental
16 effects.

17 The coordinator shall make the determination for all terms
18 and conditions of all required state permits no later than sixty
19 days after the public has been informed pursuant to section
20 343-3 of the acceptance of the final environmental impact
21 statement for the facility; provided that, if an approval of a
22 federal permit or delegated environmental permit is a



1 prerequisite to the approval of a state permit required for the
2 facility, the coordinator shall not make any determination until
3 the federal permit or delegated environmental permit is
4 approved.

5 (b) Upon determining the necessary terms and conditions
6 under subsection (a), the coordinator, on behalf of the relevant
7 state agencies, shall approve the state permits with those terms
8 and conditions. The approval shall take effect on the sixty-
9 first day after the public has been informed pursuant to section
10 343-3 of the acceptance of the final environmental impact
11 statement for the facility. If, however, a judicial proceeding
12 has been timely initiated under section 343-7(c) regarding the
13 acceptance of the statement, the state permits shall be subject
14 to the order entered with the final judicial decision on the
15 dispute. The coordinator may publish the coordinator's approval
16 of all state permits in one consolidated document.

17 If a statement of finding is required by state law as a
18 condition for approval of a state permit, the coordinator shall
19 issue the statement to accompany the permit. For the purpose of
20 this chapter, a statement of finding shall be deemed a
21 "condition" of the state permit.



1 (c) Notwithstanding the approval of a state permit by the
2 coordinator, the state agency on whose behalf the permit was
3 approved shall be responsible for monitoring and enforcing the
4 terms and conditions of the permit."

5 SECTION 8. Section 201N-6, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "[+] §201N-6 []- ~~Approval~~ Recommendation for approval of
8 county permits [-]; approval of county permits. (a) When the
9 coordinator [~~accepts a permit plan~~] receives an application for
10 a renewable energy facility that requires county permits, the
11 coordinator [shall facilitate the timely processing of the
12 permit plan with the relevant county agency or agencies
13 responsible for approving, monitoring, and enforcing the terms
14 and conditions of the permit in accordance with the permit
15 plan-], after consultation with relevant federal, state, and
16 county agencies, shall determine the terms and conditions to be
17 imposed on the county permits to protect the public health and
18 safety and promote the general welfare. The terms and
19 conditions may require the applicant to improve off-site
20 infrastructure or establish measures to mitigate significant
21 adverse environmental effects.



1 The coordinator shall make the determination for all county
2 permits at the same time the determination is made for state
3 permits under section 201N-5.

4 (b) Upon determining the necessary terms and conditions
5 under subsection (a), the coordinator shall recommend to the
6 relevant county agencies that they approve the county permits
7 with those terms and conditions.

8 If a statement of findings is required by county law as a
9 condition for approval of a particular county permit, the
10 coordinator shall issue the statement to accompany the permit.
11 For the purposes of this chapter, a statement of findings shall
12 be deemed a "condition" of the county permit.

13 (c) Within forty-five days of receipt of the
14 recommendation from the coordinator, each relevant county agency
15 may approve the county permit under its jurisdiction with the
16 terms and conditions recommended by the coordinator or amended
17 by the county agency. The county agency may charge the
18 applicant a fee for reviewing and acting on the permit.

19 (d) If, within forty-five days of receipt of a
20 recommendation from the coordinator, a county agency does not
21 approve the county permit, either because of rejection or
22 inaction, the permit with the terms and conditions recommended



1 by the coordinator shall be deemed approved on the forty-sixth
2 day without necessity of further action by the county agency or
3 coordinator.

4 (e) If, within the forty-five-day period, the county
5 agency approves the county permit, but with amendments to any of
6 the terms and conditions recommended by the coordinator, the
7 county agency shall notify the coordinator within three days of
8 the approval. If the notification is not provided to the
9 coordinator within the three-day period, the county agency shall
10 be deemed to have not approved the permit within the forty-five-
11 day period, and the permit shall be deemed approved with the
12 recommended terms and conditions in accordance with subsection
13 (d).

14 The coordinator shall have ten days after receipt of the
15 notification from the county agency to determine whether to
16 accept or reject the amended terms and conditions of the county
17 permit. If the coordinator accepts all amended terms and
18 conditions, the coordinator shall approve the county permit with
19 the amended terms and conditions. If the coordinator rejects
20 all or some of the amended terms and conditions, the coordinator
21 shall approve the county permit with terms and conditions that
22 exclude the rejected amendments. The coordinator shall issue



1 the decision in writing. If the coordinator does not issue a
2 written decision within the ten-day period, the county permit
3 with terms and conditions as amended by the county agency shall
4 be deemed approved on the eleventh day without necessity of
5 further action by the county agency or coordinator.

6 (f) Notwithstanding the action by the coordinator on a
7 county permit approved pursuant to this section, the relevant
8 county agency shall be responsible for monitoring and enforcing
9 the terms and conditions of the permit."

10 SECTION 9. Section 201N-8, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "[+] §201N-8 [+] **Environmental impact review process;**
13 **applicability.** (a) Chapter 343 shall apply to any [permit
14 plan] renewable energy facility application [~~for a renewable~~
15 ~~energy facility.~~] which is submitted to the coordinator under
16 this chapter.

17 [~~(b) Notwithstanding any provision in this chapter or in~~
18 ~~chapter 343 to the contrary, the coordinator shall not accept a~~
19 ~~permit plan application for a renewable energy facility prior to~~
20 ~~the acceptance of an environmental impact statement for the~~
21 ~~renewable energy facility. An agency may review and commence~~
22 ~~processing applications for permits for a renewable energy~~



1 ~~facility prior to the acceptance of a permit plan by the~~
2 ~~coordinator, provided that action to grant or deny a permit~~
3 ~~shall not be taken until after final acceptance of an~~
4 ~~environmental impact statement.~~

5 ~~(c) Notwithstanding any provision of chapter 343 to the~~
6 ~~contrary, the department of business, economic development, and~~
7 ~~tourism shall be the accepting authority for any final~~
8 ~~environmental impact statement that is prepared by an applicant~~
9 ~~for any renewable energy facility under this chapter.]~~

10 (b) Nothing in this chapter or chapter 343 shall prohibit
11 the review and processing by the coordinator of applications for
12 permits for a renewable energy facility concurrently with the
13 preparation and processing by the applicant of an environmental
14 impact statement for the facility. To accomplish the concurrent
15 review, the coordinator may consent to the receipt and review of
16 portions of a draft of an environmental impact statement before
17 its completion."

18 SECTION 10. Section 201N-9, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "[+] §201N-9 [+] Building or grading permit required from
21 county. [All applicable county issued permits] A grading or
22 building permit issued by the applicable county shall be



1 required to grade a site or construct a structure for a
2 renewable energy facility. The applicable county shall
3 establish an expedited process for review and issuance of all
4 required building or grading permits. Under the process, the
5 county may contract with a third party to conduct the review of
6 the permit application and require the applicant for the permit
7 to pay the cost incurred for the third party review."

8 SECTION 11. Section 269-27.2, Hawaii Revised Statutes, is
9 amended by amending subsection (b) to read as follows:

10 "(b) The public utilities commission may direct public
11 utilities that supply electricity to the public to arrange for
12 the acquisition of, and to acquire, electricity generated from
13 nonfossil fuel sources, as is available from and that the
14 producers are willing and able to make available to the public
15 utilities, and to employ and dispatch the nonfossil fuel
16 generated electricity in a manner consistent with the
17 availability thereof to maximize the reduction in consumption of
18 fossil fuels in the generation of electricity to be provided to
19 the public. ~~[To assist the energy resources coordinator in
20 effectuating the purposes of chapter 201N, the public utilities
21 commission may develop reasonable guidelines and timetables for
22 the creation and implementation of power purchase agreements.]~~



1 The public utilities commission shall expedite its review
2 of a petition for the approval of a power purchase agreement
3 between a public utility and renewable energy facility. Under
4 the expedited review process, the public utilities commission
5 shall set a deadline by which the public utilities commission
6 shall approve, approve with modification, or reject the power
7 purchase agreement. For purposes of this section, a "renewable
8 energy facility" has the same meaning as defined in section
9 201N-1."

10 SECTION 12. Section 343-5, Hawaii Revised Statutes, is
11 amended by amending subsection (c) to read as follows:

12 "(c) Whenever an applicant proposes an action specified by
13 subsection (a) that requires approval of an agency and that is
14 not a specific type of action declared exempt under section 343-
15 6, the agency initially receiving and agreeing to process the
16 request for approval shall prepare an environmental assessment
17 of the proposed action at the earliest practicable time to
18 determine whether an environmental impact statement shall be
19 required; provided that, for an action that proposes the
20 establishment of a renewable energy facility, a draft
21 environmental impact statement shall be prepared at the earliest



1 practicable time. The final approving agency for the request
2 for approval is not required to be the accepting authority.

3 For environmental assessments for which a finding of no
4 significant impact is anticipated:

5 (1) A draft environmental assessment shall be made
6 available for public review and comment for a period
7 of thirty days;

8 (2) The office shall inform the public of the availability
9 of the draft environmental assessment for public
10 review and comment pursuant to section 343-3; and

11 (3) The applicant shall respond in writing to comments
12 received during the review, and the agency shall
13 prepare a final environmental assessment to determine
14 whether an environmental impact statement shall be
15 required. A statement shall be required if the agency
16 finds that the proposed action may have a significant
17 effect on the environment.

18 The agency shall file notice of the agency's
19 determination with the office, which, in turn, shall
20 publish the agency's determination for the public's
21 information pursuant to section 343-3.



1 The draft and final statements, if required, shall be
2 prepared by the applicant, who shall file these statements with
3 the office.

4 The draft statement shall be made available for public
5 review and comment through the office for a period of forty-five
6 days. The office shall inform the public of the availability of
7 the draft statement for public review and comment pursuant to
8 section 343-3.

9 The applicant shall respond in writing to comments received
10 during the review and prepare a final statement. The office,
11 when requested by the applicant or agency, may make a
12 recommendation as to the acceptability of the final statement.

13 The authority to accept a final statement shall rest with
14 the agency initially receiving and agreeing to process the
15 request for approval. The final decision-making body or
16 approving agency for the request for approval is not required to
17 be the accepting authority. The planning department for the
18 county in which the proposed action will occur shall be a
19 permissible accepting authority for the final statement. For a
20 renewable energy facility, the energy resources coordinator
21 under chapter 201N shall be the accepting authority.



1 Acceptance of a required final statement shall be a
2 condition precedent to approval of the request and commencement
3 of the proposed action. Upon acceptance or nonacceptance of the
4 final statement, the agency shall file notice of such
5 determination with the office. The office, in turn, shall
6 publish the determination of acceptance or nonacceptance of the
7 final statement pursuant to section 343-3.

8 The agency receiving the request, within thirty days of
9 receipt of the final statement, shall notify the applicant and
10 the office of the acceptance or nonacceptance of the final
11 statement. The final statement shall be deemed to be accepted
12 if the agency fails to accept or not accept the final statement
13 within thirty days after receipt of the final statement;
14 provided that the thirty-day period may be extended at the
15 request of the applicant for a period not to exceed fifteen
16 days.

17 In any acceptance or nonacceptance, the agency shall
18 provide the applicant with the specific findings and reasons for
19 its determination. An applicant, within sixty days after
20 nonacceptance of a final statement by an agency, may appeal the
21 nonacceptance to the environmental council, which, within thirty
22 days of receipt of the appeal, shall notify the applicant of the



1 council's determination. In any affirmation or reversal of an
2 appealed nonacceptance, the council shall provide the applicant
3 and agency with specific findings and reasons for its
4 determination. The agency shall abide by the council's
5 decision."

6 SECTION 13. Section 201N-10, Hawaii Revised Statutes, is
7 repealed.

8 ~~["§201N-10] Public participation; public meetings. Upon~~
9 ~~acceptance of the permit plan application for a renewable energy~~
10 ~~facility, the coordinator shall hold a public meeting on the~~
11 ~~island on which the renewable energy facility will be built.~~
12 ~~The purpose of the public meetings shall be to promote public~~
13 ~~awareness of the proposed renewable energy facility in the~~
14 ~~affected areas. The public meeting shall be an opportunity for~~
15 ~~any members of the affected community to provide input regarding~~
16 ~~the development and construction of the renewable energy~~
17 ~~facility and regarding the permit plan developed pursuant to~~
18 ~~section 201N-4. The public meeting shall also be an opportunity~~
19 ~~for the coordinator, the applicant, and any applicable state or~~
20 ~~county agencies to gain public and community sentiment regarding~~
21 ~~the proposed development of the renewable energy facility and~~



1 ~~incorporate the public sentiment and input into the planning of~~
2 ~~the proposed renewable energy facility."]~~

3 SECTION 14. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 15. This Act shall take effect on July 1, 2009.

6

INTRODUCED BY:

Calvin H. Boy

JAN 26 2009



Report Title:

Consolidated Renewable Energy Facility Siting Process; Revisions

Description:

Revises the consolidated renewable energy facility siting process in order to accelerate that process.

