
HOUSE CONCURRENT RESOLUTION

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5 REQUESTING THE OFFICE OF ENVIRONMENTAL QUALITY CONTROL APPLY
6 CONSISTENT STANDARDS TO ALL APPLICANTS AND AGENCIES, FOLLOW
7 STATUTORY INTENT OF THE LEGISLATURE, UPDATE LEGISLATORS ON
8 GUIDANCE DOCUMENTS AND INTERPRETATIONS AND SUPPORT THE
9 ENVIRONMENTAL COUNCIL'S EFFORTS TO UPDATE HAWAII
10 ADMINISTRATIVE RULES CHAPTER 11-200.
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13 WHEREAS, the governor of our state has indicated that his
14 goal is to double food production in the state of Hawaii by
15 2020; and
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17 WHEREAS, doubling food production may require large,
18 agricultural projects; and
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20 WHEREAS, large agricultural projects often have components
21 of land use, water use, waste management and potentially complex
22 interactions with the environment triggering the state's
23 environmental review process; and
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25 WHEREAS, these agricultural projects can be very capital
26 intensive and consequently, can also be very time sensitive; and
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28 WHEREAS, the purpose of HRS Chapter 343-1 is to provide an
29 environmental review process to "integrate the review of
30 environmental concerns with existing planning processes of the
31 State and counties and alert decision makers to significant
32 environmental effects which may result from the implementation
33 of certain actions"; and
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35 WHEREAS, also according to HRS Chapter 343-1, the
36 legislature found "that the process of reviewing environmental
37 effects is desirable because environmental consciousness is
38 enhanced, cooperation and coordination are encouraged, and
39 public participation during the review process benefits all
40 parties involved and society as a whole"; and



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2 WHEREAS, the Hawaii Supreme Court held in 81 H. 171, 914
3 P.2d 1364, that an environmental impact statement was adequate
4 where it set forth sufficient information to enable decision
5 makers to consider fully the environmental factors involved; and
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7 WHEREAS, the state enacted HAR §11-200-2 to implement
8 Chapter 343 defining "[a]cceptance" as "a formal determination
9 of acceptability that the document required to be filed pursuant
10 to chapter 343, HRS, fulfills the definitions and requirements
11 of an environmental impact statement, adequately describes
12 identifiable environmental impacts, and satisfactorily responds
13 to comments received during the review of the statement"; and
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15 WHEREAS, HAR §11-200-15(d), most recently promulgated in
16 1996, to implement HRS Chapter, provide that "[a]ny substantive
17 comments received by the proposing agency or applicant pursuant
18 to this section shall be responded to in writing and as
19 appropriate, incorporated into the draft EIS by the proposing
20 agency or applicant prior to the filing of the draft EIS with
21 the approving agency or accepting authority"; and
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23 WHEREAS, the HAR §11-200-18 provide the "final EIS shall
24 consist of:
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26 (1) The draft EIS revised to incorporate substantive comments
27 received during the consultation and review processes;
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29 (2) Reproductions of all letters received containing substantive
30 questions, comments, or recommendations and, as applicable,
31 summaries of any scoping meetings held;
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33 (3) A list of persons, organizations, and public agencies
34 commenting on the draft EIS;
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36 (4) The responses of the applicant or proposing agency to each
37 substantive question, comment, or recommendation received in the
38 review and consultation processes"; and
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40 WHEREAS, the HAR §11-200-19 provide that "[i]n developing
41 the EIS, preparers shall make every effort to convey the
42 required information succinctly in a form easily understood,



1 both by members of the public and by public decision-makers,
2 giving attention to the substance of the information conveyed
3 rather than to the particular form, or length, or detail of the
4 statement. The scope of the statement may vary with the scope of
5 the proposed action and its impact. Data and analyses in a
6 statement shall be commensurate with the importance of the
7 impact, and less important material may be summarized,
8 consolidated, or simply referenced"; and
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10 WHEREAS, the HAR §11-200-23 provide that the
11 "[a]cceptability of a statement shall be evaluated on the basis
12 of whether the statement, in its completed form, represents an
13 informational instrument which fulfills the definition of an EIS
14 and adequately discloses and describes all identifiable
15 environmental impacts and satisfactorily responds to review
16 comments"; and
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18 WHEREAS, legislative actions since 1996 relating to HRS
19 Chapter 343 are not reflected in the administrative rules; and
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21 WHEREAS, the Office of Environmental Quality Control
22 created guidance documents to interpret and elaborate upon the
23 statutory and regulatory provisions; and
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25 WHEREAS, ambiguities in the interpretation of the law and
26 evolving practices have differed from one administration to the
27 next, creating confusion, unnecessary litigation and uncertainty
28 for the regulated community and public at large; and
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30 WHEREAS, the Environmental Council has had difficulty
31 promulgating rule revisions because it does not have its own
32 budget or dedicated staff and depends on the Office of
33 Environmental Quality Control for support; and
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35 BE IT RESOLVED by the House of the Twenty-ninth Legislature
36 of the State of Hawaii, Regular Session of 2017, the Senate
37 concurring, that the Office of Environmental Quality Control is
38 requested to apply consistent standards to all applicants and
39 agencies, follow the statutory intent of the legislature,
40 support the Environmental Council's efforts to update HAR Title
41 11 Chapter 200 and provide a briefing for all legislators on



1 guidance documents and current office interpretations of the
2 law; and

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4 BE IT FURTHER RESOLVED that the Office of Environmental
5 Quality Control is requested to submit its findings and
6 recommendations, including any proposed legislation, to the
7 Legislature no later than twenty days prior to the convening of
8 the Regular Session of 2018; and

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10 BE IT FURTHER RESOLVED that certified copies of this
11 Concurrent Resolution be transmitted to Director of Business,
12 Economic Development, and Tourism; Director of Planning; and the
13 Director of Health.

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