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# 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 AND UPDATE LEGISLATORS  
8 ON GUIDANCE UPDATES AND INTERPRETATIONS  
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10  
11 WHEREAS, the governor of our state has indicated that his  
12 goal is to double food production in the state of Hawaii by  
13 2020; and  
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15 WHEREAS, doubling food production may require large,  
16 agricultural projects; and  
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18 WHEREAS, large agricultural projects often have components  
19 of land use, water use, waste management and potentially complex  
20 interactions with the environment triggering environmental  
21 impact statements; and  
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23 WHEREAS, these agricultural projects can be very capital  
24 intensive and consequently can also be very time sensitive; and  
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26 WHEREAS, the purpose of HRS Chapter 341 is to provide an  
27 environmental review process to "integrate the review of  
28 environmental concerns with existing planning processes of the  
29 State and counties and alert decision makers to significant  
30 environmental effects which may result from the implementation  
31 of certain actions." HRS Chapter 341-1  
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33 WHEREAS, the legislature found "that the process of  
34 reviewing environmental effects is desirable because  
35 environmental consciousness is enhanced, cooperation and  
36 coordination are encouraged, and public participation during the  
37 review process benefits all parties involved and society as a  
38 whole." HRS Chapter 341-1  
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1 WHEREAS, the Hawaii Supreme Court found that an  
2 environmental impact statement was adequate where it set forth  
3 sufficient information to enable decision makers to consider  
4 fully the environmental factors involved. See 81 H. 171, 914  
5 P.2d 1364.

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7 WHEREAS, the state enacted rules to implement Chapter 343  
8 defining "[a]cceptance" as "a formal determination of  
9 acceptability that the document required to be filed pursuant to  
10 chapter 343, HRS, fulfills the definitions and requirements of  
11 an environmental impact statement, adequately describes  
12 identifiable environmental impacts, and satisfactorily responds  
13 to comments received during the review of the statement." HAR  
14 §11-200-2.

15  
16 WHEREAS, the rules provide that "[a]ny substantive comments  
17 received by the proposing agency or applicant pursuant to this  
18 section shall be responded to in writing and as appropriate,  
19 incorporated into the draft EIS by the proposing agency or  
20 applicant prior to the filing of the draft EIS with the  
21 approving agency or accepting authority. Letters submitted which  
22 contain no comments on the project but only serve to acknowledge  
23 receipt of the document do not require a written response.  
24 Acknowledgement of receipt of these items must be included in  
25 the final environmental assessment or final statement." HAR §11-  
26 200-15(d).

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28 WHEREAS, the rules provide the "final EIS shall consist of:  
29 (1) The draft EIS revised to incorporate substantive comments  
30 received during the consultation and review processes;  
31 (2) Reproductions of all letters received containing substantive  
32 questions, comments, or recommendations and, as applicable,  
33 summaries of any scoping meetings held;  
34 (3) A list of persons, organizations, and public agencies  
35 commenting on the draft EIS;  
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.  
39 (5) The text of the final EIS which shall be written in a format  
40 which allows the reader to easily distinguish changes made to  
41 the text of the draft EIS." HAR §11-200-18  
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1           WHEREAS, the rules provide that "[i]n developing the EIS,  
2 preparers shall make every effort to convey the required  
3 information succinctly in a form easily understood, both by  
4 members of the public and by public decision-makers, giving  
5 attention to the substance of the information conveyed rather  
6 than to the particular form, or length, or detail of the  
7 statement. The scope of the statement may vary with the scope of  
8 the proposed action and its impact. Data and analyses in a  
9 statement shall be commensurate with the importance of the  
10 impact, and less important material may be summarized,  
11 consolidated, or simply referenced." HAR §11-200-19.  
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13           WHEREAS, the rules provide that the "[a]cceptability of a  
14 statement shall be evaluated on the basis of whether the  
15 statement, in its completed form, represents an informational  
16 instrument which fulfills the definition of an EIS and  
17 adequately discloses and describes all identifiable  
18 environmental impacts and satisfactorily responds to review  
19 comments." HAR §11-200-23.  
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21           WHEREAS, the Office of Environmental Quality Control  
22 created two different guidance documents to interpret and  
23 elaborate upon the statutory and regulatory provisions; this  
24 guidance has been interpreted differently, from one  
25 administration to the next, creating uncertainty for the  
26 regulated community and public at large.  
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28           WHEREAS, ambiguities in the interpretation of the law have  
29 resulted in unnecessary litigation and a process that has become  
30 less about substance and environmental quality and protection  
31 and more about litigation opportunities.  
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33           BE IT RESOLVED by the House of the Twenty-ninth Legislature  
34 of the State of Hawaii, Regular Session of 2017, the Senate  
35 concurring, that the Office of Environmental Quality Control is  
36 requested to apply consistent standards to all applicants and  
37 agencies, follow the statutory intent of the legislature and  
38 provide a briefing for all legislators on guidance documents and  
39 current office interpretations of the law.  
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41           BE IT FURTHER RESOLVED that the Office of Environmental  
42 Quality Control is requested to submit its findings and



1 recommendations, including any proposed legislation, to the  
2 Legislature no later than twenty days prior to the convening of  
3 the Regular Session of 2018; and  
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5 BE IT FURTHER RESOLVED that certified copies of this  
6 Concurrent Resolution be transmitted to Director of Business,  
7 Economic Development, and Tourism; Director of Planning; and the  
8 Director of Health.  
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