

Wendell K. Kimura
Acting Director

Research (808) 587-0666
Revisor (808) 587-0670
Fax (808) 587-0681



LEGISLATIVE REFERENCE BUREAU
State of Hawaii
State Capitol
Honolulu, Hawaii 96813

No. 02-08

LRB Notes

September 3, 2002

ENVIRONMENTAL IMPACT STATEMENTS

By Keith Fukumoto

In a wide variety of circumstances involving actions by state and county agencies, as well as private persons, Hawaii's law requires the preparation of documents called an "environmental assessment" or an "environmental impact statement". This note explains the important features of that law.

Q1: *What is the critical requirement of Hawaii's environmental review law?*

A1: The environmental review law (chapter 343, Hawaii Revised Statutes) states that any state agency or county agency that plans to initiate an "action" (a program or project) on certain lands must prepare a document called an "environmental assessment" (EA). This requirement for an environmental assessment also applies to a private person who is officially requesting approval for a proposed action.

The "environmental assessment" (EA) is a written evaluation to determine whether the "action" may have a "significant effect" on the environment. If the EA finds no "significant effect" on the environment, then there is no need to prepare an "environmental impact statement" (EIS) for the program or project.

On the other hand, if the EA finds that the proposed action may have a significant effect on the environment, then an environmental impact statement (EIS) must be prepared.

Q2: *What kind of actions trigger the preparation of an EA?*

A2: The following actions trigger the preparation of an EA: (1) the use of state or county land; (2) the use of land classified as conservation district; (3) a use within the shoreline setback area; (4) a use within a historic site or district; (5) a use within the

Waikiki Special District; (6) an amendment to a county general plan that would designate land as other than agriculture, conservation, or preservation; (7) the reclassification of state conservation district land; and (8) the construction or modification of a helicopter facility that may affect conservation land, the shoreline area, or historic property.

Q3: *You state that an environmental assessment determines whether an action may have a "significant effect" on the environment. What is meant by "significant effect"?*

A3: "Significant effect" means the sum of effects on the quality of the environment. It includes actions that irrevocably commit a natural resource. It includes actions that curtail the range of beneficial uses of the environment. It includes actions that are contrary to the State's environmental policies or long-term environmental goals. Finally, it includes actions that adversely affect the economic welfare, the social welfare, or the cultural practices of the community and the State.

If any of these effects or impacts are found by the environmental assessment, then an environmental impact statement must be prepared for the project or program.

Q4: *You stated that if the EA finds that the proposed action may have a significant effect on the environment, then an environmental impact statement (EIS) must be prepared. What is an EIS?*

A4: An EIS is an informational document that discloses the environmental effects of a proposed action. It also discloses the effects of a proposed action on the economic welfare, social welfare, and cultural practices of the community and State. An EIS also discloses the effects of the economic activities arising out of the proposed action; it discloses measures proposed to minimize adverse effects; and discloses alternatives to the action and their environmental effects.

The initial EIS filed for public review is called the "draft EIS". The "final EIS" is the document that has incorporated the public's comments and the responses to those comments. The final EIS is the document that is evaluated for acceptability by the accepting authority.

Q5: *What is the difference between an EA and an EIS?*

A5: An EA is a written evaluation used to determine whether a proposed action will have a significant effect on the environment and, therefore, will require the preparation of an

EIS. An EIS is an informational document used to disclose and discuss, among other things, the environmental effects of a proposed action, measures proposed to minimize adverse effects, and alternatives to the action and their environmental effects.

Q6: *Why must an EA/EIS be prepared before a proposed action can be implemented?*

A6: Subject to certain exceptions, the environmental review law conditions the implementation of a proposed action on: (1) the acceptance of a required final environmental impact statement; or (2) a determination, based on an environmental assessment, that the proposed action will not have a significant effect on the environment (*i.e.*, a "finding of no significant impact" or FONSI) and, therefore, will not require the preparation of an EIS.

Q7: *Who "accepts" a final EIS?*

A7: For actions proposed by the State--the Governor. For actions proposed by a county--the mayor of that county. For actions proposed by private individuals or persons--the state or county agency receiving the request for approval to implement the proposed action.

Q8: *Does an EA or EIS automatically block or terminate actions that are adverse to the environment?*

A8: No. The environmental review law does not prevent state and county agencies, as well as private individuals and persons, from initiating environmentally-adverse actions. Further, that law does not automatically block or terminate those proposed actions because of their adverse environmental consequences. The law is primarily aimed at getting the responsible parties to review and evaluate their proposed action, and to fully disclose the effects that the proposed action will have on the environment. The law has been used successfully, however, to delay proposed projects for procedural irregularities in their implementation (*e.g.*, failure to prepare an EA).

Q9: *Who administers the environmental review law?*

A9: The Office of Environmental Quality Control and the Environmental Council, both of which are attached to the Department of Health for administrative purposes, administer the law.