
HOUSE CONCURRENT RESOLUTION

REQUESTING THAT THE ENVIRONMENTAL COUNCIL UPDATE HAWAII
ADMINISTRATIVE RULES TITLE 11 CHAPTER 200 AND THAT THE
OFFICE OF ENVIRONMENTAL QUALITY CONTROL SUPPORT THE
ENVIRONMENTAL COUNCIL IN THIS ENDEAVOR, AND TO UPDATE
LEGISLATORS ON GUIDANCE UPDATES AND INTERPRETATIONS.

1 WHEREAS, the purpose of Hawaii's environmental review
2 process, as stated in section 343-1, Hawaii Revised Statutes
3 (HRS), is to integrate the review of environmental concerns with
4 existing planning processes of the State and counties and alert
5 decision makers to significant environmental effects which may
6 result from the implementation of certain actions; and
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8 WHEREAS, also according to section 343-1, HRS, "the process
9 of reviewing environmental effects is desirable because
10 environmental consciousness is enhanced, cooperation and
11 coordination are encouraged, and public participation during the
12 review process benefits all parties involved and society as a
13 whole"; and
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15 WHEREAS, Hawaii Administrative Rules (HAR) title 11 chapter
16 200, which implements chapter 343, HRS, was last amended and
17 compiled in 1996; and
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19 WHEREAS, chapter 343, HRS, has been amended numerous times
20 since 1996, including adding new triggers, cultural impacts, and
21 a "direct to environmental impact statement" pathway; and
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23 WHEREAS, legislative actions since 1996 relating to chapter
24 343, HRS, are not reflected in the administrative rules; and
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26 WHEREAS, ambiguities in the interpretation of the law exist
27 due to several factors, including numerous statutory amendments,
28 lack of corresponding updates to the administrative rules, and



1 discrepancies between the changing statutes, outdated rules, and
2 evolving practices; and

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4 WHEREAS, these ambiguities have, in some cases, resulted in
5 uncertainty about the environmental review process and in
6 unnecessary litigation; and

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8 WHEREAS, the Hawaii Supreme Court has been asked to decide
9 numerous cases involving the interpretation of the environmental
10 impact statement statute and rules; and

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12 WHEREAS, updating HAR title 11 chapter 200 to ensure that
13 the rules are consistent with current statute, guidance, and any
14 relevant court decisions would help to reduce uncertainty and
15 clarify the process; and

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17 WHEREAS, the Environmental Council is responsible for rule
18 updates, but has challenges in carrying out this task because it
19 does not have its own budget or dedicated staff; and

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21 WHEREAS, the Office of Environmental Quality Control uses
22 its funds and staff to support the Environmental Council; and

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24 WHEREAS, the Office of Environmental Quality Control
25 creates guidance documents to elaborate upon the statutory and
26 regulatory provisions and provides assistance to agencies,
27 applicants, and the general public on how to proceed when there
28 is a lack of direction from the statute, rules, or courts; now,
29 therefore,

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31 BE IT RESOLVED by the House of Representatives of the
32 Twenty-ninth Legislature of the State of Hawaii, Regular Session
33 of 2017, the Senate concurring, that the Environmental Council,
34 with the support of the Office of Environmental Quality Control,
35 is requested to update HAR title 11 chapter 200; and

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37 BE IT FURTHER RESOLVED that the Office of Environmental
38 Quality Control is requested to issue updated guidance based on
39 and following any administrative rule amendments and to engage
40 the environmental review stakeholder community in developing
41 such guidance; and



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

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7 BE IT FURTHER RESOLVED that certified copies of this
8 Concurrent Resolution be transmitted to the Director of Health,
9 Director of Environmental Quality Control, and Chairperson of
10 the Environmental Council.

