



**DEPARTMENT OF BUSINESS,
ECONOMIC DEVELOPMENT & TOURISM**
KA 'OIHANA HO'OMOHALA PĀ'OIHANA, 'IMI WAIWAI
A HO'OMĀKA'IKĀ'I

JOSH GREEN, M.D.
GOVERNOR

SYLVIA LUKE
LT. GOVERNOR

JAMES KUNANE TOKIOKA
DIRECTOR

DANE K. WICKER
DEPUTY DIRECTOR

No. 1 Capitol District Building, 250 South Hotel Street, 5th Floor, Honolulu, Hawaii 96813
Mailing Address: P.O. Box 2359, Honolulu, Hawaii 96804
Web site: dbedt.hawaii.gov

Telephone: (808) 586-2355
Fax: (808) 586-2377

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December 27, 2023

The Honorable Ronald D. Kouchi,
President and Members
of the Senate
Thirty-Second State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

The Honorable Scott K. Saiki,
Speaker and Members of the
House of Representatives
Thirty-Second State Legislature
State Capitol, Room 431
Honolulu, Hawaii 96813

Dear President Kouchi, Speaker Saiki, and Members of the Legislature:

For your information and consideration, I am transmitting a copy of the Department of Business, Economic Development, and Tourism's (DBEDT) Report, prepared by the Environmental Advisory Council (EAC), for the 2023 EAC's Annual Report as required by Act 24 (SLH 2023). In accordance with Section 93-16, Hawaii Revised Statutes, I am also informing you that the report may be viewed electronically at:
<http://dbedt.hawaii.gov/overview/annual-reports-reports-to-the-legislature/>.

Sincerely,

James Kunane Tokioka

Enclosure

c: Legislative Reference Bureau

2023 ENVIRONMENTAL ADVISORY COUNCIL ANNUAL REPORT



The view of the Hawaiian Islands from the Space Station.

Photo credit: NASA

A report to the Legislature pursuant to Act 24, Session Laws of Hawai‘i 2023.

December 2023

Background

The Environmental Advisory Council (EAC) is established by Hawai‘i Revised Statutes (HRS) § 341-5.5 and includes up to 15 volunteer members appointed by the Governor from across the islands. The functions of the EAC are to serve as a liaison between the Office of Planning and Sustainable Development (OPSD) Director and the general public by soliciting information, opinions, and complaints and making recommendations concerning ecology and environmental quality. The EAC also serves the people of Hawai‘i as a bridge of knowledge between the community and the State government regarding the environmental review process. Through its monthly meetings, the EAC monitors the progress of state, county, and federal agencies in achieving the State’s environmental goals and policies and offers informational sessions for the community on key environmental issues. The EAC also: (1) consults on and helps to amend the environmental impact statement rules, Hawai‘i Administrative Rules (HAR) Title 11, Chapter 200.1 (the EIS Rules); (2) reviews and concurs with agency exemption lists and provides assistance and guidance to agencies regarding their exemption lists; and (3) monitors and testifies on legislation relevant to the EAC and its statutory objectives and priorities.

In 2021, with the passage of Act 152, the EAC’s roles changed (with amendments to HRS Chapters 341 and 343). Most significantly, the EAC and the Office of Environmental Quality Control (OEQC) were administratively moved from the Department of Health to OPSD (OEQC is now known as the Environmental Review Program). In 2022, the EAC continued to explore the process of repealing its procedural rules under HAR Title 11, Chapter 201 to address those responsibilities no longer held by the EAC after the passage of Act 152 and began drafting its policies and procedures to replace the prior procedural rules, which better reflect the EAC's new advisory nature.

After losing two members (whose terms ended) in 2023, the EAC currently includes 13 members. While the vacant positions are being recruited, 2024 will be another transition year with several members who worked on the 2019 EIS Rules update reaching their term limits. Recruitment to fill those seats has also begun. The EAC prides itself on a diverse membership with individuals from communities across the islands bringing broad expertise to assure broad and balanced representation of education, business, and environmentally pertinent disciplines and professions, such as the natural and social sciences, the humanities, architecture, engineering, public health and planning, education and research institutions with environmental competence, agriculture, real estate, visitor industry, construction, media, and voluntary community and environmental groups. Recruitment processes are in place to help ensure that EAC membership remains diverse.

The EAC has six committees comprising current EAC membership: Legislative, Strategic Planning, Information and Outreach, Exemptions, Rules, and Annual Report. Each committee operates under its policies and procedures with defined priorities. A summary of 2023 committee activity follows:

Legislative Committee

In late 2022, as has been our annual practice, the EAC Chair and the Legislative Committee Chair met with Representative Lowen, Chair of the State House Committee on Energy and Environmental Protection, and Senator Mike Gabbard, Chair of the State Senate Committee on Agriculture and Environment. The Legislative Committee meets with them to learn more about their environmental priorities for the upcoming legislative session and share an annual update on the EAC.

Once the session starts, the Legislative Committee, with advice and input from the EAC and OPSD, builds a list of bills that may need EAC attention and/or monitoring. Members then select those bills they deem strongly connected to the EAC's role, and either submit written testimony or testify at the appropriate committee hearing. In 2023, comments were submitted for Senate Bill (SB) 71 (Exempting certain wells from environmental review), SB245 (Requiring draft EA and EIS to have public hearings in the directly affected community), SB507 (Imposing certain requirements for wetlands), and House Bill 185 (Housekeeping amendments to § 341-6 referring to the EAC).

Strategic Planning Committee

The Strategic Planning Committee (SPC) began as a result of several surveys and the re-positioning of the EAC from the Department of Health to OPSD. In 2023, the SPC had five priority areas of focus:

Revising the Annual Report: It was recommended that the EAC's Annual Report be folded into the OPSD Annual Report. However, upon learning that OPSD does not submit one, an alternate format with an EAC Committee-focused content was employed.

Advancing the collaboration between the EAC and its new administrative “home,” the OPSD: Ongoing communications between the OPSD Director, the OPSD’s Interim Director, and the EAC Chair have been very helpful.






Exploration of the opportunity for a Department of Environment: A bill has been introduced for the past several years to create that new department. Each time, it has failed to move forward, so the EAC began to explore what role, if any, the EAC might play in that discussion.

Communicating the role and mission of the EAC: The previously mentioned surveys indicated a community-wide absence of understanding of the EAC’s role and its limits, such as no budget, no Executive Director, no dedicated staff, etc. The Information and Outreach Committee has created several panels and workshops to educate the community on the role of the EAC. For example, several survey comments suggested that the EAC should review and comment on all environmental assessments and environmental impact statements prepared; however, that role statutorily lies with the approving agency or accepting authority, as applicable. Furthermore, without any funding or dedicated staff, it would be wholly impracticable for a committee of volunteer members to do so.

Recruitment and Transition Planning: In 2024, several EAC members will rotate off of the EAC. The SPC recommended many suggestions to help find replacement members and to ensure a smooth transition.

Information & Outreach Committee

The Information and Outreach (I&O) Committee leads and organizes public forums and presentations relevant to the EAC’s mandates in HRS § 341-6. The I&O Committee may also take the lead on communications with members of the public, agencies, and stakeholders. In 2023, the I&O Committee held two public forums: one on June 1, 2023, with the U.S. Fish and Wildlife, Pacific Islands Fish and Wildlife Office to discuss how to generate an official species list, and, a second on June 27, 2023, titled "Clearing the Hurdles of EIS" which generally discussed the environmental review process (recordings of past forums can be found at <https://planning.hawaii.gov/erp/eac-recordings/>). A December forum will discuss the EAC’s Exemptions Committee and its function.

<p>Join the Environmental Advisory Council's Information & Outreach Committee</p> <p>THURSDAY June 1, 2023: 9:00 AM TO 10:30 AM</p> <p>Learn how to generate an Official Species List with the U.S. Fish and Wildlife Service (USFWS) using the new Information for Planning and Consultation (IPaC) online tool with Carrie Harrington, Endangered Species Biologist USFWS, Pacific Islands Fish and Wildlife Office and the USFWS HQ IPaC Team in Washington, DC</p> <p>ZOOM link: https://us02web.zoom.us/j/83847347082?pwd=U0lmZjdLZi9Ld2ZLUdFvKy9KOTlhQT09</p>	 <p>Chelby Kilheffer, HQ IPaC Team</p>	
	 <p>Carrie Harrington, PIFWAO</p>	
	 <p>Victoria Foster, HQ IPaC Team</p>	

Exemptions Committee

The EAC encourages state and county agencies to update their existing exemption lists to conform to amendments to HAR Title 11, Chapter 200.1, and/or to create new exemption lists. Exemptions are the base of the pyramid for decisions made in the HRS Chapter 343 process. They are critically important for agencies to give a systematic look to even minor projects they exempt to minimize environmental impacts and determine if projects require a more detailed review of an environmental assessment or environmental impact statement. The Exemption Committee assists agencies in understanding the administrative rules related to exemptions and reviews agencies' exemption lists to optimize the exemption process. In 2023, the Exemption Committee assisted in reviewing exemption lists for the Hawai'i School Facilities Authority, County of Hawai'i Office of Housing and Community Development, and Commission on Water Resource Management.

Rules Committee

In 2023, the Rules Committee focused on the process of repealing the EAC's procedural rules, HAR Title 11, Chapter 201, to address the EAC's new role as an advisory council, and deleting provisions that are no longer applicable to the EAC while preserving those that are. The Rules Committee led the effort to transition the EAC's procedural rules to internal policies and procedures. Throughout the year, the EAC and the Rules Committee continued to monitor suggestions from EAC members and members of the public about potential amendments that may be required to the EIS Rules, HAR Title 11, Chapter 200.1. The EAC also created a Permitted Interaction Group (PIG) to consider any change to the EIS Rules that might be needed to clarify the exemptions provisions. Once the PIG completes its work, the Rules Committee will consider any proposed amendments to the EIS Rules.

Annual Report Committee

The Annual Report Committee guides and develops the EAC's annual report to be consistent with the EAC's mandates in HRS § 341-6. In addition to developing the 2023 Annual Report, the committee worked with the SPC to evolve the annual report content to meet its statutory mandate and be achievable by the committee.