

Definitions:

"Acceptance" means a formal determination of acceptability that the document required to be filed pursuant to chapter 343, HRS, fulfills the definitions and requirements of an environmental impact statement, adequately describes identifiable environmental impacts, and satisfactorily responds to comments received during the review of the statement. Acceptance does not mean that the action is environmentally sound or unsound, but only that the document complies with chapter 343, HRS, and this chapter. A determination of acceptance is required prior to implementing or approving the action.

"Accepting authority" means the final official or agency that determines the acceptability of the EIS document.

"Significant effect" or "significant impact" means the sum of effects on the quality of the environment, including actions that irrevocably commit a natural resource, curtail the range of beneficial uses of the environment, are contrary to the state's environmental policies or long-term environmental goals and guidelines as established by law, or adversely affect the economic or social welfare, or are otherwise set forth in section 11-200-12 of this chapter.

"Supplemental statement" means an additional environmental impact statement prepared for an action for which a statement was previously accepted, but which has since changed substantively in size, scope, intensity, use, location, or timing, among other things. [EFF 12/6/85; am and comp AUG 31 1996] (Auth: HRS §343-5, 343-6) (Imp: HRS §343-2, 343-6)

~~§11-200-12 Significance Criteria~~

- A. In considering the significance of potential environmental effects, agencies shall consider the sum of effects on the quality of the environment, and shall evaluate the overall and cumulative effects of an action.
- B. In determining whether an action may have a significant effect on the environment, the agency shall consider every phase of a proposed action, the expected consequences, both primary and secondary, and the cumulative as well as the short-term and long-term effects of the action. In most instances, an action shall be determined to have a significant effect on the environment if it:
 1. Involves an irrevocable commitment to loss or destruction of any natural or cultural resource;
 2. Curtails the range of beneficial uses of the environment;

3. Conflicts with the state's long-term environmental policies or goals and guidelines as expressed in chapter 344, HRS, and any revisions thereof and amendments thereto, court decisions, or executive orders;
 4. Substantially affects the economic welfare, social welfare, and cultural practices of the community or State;
 5. Substantially affects public health;
 6. Involves substantial secondary impacts, such as population changes or effects on public facilities;
 7. Involves a substantial degradation of environmental quality;
 8. Is individually limited but cumulatively has considerable effect upon the environment or involves a commitment for larger actions;
 9. Substantially affects a rare, threatened, or endangered species, or its habitat;
 10. Detrimentially affects air or water quality or ambient noise levels;
 11. Affects or is likely to suffer damage by being located in an environmentally sensitive area such as a flood plain, tsunami zone, beach, erosion-prone area, geologically hazardous land, estuary, fresh water, or coastal waters;
 12. Substantially affects scenic vistas and viewplanes identified in county or state plans or studies; or,
 13. Requires substantial energy consumption.
- [Eff 12/6/85; am and comp AUG 31 1996] (Auth: HRS §343-5, 343-6) (Imp: HRS §343-2, 343-6)

§11-200-23 Acceptability

- A. Acceptability of a statement shall be evaluated on the basis of whether the statement, in its completed form, represents an informational instrument which fulfills the definition of an EIS and adequately discloses and describes all identifiable environmental impacts and satisfactorily responds to review comments.
- B. A statement shall be deemed to be an acceptable document by the accepting authority or approving agency only if all of the following criteria are satisfied:
 1. The procedures for assessment, consultation process, review, and the preparation and submission of the statement, have all been completed satisfactorily as specified in this chapter;
 2. The content requirements described in this chapter have been satisfied; and
 3. Comments submitted during the review process have received responses satisfactory to the accepting authority, or approving agency, and have been incorporated in the statement.
- C. For actions proposed by agencies, the proposing agency may request the office to make a recommendation regarding the acceptability or non-acceptability of the EIS. In all cases involving state funds or lands, the governor or an authorized representative shall have final authority to accept the EIS. In cases involving only county funds or lands, the

mayor of the respective county or an authorized representative shall have final authority to accept the EIS. The accepting authority shall take prompt measures to determine the acceptability or nonacceptability of the proposing agency's statement. In the event that the action involves both state and county lands or funds, the governor or an authorized representative shall have final authority to accept the EIS. Upon acceptance or non-acceptance of the EIS, a notice shall be filed by the appropriate accepting authority with both the proposing agency and the office. For any non-accepted EIS, the notice shall contain specific findings and reasons for non-acceptance. The office shall publish notice of the determination of acceptance or non-acceptance in the periodic bulletin in accordance with section 11-200-3. Acceptance of a required statement shall be a condition precedent to the use of state or county lands or funds in implementing the proposed action.

D. For actions proposed by applicants requiring approval from an agency, the applicant or accepting authority may request the office to make a recommendation regarding the acceptability or non-acceptability of the statement. If the office decides to make a recommendation, it shall submit the recommendation to the applicant and the approving agency within the thirty-day period requiring an approving agency to determine the acceptability of the final EIS and described in section 343-5(c), HRS. Upon acceptance or non-acceptance by the approving agency, the agency shall notify the applicant of its determination, and provide specific findings and reasons. The agency shall also provide a copy of this determination to the office for publication of a notice in the periodic bulletin. Acceptance of the required EIS shall be a condition precedent to approval of the request and commencement of the proposed action. An approving agency shall take prompt measures to determine the acceptability or non-acceptability of the applicant's statement. The agency shall notify the applicant and the office of the acceptance or non-acceptance of the final EIS within thirty days of the final EIS, provided that the thirty-day period may be extended at the request of the applicant for a period not to exceed fifteen days. The request shall be made to the accepting authority in writing. Upon receipt of an applicant's request for an extension of the thirty-day acceptance period, the accepting authority shall notify the office and applicant in writing of its decision to grant or deny the request. The notice shall be accompanied by a copy of the applicant's request. An extension of the thirty-day acceptance period shall not be allowed merely for the convenience of the accepting authority. In the event that the agency fails to make a determination of acceptance or non-acceptance for the statement within thirty days of the receipt of the final EIS, then the statement shall be deemed accepted.

E. A non-accepted EIS may be revised by a proposing agency or applicant. The revision shall take the form of a revised draft EIS document which shall fully address the inadequacies of the non-accepted EIS and shall completely and thoroughly discuss the changes made. The requirements for filing, distribution, publication of availability for review, acceptance or non-acceptance, and notification and publication of acceptability shall be the same as the requirements prescribed by sections 11-200-20, 11-200-21, 11-200-22, and 11-200-23 for an EIS submitted for acceptance. In

addition, the revised draft EIS shall be evaluated for acceptability on the basis of whether it satisfactorily addresses the findings and reasons for non-acceptance.

F. A proposing agency or applicant may withdraw an EIS by sending a letter to the office informing the office of the agency's or applicant's withdrawal. Subsequent resubmittal of the EIS shall meet all requirements for filing, distribution, publication, review, acceptance, and notification as a new EIS.

[Eff 12/6/85; am and comp AUG 31 1996] (Auth: HRS §343-5, 343-6) (Imp: HRS §343-5, 343-6)

Subchapter 10 Supplemental Statements

§11-200-26 General Provisions

A statement that is accepted with respect to a particular action is usually qualified by the size, scope, location, intensity, use, and timing of the action, among other things. A statement that is accepted with respect to a particular action shall satisfy the requirements of this chapter and no other statement for that proposed action shall be required, to the extent that the action has not changed substantively in size, scope, intensity, use, location or timing, among other things. If there is any change in any of these characteristics which may have a ~~significant effect~~, the original statement that was changed shall no longer be valid because an essentially different action would be under consideration and a supplemental statement shall be prepared and reviewed as provided by this chapter. As long as there is no change in a proposed action resulting in individual or cumulative impacts not originally disclosed, the statement associated with that action shall be deemed to comply with this chapter.

[Eff 12/6/85; am and comp AUG 31 1996] (Auth: HRS §343-5, 343-6) (Imp: HRS §343-5, 343-6)