

# The Environmental Notice

A semi-monthly periodic bulletin published by the Office of Environmental Quality Control pursuant to Section 343-3, Hawai'i Revised Statutes

July 8, 2008

## Summary of Procedures for Submittals

The Office of Environmental Quality Control (OEQC) receives questions on a regular basis about submittal procedures for publication in the periodic bulletin known as *The Environmental Notice*. As a reminder to both proposing and approving agencies, as well as accepting authorities, here is the list of publication procedures for submittal of documents to OEQC:

1. Make sure your submittal is timely and meets the OEQC deadline of eight (8) working days before the 8<sup>th</sup> and 23<sup>rd</sup> day of each month.
2. Submit a *notice of determination letter* from the approving or proposing (determination) agency requesting that the OEQC publish appropriate notice of the project in the periodic bulletin on the relevant date (see item 1 above) and advising the OEQC that the agency has reviewed the relevant documents in item 5, and determined:
  - a. *anticipated finding of no significant impact* (DEA);
  - b. *finding of no significant impact* (FEA-FONSI);
  - c. *environmental impact statement preparation notice* (FEA-EISPN); or
  - d. *acceptance or nonacceptance of a final environmental impact statement* (FEIS).

For submittals of draft environmental impact statements (DEIS) and FEIS, the accepting authority or the approving agency should submit a *transmittal letter* to the office transmitting the relevant documents in item 5 below, requesting that the OEQC publish notice of availability for public comment of the DEIS or FEIS on the relevant date (see item 1, above) and notifying the OEQC that the DEIS or FEIS has been duly filed. The transmittal letter should also transmit a distribution list for OEQC's verification of accuracy prior to actual distribution (on or before the publication date).

3. Submit by electronic mail to [oeqc@doh.hawaii.gov](mailto:oeqc@doh.hawaii.gov) the completed OEQC Publication Form and a two-hundred word (or less) project summary. Copy the OEQC Publication Form and Summary from our internet website (below), complete the form and summary and copy and paste the completed form and summary into the body of an electronic mail message.
4. Submit two (2) copies of the environmental document: draft environmental assessment (DEA, along with the notice of determination letter for an anticipated finding of no significant

impact in item 2, above); final environmental assessment (FEA, along with the notice of determination letter for a finding of no significant impact (FONSI) in item 2, above); or a final environmental assessment (FEA, along with the notice of determination letter for an environmental impact statement preparation notice (EISPN) in item 2, above). For draft environmental impact statements (DEIS), or final environmental impact statements (FEIS), submit the *transmittal letter* (including distribution list) described in item 2, above as well as two copies of the EIS. The third copy is to be sent by mail to the OEQC to confirm physical distribution after OEQC has verified the accuracy of the distribution list under Section 11-200-21, Hawai'i Administrative Rules.

5. Further information can be found at the OEQC website: <http://hawaii.gov/health/environmental/oeqc/index.html/>. Please call the OEQC at (808) 586-4185 if there are any questions or problems requiring clarification. Mahalo nui loa for your koku

## Hawai'i Range Complex Final EIS, Comments by EPA, under Section 309 of the Clean Air Act

Under Section 309 of the Clean Air Act and section 102(2)(c) of the National Environmental Policy Act the U. S. Environmental Protection Agency (EPA) reviewed the final environmental impact statement for the Hawai'i Range Complex (HRC) Project, where the preferred alternative is 3, to support and maintain Navy Pacific Fleet Training, and Research, Development, Test, and Evaluation (RDT&E) Operations. EPA expressed environmental concerns about impacts to marine resources from mid-frequency active (MFA) sonar use and the deposition of hazardous materials into water resources from munitions and training expenditures. Requests for copies of the EPA comment (EIS No. 20080177, ERP No. F-USN-K11119-HI) can be directed to the Office of Federal Activities at 202-564-7167. An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in the April 11, 2008, *Federal Register* at page 19833 (see, 73 F.R. 36503, June 27, 2008).

## Frequently Asked Questions (First in a series)

**QUESTION:** Is an environmental assessment required if an agency determines at the outset of a proposed project that it will prepare an EIS?

The answer is **YES**. Section 343-5(a), Hawai'i Revised Statutes clearly states that "[e]xcept as otherwise provided, an environmental assessment shall be prepared..." for the nine instances articulated therein. The above exception refers to statutory exemptions, and the administrative exemption process set forth in Section 11-200-8, Hawai'i Administrative Rules (HAR). The assessment process in Section 11-200-9, HAR clearly requires the preparation of an environmental assessment when an agency determines that a proposed action may have significant impact, requiring the preparation of an environmental impact statement. The notice of determination known as an **EISPN** (analogous to the **FONSI**) is simply a **conclusion** premised on the environmental assessment that supports it.



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# Federal Notices

July 8, 2008

## Taking and Importing Marine Mammals; U.S. Navy Training in the Hawai'i Range Complex; Proposed Rule

The National Marine Fisheries Service (NMFS) has received a request from the U.S. Navy (Navy) for authorization to take marine mammals incidental to training activities conducted within the Hawai'i Range Complex (HRC) for the period of December 2008 through December 2013. Pursuant to the Marine Mammal Protection Act (MMPA), NMFS is proposing regulations to govern that take and requesting information, suggestions, and comments on these proposed regulations.

The Navy's mission is to maintain, train, and equip combat-ready naval forces capable of winning wars, deterring aggression, and maintaining freedom of the seas. Title 10, U.S. Code (U.S.C.) section 5062 directs the Chief of Naval Operations to train all naval forces for combat. The Chief of Naval Operations meets that direction, in part, by conducting at-sea training exercises and ensuring naval forces have access to ranges, operating areas (OPAREAs) and airspace where they can develop and maintain skills for wartime missions and conduct research, development, test, and evaluation (RDT&E) of naval weapons systems. The Hawai'i Range Complex (HRC), where the Navy has, for more than 40 years, routinely conducted training and major exercises in the waters around the Hawaiian Islands, is a critical part of the Navy's mission, especially as it relates to training, for several reasons. Centrally located in the Pacific Ocean between the west coast of the United States and the naval stations in the western Pacific, and surrounding the most isolated islands in the world, the HRC has the infrastructure (i.e., extensive existing range assets and training capabilities) to support a large number of forces in a location both remote and under U.S. control. The range surrounds the major homeport of Naval Station Pearl Harbor, enabling resupply and repairs to submarines and surface ships alike. The isolation of the range offers an invaluable facility on which to conduct missile testing and training. Able to link with the U.S. Army's Pohakuloa Training Area, as well as U.S. Air Force and U.S. Marine Corps bases where aircraft basing and amphibious training may occur, the HRC provides a superior joint training environment for all the U.S. armed services and advanced missile testing capability. Among the important assets of the HRC is the Pacific Missile Range Facility (PMRF), which is the world's largest instrumented, multi-environment, military test range capable of supporting subsurface, surface, air, and space training, and RDT&E. It consists of instrumented underwater ranges, controlled airspace, and a temporary operating area covering 2.1 million square nautical miles (nm<sup>2</sup>) of ocean area. The Navy must have the flexibility and capacity to quickly surge required combat power in the event of a national crisis or contingency operation. Because of its location, training for sustained deployment at the HRC, rather than at ranges on the west coast, saves 10 transit days to the western Pacific from the west coast of the United States. The HRC complex consists of targets and instrumented areas, airspace, surface OPAREAS, and land range facilities. The Navy's proposed action includes conducting current and emerging training in the HRC. Although the Navy plans to conduct many different types of RDT&E on the land, in the air, and in the water, as well as implement infrastructure improvements (addressed comprehensively in the Navy's FEIS), this document specifically analyzes those activities in the HRC for which the Navy seeks MMPA incidental take authorization, i.e., those training activities that the Navy predicts would result in the generation of levels of

sound in the water that NMFS has indicated are likely to result in the take of marine mammals (not counting SURTASS LFA sonar, for which the Navy has already obtained an MMPA authorization), either through the use of sonar (mid-frequency active sonar (MFAS) or high frequency active sonar (HFAS)) or from the use of live ordnance, including the detonation of explosives in the water. Table 1-1 in the Navy's application presents a summary of the training and RDT&E activities that will occur in the HRC and indicates the exercise types that the Navy's modeling indicated would likely result in the take of marine mammals.

A copy of the Navy's application may be obtained by writing to Michael Payne, Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910-3225. Additional information is available by visiting the Internet at: <http://www.nmfs.noaa.gov/pr/permits/incidental.htm>. The Navy's Final Environmental Impact Statement (FEIS) for the Hawaii Range Complex was published on May 9, 2008, and may be viewed at <http://www.govsupport.us/hrc>. NMFS participated in the development of the Navy's FEIS as a cooperating agency under NEPA. Last, NMFS is preparing a Draft Environmental Assessment (EA) that analyzes the environmental effects of several different mitigation alternatives for the potential issuance of the proposed rule. The Draft EA will be posted on the following Web site as soon as it is complete: <http://www.nmfs.noaa.gov/pr/permits/incidental.htm>.

Comments and information on the draft environmental assessment must be received no later than July 23, 2008. You may submit comments, identified by 0648-AW86, by any one of the following methods: Electronic Submissions: Submit all electronic public comments via the Federal eRulemaking Portal: <http://www.regulations.gov>. Hand delivery or mailing of paper, disk, or CD-ROM comments should be addressed to Michael Payne, Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910-3225. All comments received are a part of the public record and will generally be posted to <http://www.regulations.gov> without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information. NMFS will accept anonymous comments. Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only. Comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this proposed rule should be submitted in writing to Michael Payne at the address above and to David Rostker, OMB, by e-mail at [David\\_Rostker@omb.eop.gov](mailto:David_Rostker@omb.eop.gov) or by fax to 202-395-7285. For more information, contact Jolie Harrison, Office of Protected Resources, NMFS, (301) 713-2289, ext. 166 (see, 73 F.R. 35509, June 23, 2008).

## Marine Mammal Permits

Notice is hereby given that the Hawai'i Marine Mammal Consortium, P.O. Box 6107, Kamuela, Hawai'i 96743 [File No. 1127-1921] and Dr. Rachel Cartwright, 5277 West Wooley Rd., Oxnard, California 93035 [File No. 10018] have each been issued a permit to conduct scientific research on several species of cetaceans found in Hawaiian waters.