

**Incidental Take Statement - Endangered Species Section 7 (a)(2) – NOAA-2
National Oceanic and Atmospheric Administration
National Marine Fisheries Service**

Permit Packet Includes:

1. Process Overview
2. Endangered Species Act of 1973 (see Addendum **ESA**)
3. EPA, FWS, and NMFS MOA, February 2001 (see Addendum **ESA**)
4. Section 7 Regulations (see Addendum **ESA Section 7**)
5. Final ESA Section 7 Consultation Handbook, March 1998 (see Addendum **ESA Section 7**)
6. USFWS Template for Biological Assessments and Biological Evaluations, July 2008 (see Addendum **ESA Section 7**)
7. Marine Protected Species of the Hawaiian Islands, April 2008
8. PIRO Effects Determination Guidance, January 2009

Approval or Permit Required:

To conduct an otherwise lawful activity that might incidentally, but not intentionally, “take” (harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct) an Endangered Species Act (ESA) listed marine mammal, anadromous fish, or other living marine resources.

Contact Information:

NMFS Pacific Islands Regional Office (PIRO)
Protected Resources Division (PRD)
1601 Kapiolani Blvd., Suite 1110, Honolulu, HI 96814
Phone: 808-944-2200

Website:

Consulting with Federal Agencies (ESA Section 7):

<http://www.nmfs.noaa.gov/pr/consultation/>

Endangered Species Act Policies, Guidance, and Regulations

<http://www.nmfs.noaa.gov/pr/laws/esa/policies.htm#consultation>

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Notes:

- An Endangered Species Act (ESA) Section 7 Determination is required for any federal agency (other than NMFS) providing any type of authorization or funding to a proposed project. This federal agency (the “action agency”) must ensure that any action authorized, funded, or carried out is not likely to jeopardize the continued existence of any endangered or threatened species, or destroy/adversely modify designated critical habitat. In the event that the proposed project is likely to adversely affect endangered species or critical habitat, the action agency is required to obtain a biological opinion (BO) and incidental take statement (ITS), also known as an Endangered Species Permit, to allow the agency to authorize or fund the project.
- **Section 7 will apply to the majority of renewable energy projects in Hawai`i.**
- An ESA Section 10 Determination is required for non-federal entities to obtain an Incidental Take Permit (ITP), which is only necessary if there is no federal authorization or funding to the proposed project.
- For further information on NOAA OPR ESA policies, guidelines, and regulations, see: <http://www.nmfs.noaa.gov/pr/laws/esa/policies.htm#general>

Steps

Time

1. The action agency determines effects of its proposed action on each ESA-listed marine species in the action area. The action agency is responsible for making one of the following effects determinations: No Effect, May Affect but Not Likely to Adversely Affect (NLAA), or Likely to Adversely Affect (LAA).
 - A No Effect determination is made by the action agency and does not require concurrence from NMFS.
 - A NLAA determination requires an informal Section 7 (interagency) consultation with NMFS in order to obtain concurrence with the determination. When the information indicates that the action has no likelihood of adverse effect, NMFS provides a letter of concurrence, which completes informal consultation.
 - A LAA determination requires initiation of formal Section 7 (interagency) consultation and NMFS is responsible for completing a biological opinion on the proposed action (and may issue an incidental take statement).

Total Time Period: Varies

Fees	Amount	Maximum
None		
Total Fees:	\$0 (minimum)	\$0 (maximum)