

V. ADMINISTRATIVE RULES FORMULATION PROCESS

A. SUMMARY OF RULES FORMULATION PROCESS

As outlined in Chapter 1 of this report, the framework for managing and regulating CORA on County property was established by Ordinance 3143 (2003), which requires that a CORA permit be obtained for any activity conducted by a business for a patron in or on a County beach park or other County property. Refer to Appendix "A". To facilitate the effective regulation of CORA at County beach parks, Section 4 of Ordinance 3143 states that:

*“Additional regulation of commercial ocean recreational activity shall be established by applicable rules, including but not limited to the days, time, place, and volume of use of County beach parks.”
(Ord. 3143 Section 4 (part), 2003)*

As the rule-making authority, the Department initiated the CORA Study in **January 2005** to develop a set of administrative rules for permit issuance and management that not only complies with the requirements set forth by Ordinance 3143, but which also ensures the long-term viability of the CORA industry in Maui County.

This section provides a written summary of the rules formulation process, as well as an overview of the stakeholder dialogue procedure that was specifically implemented to ensure that continual review and input was provided by CORA operators and other interested parties (hereafter referred to as “stakeholders”) at the following product delivery milestones. Refer to Figure I-2.

1. Preparation and Review of Working Paper No. 1

On **March 1, 2005**, an initial public information meeting was held

to present the overall goals and objectives of the CORA study to stakeholders. Unless otherwise noted, all meetings conducted during the course of the CORA Study were held in the Conference Room of the Department of Parks and Recreation at the War Memorial Gymnasium Complex, Wailuku, Maui. Notices informing stakeholders of the public information meeting were mailed on **February 18, 2005**. Refer to Appendix "C". Feedback received during this initial informational meeting was used to refine the initial sample of seventeen (17) beach parks selected for incorporation into the study. The core methodological framework for the study was also formulated on a basis of stakeholder feedback and consisted of a combination of CORA operator surveys, beach park assessments, field observations, OSO interviews and feedback from Departmental staff.

A draft working paper (Working Paper No. 1) outlining the study background, goals and objectives, rationale for beach park selection, as well as the methodological framework was prepared and internally reviewed by the Department prior to being mailed to stakeholders for review on **April 8, 2005**. Comments on draft Working Paper No. 1 were received from stakeholders during a review meeting held on **April 25, 2005**. Refer to Appendix "D". Notices informing stakeholders of this review meeting were attached to Draft Working Paper No. 1 when it was distributed. Refer to Appendix "C".

A summary of all substantive comments received at the Draft Working Paper No. 1 Review Meeting was prepared and submitted to the Department for review. Upon review and discussion of all comments, Working Paper No.1 was finalized as Chapter 1 of this

2. **Focus Group Discussion Meetings**

A series of focus group meetings were held on **May 24, 25, and 26, 2005** to facilitate activity-specific discussion and input on the range of opportunities and constraints facing the CORA industry at County beach parks. Notices informing stakeholders of the focus group meetings were mailed on **May 10, 2005**. Refer to Appendix "C". Summaries of all substantive comments received during the six (6) focus group meetings were prepared, reviewed internally by the Department and mailed to stakeholders for review on **July 7, 2005**. Refer to Appendix "D".

3. **Preparation and Review of Working Paper No. 2**

A CORA Operator Survey involving the analysis and interpretation of completed and returned surveys from CORA operators was conducted over a three (3) month period from **March to May 2005**. Refer to Appendix "B". Upon completion of the CORA Operator Survey, a second draft working paper (Draft Working Paper No. 2) was prepared and reviewed internally by the Department prior to being mailed out to operators for review. Draft Working Paper No. 2 was mailed to stakeholders on **May 31, 2005** and comments were received on **June 28, 2005** at a scheduled review meeting. Refer to Appendix "C". Written summaries of comments received during the Draft Working Paper No. 1 review meeting were also distributed to stakeholders during this review meeting. Refer to Appendix "D".

A summary of all substantial comments received at the Draft Working Paper No. 2 Review Meeting was prepared, reviewed internally and mailed to stakeholders for review on **September 19,**

2005. Refer to Appendix "D". Upon review and discussion of all comments, Working Paper No. 2 was finalized as Chapter 2 of this Final Report for the CORA Study.

4. Parks and Economic Development Committee Workshop

A workshop on the CORA Study was held at a regular meeting of the Parks and Economic Development Committee on **June 16, 2005.** See Appendix "E". The intent of the workshop was to provide Councilmembers with a study overview and progress update. The presentation delivered at the workshop summarized the goals and objectives, the rationale for selection of the seventeen (17) sample beach parks, as well as an overview of the methodological framework for the CORA Study.

5. Preparation and Review of Working Papers No. 3 and No. 4

Beach park assessments involving an analysis of a specified set of physical, environmental and general use characteristics at each of the seventeen (17) sample beach parks were completed over a four (4) month study period from **May to August 2005.** Field observations were also conducted during the same phase of work in order to provide an individual but comparable analysis of commercial use conditions at the sample beach parks. Following completion of both the beach park assessments and field observations, two (2) separate draft working papers (Draft Working Paper No. 3/No. 4) were prepared and internally reviewed by the Department prior to being uploaded onto the County of Maui homepage for stakeholder review.

Draft Working Paper No. 3 was made available for public access on the County of Maui homepage on **September 19, 2005.** A

letter informing stakeholders of availability of Draft Working Paper No. 3 was also mailed on **September 19, 2005** along with a written summary of comments received at the Draft Working Paper No. 2 review meeting. Refer to Appendix "C" and Appendix "D". Hard copies and CD copies of Draft Working Paper No. 3 were made available for review from the Wailuku Permit Office of the Department on **September 27, 2005**.

Similarly, Draft Working Paper No. 4 was uploaded to the County of Maui homepage on **September 29, 2005**. A separate letter outlining the availability of Draft Working Paper No. 4 was mailed out to stakeholders on **September 28, 2005** along with notices informing stakeholders of the next scheduled meeting. Refer to Appendix "C". Hard copies and CD copies of Draft Working Paper No.4 were made available for review from the Wailuku Permit Office of the Department on **October 6, 2005**. The review meeting to solicit stakeholder input on the two (2) aforementioned draft working papers was held on **October 17, 2005**.

Due to low attendance at the **October 17, 2005** review meeting, a follow-up letter requesting written comments was mailed to stakeholders along with a CD containing electronic copies of both working papers. The follow-up letter was mailed by certified (return receipt) mail on **October 24, 2005**. Refer to Appendix "C". The deadline for receipt of written comments was **November 10, 2005**.

A summary of all substantial comments received at the Draft Working Paper No. 3/No. 4 review meeting was prepared and submitted (along with any additional written comments received by the aforementioned deadline) to the Department for internal review.

Refer to Appendix "D". Upon review and discussion of all comments, Working Papers No. 3/No. 4 were finalized as Chapter 3 and Chapter 4, respectively, of the Final Report for the CORA Study.

B. NEXT STEPS

The findings and recommendations of the CORA Study (contained within Working Paper No. 4) resulting from the application of the methodological framework were used to provide the basis and justification necessary for formulating a set of Draft Administrative Rules that are both fair and enforceable. An initial set of **Preliminary Draft** Administrative Rules, limited in coverage to the 17 beach parks which were addressed in the scope of the study, was submitted to the Department for internal review on **November 2, 2005**. It is noted that all written comments on Draft Working Paper No. 3/No. 4 received on or after November 2, 2005 were submitted to the Department for review and consideration as part of the internal review process of the **Preliminary Draft** Administrative Rules. Following completion of this internal review and integration of all Departmental comments, the **Preliminary Draft** Administrative Rules were transmitted to the Department of the Corporation Counsel for review.

Following the completion of Corporation Counsel review, the **Final Draft** Administrative Rules will be presented for public review. A series of activity-specific focus group meetings will be scheduled with stakeholders. The intent of the focus group meetings will be to solicit stakeholder input on the **Final Draft** Administrative Rules. Prior to these focus group meetings, notices will be mailed to stakeholders, which will include a CD containing an electronic copy of the Final Report for the CORA Study. Separately, a copy of the **Final Draft** Administrative Rules will also be mailed to stakeholders by the Department for review prior to the

scheduled focus group meetings.

Preparation of Comments on Final Draft Administrative Rules

Following the six (6) focus group meetings, a summary of comments received at the meetings on the **Final Draft** Administrative Rules will be prepared and submitted to the Department for review and consideration prior to the public hearing to adopt the **Final** Administrative Rules.

C. ADMINISTRATIVE RULES ADOPTION PROCEDURE

As stipulated by Chapter 91 of the Hawaii Revised Statutes, the Department is required to hold a public hearing on the Draft Administrative Rules prior to official adoption according to the following procedure:

- (1) Department shall give at least thirty days notice for a public hearing.
- (2) The notice shall include:
 - (a) A statement of the topic of the proposed rule adoption, amendment, or repeal or a general description of the subjects involved; and
 - (b) A statement that a copy of the proposed rule to be adopted, the proposed rule amendment, or the rule proposed to be repealed will be mailed to any interested person who requests a copy, pays the required fees for the copy and the postage, if any, together with a description of where and how the requests may be made;
 - (c) A statement of when, where, and during what times the proposed rule to be adopted, the proposed rule amendment, or the rule proposed to be repealed may be reviewed in person; and
 - (d) The date, time, and place where the public hearing will be held and where interested persons may be heard on the proposed rule adoption, amendment, or repeal.

D. CONCLUSION AND RECOMMENDATIONS FOR FUTURE WORK

The scope of the CORA Study involved an intensive analysis of a representative sample of seventeen (17) beach parks, selected according to available funding considerations and on a basis of the following factors:

- The need to recognize a high use set of beach parks based on the number of permits issued.
- The need to account for those parks with similar physical, locational and use characteristics.
- The need to incorporate a geographical representation of parks from the various Community Plan Districts around Maui.

Focusing the methodological framework on this predetermined set of beach parks enabled the development of an optimum foundation for structuring and formulating the **Preliminary Draft** Administrative Rules. As indicated in Chapter 1, the limitation of the study was not intended to minimize the importance or relevance of the remaining parks for their CORA potential and overall community recreational value.

Future work is, therefore, recommended in order to address the scope limitations of the present set of **Preliminary Draft** Administrative Rules. Additional site-specific regulations should be formulated, through the application of the present methodological framework or similar, to the remaining set of beach parks currently utilized by CORA operators. Furthermore, the administrative rules should also be updated on a continual basis to reflect both the full range of commercial activities taking place at beach parks in Maui County, as well as changing environmental and general use conditions at each specific beach park. This additional research and analysis of the remaining beach parks can either be undertaken internally by the Department or studied separately by others as additional funds become available.