

COMPREHENSIVE EXEMPTION LIST FOR THE
AGRIBUSINESS DEVELOPMENT CORPORATION
STATE OF HAWAII
[May 1, 2018]

Pursuant to section 11-200-8, Hawaii Administrative Rules, the Hawaii Agribusiness Development Corporation (ADC) may declare exempt the following types of actions from the requirement to prepare an environmental assessment.

Hawaii Revised Statutes (“Haw. Rev. Stat.”) Chapter 343 authorizes the Environmental Council to establish procedures to exempt specific types of action from the preparation of an environmental assessment because the action will have minimal or no significant effect on the environment. The ADC, through time and experience, developed the following exemption list identifying particular activities that fall within the exempt classes described in Hawaii Administrative Rules (“HAR”) §11-200-8. Pursuant to HAR §11-200-8(b), these exemptions are inapplicable when the cumulative impact of planned successive actions in the same place, over time, is significant, or when an action that is normally insignificant in its impact on the environment may be significant in a particularly sensitive environment.

The ADC shall not make exemption declarations when the cumulative impact of successive actions in the same place, over time, is significant, or when an action that is normally insignificant in its impact on the environment may be significant, in a particularly sensitive environment. Sensitive areas may include, but are not limited to, significant historical, archaeological, and cultural sites, flood plains, wetlands, beaches, coastal areas, erosion-prone areas, geologically hazardous land, critical habitats, and estuaries.

EXEMPTION CLASS 1: *Operations, repairs or maintenance of existing structures, facilities, equipment, or topographic features, involving negligible or no expansion or change of use beyond that previously existing.* Appropriate exemptions may include:

1. Mitigation of any hazardous conditions that present imminent danger as determined by the ADC and that are necessary to protect public health, safety, welfare, or public trust resources;
2. Upon determination by the ADC that an emergency exists, emergency mitigation and restoration work to prevent damage from continuing to occur and to restore the topographical features, biological and agricultural resources;
3. Removal of boulders, rocks, hazardous trees, marine debris, and other similar hazards necessary to maintain state lands and waters in a safe condition; and
4. Operations, repairs or maintenance of existing agricultural/aquaculture-related structures and facilities, including: administrative offices, agricultural nurseries, greenhouses, processing and marshalling facilities, aquaculture hatcheries, grow-out and brood stock enclosures and facilities, mechanical or electrical control buildings; warehouses, aquaculture tanks, raceways, cages, pens, base yards, equipment repair shops, and grounds. Operations, repairs or maintenance activities include, but are not limited to:
 - a. Painting and paint preparation work, interior and exterior;
 - b. Replacement and repair of roofing, flooring, windows, doors, steps, screens, lanai, and siding;

- c. Maintenance of utility services: potable water, sanitary sewer, gas, communications, lighting, electrical power/emergency power, ventilation, and air conditioning system;
 - d. Maintenance of vegetation, including: routine pruning, trimming, thinning, removal of unwanted plants (weeds, brush and trees) that threaten to damage existing structures, facilities and waterways in the irrigation systems; and
 - e. Vector control using Environmental Protection Agency- and State Department of Agriculture-approved pesticides under the supervision of certified applicators, provided that treatment is limited to existing structures, facilities, or equipment;
5. Operation, repair, testing, and maintenance of vehicles that are accessory to the agricultural or aquacultural activities on site;
6. Operation, repair and maintenance of existing aquaculture fishery facilities, involving capture, containment, sustaining, research, and husbandry of various freshwater, estuarine, and marine fishes, invertebrates, and other aquatic organisms;
7. Operation, repair and maintenance of existing crop production (fruits, vegetables, flowers, foliage, crops for bioenergy and forage) facilities, including but not limited to equipment storage/maintenance;
8. Operation, repair and maintenance of existing livestock structures (e.g., meat and dairy cattle, pigs, goats, sheep, poultry, bees), including but not limited to barns, fencing, equipment storage/maintenance, feed storage, pond/tanks/enclosures, raceway, barns, hatchery, rearing and brood stock enclosures and support structures;
9. Repair and maintenance of existing paved and unpaved roadways, roadway shoulders, road structures and signage, parking areas, walkways, driveways, culverts and bridges (includes regrading, resurfacing, infilling, sealing, grooving, cleaning, chipping, painting and patching);
10. Operation, repair and maintenance of existing utility infrastructure, including but not limited to:
 - a. irrigation, fire protection and potable water: storage, control or conveyance equipment, pumps and controls, water meters, valves, pipes, intake boxes, gates, ditches, siphons, flumes, drains, aquaculture raceways, wet wells, dams, diversions, reservoirs, and troughs;
 - b. storm water conveyance and management equipment: pumps, valves, gates, pipes, ditches, culverts; and
 - c. electrical, electronic or telemetering systems, including: gauging stations, weather stations, power generating (i.e., hydroelectric, solar, fuel powered emergency, wind) and power transmission systems and infrastructure;
11. Maintenance dredging of small quantities of material from existing launching ramps, navigation channels, and berthing areas, not to exceed their originally designed depths and as permitted by the U.S. Army Corps of Engineers, with disposal of dredged

- material at approved landfill sites or the placement of sand on adjacent areas in accordance with Haw. Rev. Stat. § 205A-44;
12. Repair and maintenance of existing dam or reservoir structures and appurtenant features, including outlet works repair, gate replacements, ditch clearing, replacement of catwalk and access ways, spillway modifications to safely pass anticipated flood waters, and spillway reconstruction to mitigate possible failures;
 13. Repairs, operation and maintenance of existing water storage (in addition to dams and reservoirs), control or conveyance infrastructure and facilities, including pumps and controls, water meters, valves, pipes, intake boxes, gates, ditches, siphons, flumes, drains, wet wells, dams, diversions, reservoirs, channels electrical and telemetering systems and other water control devices. Activities may include physical removal of sediment and vegetation;
 14. Clearing of earth berms, storm water drainage swales, culverts, stream banks, and streams including, but not limited to streams with direct outlet to the ocean;
 15. Routine maintenance and removal of dirt, rock, debris, sediment and accumulated boulders from canals, streams, and flood-control debris basins and debris/catchment structures where such removal will not have an adverse impact on downstream waters, bays, or the environment;
 16. Vegetation clearing from streams, improved and unimproved drainage ditches, or swales. Work may involve removing and cutting of debris, brush, grasses, and trees;
 17. Repair and maintenance of historic and archaeological sites to maintain the integrity of historic structures, archaeological features and sites;
 18. Repair, operate, and maintain existing electrical infrastructure, including: hydro, solar, wind, and other renewable energy power generating, distribution and transmission systems and related infrastructure;
 19. Repairs and modifications to existing sewage and water pumping stations and treatment facilities to maintain established codes and standards, provided that modifications that expand the capacity or geographical service area of existing facilities shall not be exempt;
 20. Repair, operate, and maintain security, system control and data acquisition (SCADA), measuring devices, communication equipment and safety equipment and appurtenant structures;
 21. Maintenance of water conveyance/irrigation systems by removing accumulated sediment;
 22. Fire management activities, including prevention and restoration measures; and
 23. Minor alterations and repairs required to bring existing buildings, structures, facilities, and equipment into compliance with current building codes and applicable federal and state regulations., i.e., Occupational Safety & Health Administration, building, fire, security, accessibility for the handicapped, environmental compliance, etc.

EXEMPTION CLASS 2: *Replacement or reconstruction of existing structures and facilities where the new structure will be located generally on the same site and will have substantially the same purpose, capacity, density, height, and dimensions as the structure replaced. Appropriate exemptions may include:*

1. Existing structures and/or facilities listed in exemption class 1 which are exempt from requirement to prepare an environmental assessment for actions involving operations, repairs or maintenance;
2. Replacement or reconstruction of existing roads and road structures, including bridges and culverts built to the required County regulation for agricultural and maintenance equipment when roadways have become damaged or destroyed by natural wear and tear or man-made catastrophes (i.e., fire, vehicle accidents, power outages, pipeline breaks; etc.);
3. Replacement or reconstruction of potable water, sewage, gas, telephone, and other essential utility services;
4. Clearing, grading, and grubbing, for which grading permits are not required, where required for such structures or facilities;
5. Removal and disposal of rubbish and debris from ADC lands and waters;
6. Removal of silt, debris, sand and limu from above high water mark, and from river and stream estuaries; and
7. Replacement and reconstruction to bring existing buildings, structures, facilities, and equipment into compliance with current building codes and applicable federal and state regulations., (i.e., Clean Water Act, Occupational Safety & Health Administration, building, fire, security, environmental compliance, etc).

EXEMPTION CLASS 3: *Construction and location of single new, small facilities or structures and the alteration and modification of same and installation of new, small, equipment and facilities and the alteration and modification of same including but not limited to: (A) Single family residences not in conjunction with the building of two or more such units; (B) Multi-unit structures designed for not more than four dwelling units if not in conjunction with the building of two or more such structures; (C) Stores, offices and restaurants designed for total occupant load of twenty persons or less, if not in conjunction with the building of two or more such structures; and (D) Water, sewage, electrical, gas, telephone, and other essential public utility services extensions to serve such structures or facilities; and (E) accessory or appurtenant structures including garages, carports, patios, swimming pools, and fences. Appropriate exemptions may include:*

1. New facilities/actions that meet the following conditions:
 - a. Consistent with County zoning ordinances for Agricultural land use, size, height, and setback restrictions relevant to the project site and would not require a zoning variance; and

- b. Warrants an exemption or an exception to the respective County's building permit ordinances and would not require a building permit; however, may require electrical and plumbing approvals;
2. Relocation of existing structures within a parcel, which may not require a building permit but could require County review and approval;
3. Structures for controlling the amount of sunlight, rainfall, wind and other elements of nature on agricultural facilities, including nurseries, hatcheries, research projects, feed/seed storage, sheds, grow-out and brood facilities, raceways and enclosures;
4. Captive propagation methods in support of diversified agriculture that do not require a zoning variance;
5. Fences around or to manage plants, animals, and security of open areas;
6. Buildings and infrastructure to support or enhance safe and effective agricultural practices, including, pesticide/regulated material storage, equipment storage, extension of security, system control and data acquisition (SCADA), measuring devices, communication equipment, and radio repeaters;
7. Installation of automatic fish feeding devices in reservoirs, ponds, or other impoundments, rearing pens for cage culture of fishes and aquatic organisms;
8. Construction of drainage swales and structures and other similar surface runoff management techniques that would not require an NPDES permit from the State Department of Health Clean Water Branch;
9. Construction of irrigation system components such as pumps, transformers, electric or electronic controls, instruments and monitoring devices, water meters, irrigation infrastructure, pumps, electric meters, valves, gates, flumes, weather stations, control devices, instrumentation;
10. Construction of irrigation systems: closed and open (i.e. ditches, pipeline, and flumes) and structures having less than 200gpm;
11. Conversion of open irrigation ditches to pressurized closed pipe irrigation water conveyance within existing ditches to improve water use efficiency and reduce erosion;
12. Renewable power structures and systems (e.g., solar panels, hydropower equipment) that serve to supplement existing power supply and provide power to equipment operations in remote areas, provided that power generation capacity does not exceed 5MW; and
13. Construction or extension of erosion control features, including retaining walls, and sediment ponds/pumps. This exemption does not exempt the construction or extension of coastal retaining walls.

EXEMPTION CLASS 4: *Minor alterations in the conditions of land, water, or vegetation.*

Appropriate exemptions may include:

1. Minor ground adjustments (e.g., grading, grubbing, cutting, or filling) that do not require grading permits;
2. Removal of rocks, debris, and trash from fields or access roads;
3. Minor cut, fill and grading of soil to divert rainwater away from irrigation ditches and infrastructure;
4. Management of surface water runoff, including installation of minor drainage ditches and implementation of other storm water best management practices (BMPs) and low impact development techniques (LID) (e.g., bioretention areas and sediment basins);
5. Cleaning, grubbing and dredging of drainage swales, ditches, sediment ponds, and facilities as routine maintenance, and redispersing of such material onto the agricultural lands;
6. Minor vegetation clearing and management, including mowing, pruning, trimming, and application of federal and state approved herbicides in conformance with label instructions approved by the State of Hawaii, and other approved methods;
7. Removal of invasive vegetation utilizing cutting, mowing, application of federal and state approved herbicides in conformance with label instructions, distribution of biocontrol agents;
8. Vegetation clearing and grading work to stabilize existing slopes and mitigate rockfall, including work required to mobilize equipment.
9. Improvements of previously existing graded parking and storage yard areas, including paving, infilling, grading and compacting;
10. Control of pests utilizing federal and state approved pesticides, herbicides, fungicides, and toxicants in conformance with label instructions; traps, snares, lures, and repellents; distribution of biocontrol agents approved by the state of Hawaii; and other approved methods;
11. Construction, in accordance with established state standards, required to seal production, monitoring, and geothermal wells, that have been permanently discontinued, that are unsealed, leaking, polluting, deteriorating in quality, uncontrollable, buried, or that are in such a state of disrepair that continued use is impractical or unsafe;
12. Upon determination by the ADC that an emergency exists, emergency mitigation and restoration work to prevent further damage from occurring and to restore the topographical features and biological resources;
13. Construction required to seal artesian wells which have been abandoned or are leaking. This is a positive means of preventing the loss of ground water supplies;
14. Construction required to repair and maintain existing dam or reservoir structures and appurtenant features, including outlet works repair, gate replacements, ditch clearing,

- replacement of catwalk and access ways, spillway modifications to safely pass anticipated flood waters, and spillway reconstruction to mitigate possible failures;
15. Fire management activities, including prevention and restoration measures;
 16. Removal and disposal of rubbish and debris from ADC lands and waters;
 17. Removal of silt, debris, sand and limu from above high water mark, and from river and stream estuaries; and
 18. Trenching and construction of supporting features associated with the installation of staff gauges, water monitoring and reporting equipment at dam facilities and appurtenant works, such as, equipment sheds, transmitting devices, solar panels, and minimal site grading and improvements for the safe operation and installation of these features.

EXEMPTION CLASS 5: *Basic data collection, research, experimental management, and resource evaluation activities which do not result in a serious or major disturbance to an environmental resource.* Appropriate exemptions may include:

1. Surveys, research, and investigations into all aspects of water use, quantity, and quality;
2. Planning data collection;
3. Studies for the purpose of identifying hazardous conditions;
4. Noise monitoring surveys;
5. Drainage studies;
6. Flood control studies;
7. Site inventories and site assessments;
8. Building evaluations;
9. Economic analyses;
10. Archaeological surveys, including clearing of vegetation in direct association with site evaluation and mapping;
11. Air quality surveys;
12. Water quality surveys;
13. Foundation surveys and subsurface investigations (borings) provided cultural remains are not disturbed;
14. Ecological and botanical surveys for which no permit is required;
15. Surveys, research and investigations into all aspects of agricultural production and processing;
16. Environmental impact research;
17. Hazardous materials surveys;
18. Data collection in accordance with NPDES requirements;

19. Topographic, metes and bounds, sounding, wave, littoral transport and location, aerial surveys;
20. Ground cover survey inspection of property for appraisal;
21. Development feasibility studies;
22. Installation of staff gauges, water monitoring and reporting equipment at dam facilities and appurtenant works;
23. Field investigative work including soil sampling and drilling, water monitoring, and/or test pit excavations. This may include clearing or construction of site improvements needed to mobilize equipment or personnel to accomplish the task;
24. Measurements of stream flow in accordance with the prescribed method and practices of, or acceptable to, the U.S. Geological Survey, installation of surface water monitoring equipment, and collection of data;
25. Construction of test wells with casing diameter of not more than 12 inches to provide ground truth for water resources investigations, the suggested size will enable the aquifer to be tested for its physical, chemical, biological qualities, as well as providing a pumping test to determine the specific capacity of the aquifer, in accordance with the Hawaii Well Construction and Pump Installation Standards;
26. Construction or rehabilitation of groundwater monitoring stations in accordance with established state standards, install groundwater monitoring equipment, and collect data;
27. Collection of atmospheric data and conducting of climatological monitoring in accordance with the methods and practices of, or acceptable to, the National Weather Service and collection of data;
28. Installation of new, small ground water, surface water or atmospheric monitoring and data collection equipment and structures that house or protect them;
29. Installation of electrical and telemetry systems to serve data collection equipment and structures that house or protect them;
30. Subsurface trenching or digging necessary to install scientific or geological data collection devices;
31. Conducting research, survey or demonstrative projects relating to methodologies used in agriculture, aquaculture, processing, food safety, or post-harvesting treatment; and
32. Chemical, biological, and nutritional research under controlled laboratory conditions, to study soil types and water quality and the effects of supplements on improving propagation, invasive species and disease resistance.

EXEMPTION CLASS 6: Construction or placement of minor structures accessory to existing facilities. Appropriate exemptions may include:

1. Temporary construction staging areas/structures;
2. Construction of storage or packing sheds on agricultural lands;
3. Placement of excess materials and goods within the agricultural processing and marshalling facilities. Placement of shipping containers and other portable containers to support existing marshalling operations;
4. Construction of livestock fencing, enclosures and feed/water troughs;
5. Construction of enclosures for security of equipment and vehicles within the agricultural processing and marshalling facilities;
6. Construction or placement of utilities (i.e., telecommunications, electrical, drainage, waterlines, sewers) and related equipment (e.g., transformers, solar panels, hydropower equipment, poles, cables, wires, pipes) accessory to existing facilities on ADC lands that serve to supplement existing power supply and provide power to equipment operations in remote areas, provided that power generation capacity does not exceed 5MW;
7. Construction or placement of lighting systems for street lights, facility lighting, and security lighting, provided the lighting is shielded and does not adversely impact birds;
8. Minor driveways or access roadways to be used only to service existing irrigation systems, and ADC lands, and ADC processing and marshalling facilities.
9. Above ground water or utility tanks for site use only. Spill containment should be provided when appropriate;
10. Water catchment system no larger than 20,000 gallons;
11. Alarm systems, camera systems, and similar surveillance items on state lands for security and safety purposes;
12. Construction of walls, fencing, or screens around buildings, structures, facilities, or equipment on ADC lands;
13. Rearing pens for cage culture of various freshwater, estuarine, and marine fishes, invertebrates, and other aquatic organisms;
14. Alteration of exiting access to pumps, water reservoirs, drainage structures and other appurtenances within the agricultural lands and agricultural processing and marshalling facilities in order to improve accessibility;
15. Installation of fencing and security gates on and around irrigation systems, reservoirs, access roads, and agriculture land;
16. Placement or construction of accessory structures such as utility sheds, storage or maintenance sheds, office trailers, trash enclosures, comfort stations or sanitation facilities;

17. Hurricane or wind protection devices and other minor structural accessories that will facilitate resistance to damaging effects of natural hazards on state lands;
18. Placement of signs along irrigation systems, drainage systems, power systems, and ADC lands; and
19. Installation of erosion control materials and planting of erosion control vegetation along irrigation systems, reservoirs, access roads, and ADC lands.

EXEMPTION CLASS 7: *Interior alterations involving things such as partitions, plumbing, and electrical conveyances.* Appropriate exemptions may include:

1. Interior alterations and renovations to offices, buildings, warehouses, research labs, sheds, barns, nurseries or other structures that do not increase the floor area or change the maximum occupancy to include:
 - a. installation of office partitions, utility outlets or connections, air conditioning, lighting, and security systems;
 - b. renovations required to bring existing structures into compliance with current building codes and applicable health, safety, and access regulations;
 - c. renovations that will result in energy or other operational/cost savings; and
 - d. reconfigurations of space and technological upgrades to increase efficiency, productivity, or safety;
2. Construction required to maintain or upgrade existing utilities
3. Normal removal and replacement of windows, doors, partitions, floors, ceiling, roof, and other building accessories due to wear and tear to including repainting of structures. This exemption does not include procedures needed to handle lead paint, asbestos, or other toxic substances; and
4. Expansion of utilities as need dictates in existing structures.

EXEMPTION CLASS 8: *Demolition of structures, except those located on any historic site as designated in the National Register or Hawaii Register as provided for in the National Historic Preservation Act of 1966, as amended, or chapter 6E, HRS.* Appropriate exemptions may include:

1. Demolition and removal of existing structures, facilities, utilities, and other improvements on state lands, except those structures located on any historic site as designated in the National Register or Hawaii Register as provided for in the National Historic Preservation Act of 1966, 16 U.S.C §§470 et. seq., as amended, or Haw. Rev. Stat. Chapter 6E. The application of Exemption Class 8, does not preclude the need for County demolition approval and compliance with State solid waste management regulations for handling and disposal regulated materials, such as, asbestos, lead-containing materials, polychlorinated biphenyls;

2. Demolition and removal of experimental devices or other equipment, when such devices or equipment are no longer used or needed;
3. Demolition of roadway paving and security fencing;
4. Demolition and removal of buildings and structures prior to or concurrent with the construction of a new or replacement building or structure, except those structures located on any historic site; and
5. Demolition, and/or removal of unusable, obsolete, abandoned, or unauthorized structures, dwellings, machinery, utilities, equipment, vehicles, piping, electrical infrastructure, lumber, trash, or improvements on agricultural lands and agricultural processing or marshalling facilities. Proper disposal of removed materials according to regulatory requirements of federal, state, or county agencies.

EXEMPTION CLASS 9: *Zoning variances except shoreline setback variances.*

1. Application for zoning variance for use of ADC lands disposed to private parties or to governmental agencies, except shoreline setback variances.

EXEMPTION CLASS 10: *Continuing administrative activities, including, but not limited to, purchase of supplies and personnel-related actions.* Appropriate exemptions may include:

1. Purchase of supplies, services, equipment, and motor vehicles to support existing operations;
2. Contracts for small purchases, professional services, competitive sealed proposals, competitive sealed bidding, or purchase of goods and services which are exempt from Haw. Rev. Stat. Chapter 103D;
3. Requests for federal, state, county or private assistance grants to support ongoing operations or implement programs of the ADC;
4. Personnel-related actions;
5. Training and other educational activities;
6. Acquisition or update/renewal of existing regulatory permits, including but not limited to approvals for herbicide/pesticide use, hazardous materials, laboratory research, water use permits, well closure/demolition;
7. Transfer of ownership or management authority over ADC-owned lands;
8. Acquisition of land or easements on which crops, livestock, water or power system facilities and appurtenances are presently situated or under construction;
9. Creation or termination of easement, covenants, or other rights in structures or land;
10. Subdivision or consolidation of lots for agricultural crop production or accessory uses;
11. Conducting public meetings and hearings for the purpose of the collection and dissemination of public information, to discuss matters under the jurisdiction of the

- ADC, to develop administrative rules, guidelines or other public policy, and other similar purposes;
12. Permits, licenses, registrations, and rights-of-entry issued by the ADC that are routine in nature, involving negligible impacts beyond that previously existing;
 13. Granting to a person the privilege to conduct operations involving the provision of goods, wares, merchandise, or services to the general public including, but not limited to, tours, food and beverage operations, retail operations, rental operations, or communications and telecommunications services in or on an existing building, facility, or area; and
 14. Issuance of leases, licenses, or permits of ADC lands, water systems, processing facilities, consolidation facilities, or infrastructure that are consistent with the ADC mission, including the support and promotion of diversified agriculture in the State. This exemption applies only to the issuance of the possessory interest in the land and not the underlying purpose or use of the land. Purpose of use of the land can only be exempt if it is properly exempt under another exemption class.