

HDOT Responses to Mr. Ron Terry's comments e-mail dated on 12/1/2021 and
Discussions at Exemption Committee Meeting on 1/4/2022

I. Biological Control/Protection

A. HDOT edits (bold & underline) prior to Draft Exemption List publication:

- TYPE 1, C.2.: Planting, trimming, mowing and irrigating of vegetation to reduce fire hazards, **wildlife attraction**, and maintain appropriate visual appearance.
- TYPE 1, C.4.: **Clearing, grading and landscaping, for which grading permits are not required, to prevent wildlife attraction to DOT facilities.**
- TYPE 1, C.11.: **Natural resource management actions that DOT declares are designed specifically to monitor, conserve, or enhance the status of native species or native species' habitats, such as fences around or to manage rare, threatened or endangered plants. Fences shall contain step-overs or other features that permit pedestrian access for cultural and recreational use.**

B. New Exemption added as result of January 4, 2022, Exemption Committee meeting:

- TYPE 1, C.12. Capture, trap or use of other means to control, transfer or eradicate non-protected feral animals, wildlife or invasive species that may present hazards to transportation facilities and the environment.

II. Shoreline Actions

A. Relevant DOT edits prior to Draft Exemption List publication:

- TYPE 2, Part 1, 11. New language: "Replace, remove, or reconstruct existing in water structures, including but not limited to: revetment structures, and groins, pier decks, substructure and aprons, piles, sheet piles, dolphins, offshore mooring systems, pipelines and hatches, bull rails, fender systems, bollards and cleats, launch ramps, loading docks, drainage outlets, navigational aids and all associated work necessary for the continued function of the structure, as permitted by the U.S. Army Corps of Engineers and U.S. Coast Guard."
- TYPE 2, Part 2, C. "Replace, remove, or reconstruct existing perimeter seawalls." (Moved from Part 1 to Part 2)
- TYPE 3. "Construct new shoreline protection systems such as revetment structures (e.g., sandbags, riprap), Kyowa bags and other accepted designs." (Moved from Part 1 to Part 2).

B. HDOT Response to Exemption Committee: The HDOT acknowledges shoreline hardening is controversial. The HDOT, specifically Highways Division, routinely repairs, replaces, and modifies existing shoreline protection structures to maintain resilience to the damaging effects of natural hazards, including, but not limited to hurricanes, storm surges, king tides, and flooding. Short-term and mid-term solutions are necessary, routine and becoming more frequent. These projects use standard materials and designs, and HDOT constructs them in accordance to established best management practices, and other environmental controls, as specified in interagency agreements for repair and maintenance.

The HDOT determination of level of environmental documentation is project- and site-specific, based on potential environmental impacts. The repair and maintenance project area may appear extensive, but based on our judgement and experience, we will assess the significance of the potential impacts of the action to determine the level of environmental review necessary for the action (HAR §11-200.1-14 [a and c]). With respect to maintenance and repair projects, we respectfully do not agree that the action would likely be “automatically disqualified from exemption” even if it does extend many yards. The exemption of a project does not exempt that project from complying with other applicable statutes and rules according to HAR Section 11-200.1-15 (b).

To be responsive to your concerns, we reviewed recently approved exemption lists of other agencies for guidance. The few lists that mention shoreline protection did not describe thresholds. The HDOT appreciates the fact that we have more shoreline facilities and our projects are more visible to the public than most other agencies. Based on a review of past and programmed HDOT projects, we were able to identify reasonable thresholds for new shoreline protection.

We propose deletion of Type 3, Part 2 exemption: “Construct new shoreline protection systems such as revetment structures (e.g., sandbags, riprap), Kyowa bags and other accepted designs.”

C. Exemptions modified and/or added as result of January 4, 2022, Exemption Committee meeting:

- TYPE 1, PART 2.1. Use of new bridge scour countermeasure methods, excluding any hardening, as permitted by the U.S. Army Corps of Engineers, and any other permitting requirements, as applicable.
- TYPE 2, PART 2.C.1. Use of new bridge scour countermeasure methods, excluding any hardening, as permitted by the U.S. Army Corps of Engineers, and any other permitting requirements, as applicable.
- TYPE 3, PART 2.8. Construct new shoreline protection systems that are considered to be short-term to mid-term solutions, subject to the following thresholds:
 - a. Un-grouted Rock Revetment or Rip Rap extending less than 500 linear feet.
 - b. Other methods extending less than 2,000 linear feet, including, but not limited to the following:
 - i. Kyowa Bags
 - ii. Sandsaver
 - iii. Sandbags
 - iv. Elco-Rock
 - v. Eco-Concrete
 - vi. Living Shoreline (e.g., Sea Grass, Naupaka)
 - vii. Erosion Matting
- TYPE 3, PART 2.9. Use of new bridge scour countermeasure methods, excluding any hardening, as permitted by the U.S. Army Corps of Engineers, and any other permitting requirements, as applicable.

- TYPE 4, PART 2. Use of new bridge scour countermeasure methods, excluding any hardening, as permitted by the U.S. Army Corps of Engineers, and any other permitting requirements, as applicable.