

Comprehensive Exemption List for the State of Hawaii, Agribusiness Development Corporation

Revised and Renewed [insert concurrence date]

This State of Hawaii, Agribusiness Development Corporation (ADC) Comprehensive Exemption List, reviewed and concurred by the State of Hawaii, Environmental Advisory Council, revises and supersedes the May 1, 2018 exemption list for ADC.

Pursuant to Hawaii Administrative Rules (HAR) § 11-200.1-15, there are ten types of actions that shall generally be exempt from the preparation of an environmental assessment (EA). Pursuant to HAR § 11-200.1-15(d), 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 Comprehensive Exemption List of actions eligible for exemption is organized by the ten general types of actions (HAR § 11-200.1-15) and further classified within each type as one of the following:

Part 1: ADC deems the action as de minimis and exempts it from the preparation of an exemption notice in accordance with HAR § 11-200.1-16(b); and

Part 2: ADC exempts the action from the preparation of an EA and files an exemption notice in accordance with HAR § 11-200.1-16(c).

(exemption list begins on the following page)

EXEMPTION TYPE 1: Operations, repairs or maintenance of existing structures, facilities, equipment or topographical features, involving minor expansion or minor change of use beyond that previously existing.

Type 1, Part 1:

1. Removal of boulders, rocks, hazardous trees, marine debris, and other similar hazards necessary to maintain state lands and waters in a safe condition.
2. 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 painting 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 HVAC systems.
 - d. Maintenance of vegetations, including routine pruning, trimming, thinning, removal of unwanted plants (weeds, brush, and trees) that threaten to damage existing structures, facilities, and waterways.
 - e. Vector control using Environmental Protection Agency- and Hawaii Department of Agriculture-approved pesticides under the supervision of certified applicators, provided that treatment is limited to existing structures, facilities, or equipment.
3. Operation, repair, testing, and maintenance of vehicles that are accessory to the agricultural or aquacultural activities on site.
4. 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.

5. 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 and maintenance.
6. 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 and maintenance, feed storage, pond/tanks/enclosures, raceways, barns, hatchery, rearing and brood stock enclosures, and support structures.
7. 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).
8. Operation, repair, and maintenance of existing utility infrastructure, including but not limited to:
 - a. Irrigation, fire protection, potable water, storage, including: control or conveyance equipment, pumps and control, water meters, valves, pipes, intake boxes, gates, ditches, siphons, flumes, drains, aquaculture raceways, wet wells, dams, diversions, reservoir, and troughs.
 - b. Storm water conveyance and management equipment, including: pumps, valves, gates, pipes ditches, and culverts.
 - c. Electrical, electronic, or telemetering system, including: gauging stations, weather stations, power generating (i.e., hydroelectric solar, fuel powered emergency, wind) and power transmission systems and infrastructure.
9. Repair and maintenance of existing dam or reservoir structures and appurtenant features, including outlet work repair, gate replacement, ditch clearing, replacement of catwalk and access ways, spillway modifications to safely pass anticipated flood waters, and spillway reconstruction to mitigate possible failures
10. Repairs, operations, and maintenance of existing water storage (in addition to dams and reservoirs), control or conveyance infrastructure and facilities, including pumps and control, 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.

11. Vegetation clearing from streams, improved and unimproved drainage ditches, or swales. Work may involve removing and cutting debris, brush, grass, and trees.
12. Repair, operate, and maintain existing electrical infrastructure, including: hydro, solar, wind, and other renewable energy power generating, distribution and transmission systems, and related infrastructure.
13. 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 of existing facilities shall not be exempt.
14. Repair, operate, and maintain security, system control, and data acquisition (SCADA), measuring devices, communications equipment, safety equipment, and appurtenant structures.
15. Maintenance of water conveyance/irrigation systems by removing accumulated sediment.
16. Fire management activities, including prevention and restoration measures.
17. Minor alterations and repairs required to bring existing buildings, structure, facilities, and equipment into compliance with current building codes and applicable federal and state regulations (i.e., OSHA, building, fire, security, handicap accessibility, environmental compliance, etc.).
18. 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.

Type 1, Part 2:

1. 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 materials at approved landfill sites or the placement of sand on adjacent areas in accordance with Hawaii Revised Statutes (HRS) § 205A-44.
2. 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.

3. 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 the downstream waters, bays, or the environment.
4. Repair and maintenance of historic and archaeological sites to maintain the integrity of historic structures, archeological features and sites.

EXEMPTION TYPE 2: Replacement or reconstruction of existing structure 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.

Type 2, Part 1:

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 potable water, sewage, gas, telephone, and other essential utility services.
3. Clearing, grading, and grubbing, for which grading permits are not required, where required for such structures or facilities.
4. Removal and disposal of rubbish and debris from ADC lands and waters.
5. Removal of silt, debris, sand, and limu from above the high water mark, and from river and stream estuaries.

Type 2, Part 2:

1. Replacement or reconstruction of existing roads and road structures, including bridges and culverts build 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.).
2. 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 TYPE 3: Construction and location of single, new, small facilities or structures and the alteration and modification of the facilities or structures and installation of new, small equipment or facilities and the alteration and modification of the equipment or facilities, including but not limited to:

- A. Single-family residences less than 3,500 square feet, as measured by the controlling law under which the proposed action is being considered, if 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 individuals or fewer per structure, 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; accessory or appurtenant structures including garages, carports, patios, swimming pools, and fences; and acquisition of utility easements.

Type 3, Part 1:

- 1. 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.
- 2. Captive propagation methods in support of diversified agriculture that do not require a zoning variance.
- 3. Fences around or to manage plants, animals, and security of open areas.
- 4. 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.
- 5. Installation of automatic fish feeding devices in reservoirs, ponds, or other impoundments, rearing pens for cage culture of fishes and aquatic organisms.

6. 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.
7. Construction of irrigations systems: closed and open (i.e., ditches, pipeline, and flumes) and structures having less than 200 gpm.
8. Temporary construction staging areas/structures.
9. 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.
10. Construction of livestock fencing, enclosures, and feed/water troughs.
11. Construction of enclosures for security of equipment and vehicles within the agricultural processing and marshalling facilities.
12. Minor driveways or access roadways to be used only to service existing irrigation systems and ADC lands, and ADC processing and marshalling facilities.
13. Water catchment systems no larger than 20,000 gallons.
14. Alarm systems, camera systems, and similar surveillance items on state lands for security and safety purposes.
15. Construction of walls, fencing, or screens around buildings, structures, facilities, or equipment on ADC lands.
16. Rearing pens for cage culture of various freshwater, estuarine, and marine fishes, invertebrates, and other aquatic organisms.
17. Alteration of existing 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.
18. Installation of fencing and security gates on and around irrigation systems, reservoirs, access roads, and agricultural lands.

19. Hurricane or wind protection devices and other minor structural accessories that will facilitate resistance to damaging effects of natural hazards on state lands.
20. Placement of signs along irrigation systems, drainage systems, power systems, and ADC lands.

Type 3, Part 2:

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. Construction of drainage swales and structure and other similar surface runoff management techniques that would not require an NPDES permit from the State Department of Health, Clean Water Branch.
4. Conversion of open irrigation ditches to pressurized closed pipe irrigation water conveyance within existing ditches to improve water use efficiency and reduce erosion.
5. Renewable power structure 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.
6. 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.
7. Above-ground water or utility tanks for site use only. Spill containment should be provided when appropriate.

8. Construction or placement of utilities (i.e., telecommunications, electrical, drainage, waterlines, sewers, etc.) and related equipment (e.g., transformers, solar panels, hydropower equipment, poles, cables, wires, pipes, etc.) 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.
9. Construction or placement of lighting systems for streetlights, facility lighting, and security lighting, provided the lighting is shielded and does not adversely impact birds.
10. Placement or construction of accessory structures such as utility sheds, storage or maintenance sheds, office trailers, trash enclosures, comfort stations, or sanitation facilities.
11. Installation of erosion control materials and planting of erosion control vegetation along irrigation systems, reservoirs, access roads, and ADC lands.

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

Type 4, Part 1:

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 (e.g., bioretention areas and sediment basins).
5. Cleaning, grubbing, and dredging of drainage swales, ditches, sediment ponds, and facilities as routine maintenance and redisposing 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. Fire management activities, including prevention and restoration measures.
12. Removal and disposal of rubbish and debris from ADC lands and waters.
13. Removal of silt, debris, sand, and limu from above the high water mark, and from river and stream estuaries.

Type 4, Part 2:

1. 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.
2. Upon determination by the ADC that an emergency exists, emergency mitigation and restoration to prevent further damage from occurring and to restore the topographical features and biological resources.
3. Construction required to seal artesian wells which have been abandoned or are leaking as a positive means of preventing the loss of ground water supplies.
4. 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.
5. 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 operations and installation of these features.

EXEMPTION TYPE 5: Basic data collection, research, experimental management, and resources and infrastructure testing and evaluation activities that do not result in serious or major disturbance to an environmental resource.

Type 5, Part 1:

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 and monitoring.
5. Drainage studies.
6. Flood control studies.
7. Site inventories and site assessments.
8. Building evaluations and monitoring.
9. Economic analyses.
10. Archaeological surveys, including clearing of vegetation in direct association with site evaluation and mapping.
11. Air quality surveys and monitoring.
12. Water quality surveys and monitoring.
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 of 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. Measurement 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 data collection.
25. Construction or rehabilitation of groundwater monitoring stations in accordance with established state standards, install groundwater monitoring equipment, and collect data.
26. 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.
27. Installation of new, small ground water, surface water, or atmospheric monitoring and data collection equipment and structures that house or protect them.
28. Installation of electrical and telemetry systems to serve data collection equipment and structures that house or protect them.
29. Subsurface trenching or digging necessary to install scientific or geological data collection devices.

30. Conducting research, survey, or demonstrative projects relating to methodologies used in agriculture, aquaculture, processing, food safety, or post-harvesting treatment.
31. Chemical, biological, and nutritional research, under controlled laboratory conditions, to study soil types, water quality, the effects of supplements on improving propagation, invasive species, and disease resistance.

Type 5, Part 2:

1. 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.

EXEMPTION TYPE 6: Demolition of structures, except those structures that are listed on the national register or Hawaii Register of Historic Places.

Type 6, Part 1:

1. Demolition and removal of experimental devices or other equipment, when such devices or equipment are no longer used or needed.
2. 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

Type 6, Part 2:

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 provide 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 Type 8 does not preclude the need for County demolition approval and compliance with State solid waste management regulations for handling and disposal of regulated materials such as asbestos, lead-containing materials, polychlorinated biphenyls, etc.
2. Demolition of roadway paving and security fencing.
3. 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.

EXEMPTION TYPE 7: Zoning variances except shoreline setback variances

Type 7, Part 1:

1. Construction required to maintain existing utilities.
2. Normal removal and replacement of windows, doors, partitions, floors, ceiling, roof, and other building accessories due to wear and tear, and including repainting of structures. This exemption does not include procedures needed to handle lead paint, asbestos, or other toxic substances.

Type 7, Part 2:

1. Application for zoning variance for use of ADC lands disposed to private parties or to governmental agencies, except shoreline setback variances.
2. Construction required to upgrade existing facilities.
3. 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.
 - d. Reconfigurations of space and technological upgrades to increase efficiency, productivity, or safety
4. Expansion of utilities as need dictates in existing structures.

EXEMPTION TYPE 8: Continuing administrative activities

Type 8, Part 1:

1. Purchase of supplies, services, equipment, and motor vehicles to support existing operations.
2. Contracts for small purchase, professional services, competitive sealed proposals, competitive sealed bidding, or purchase of goods and services which are exempt from HRS 163D.
3. Requests for federal, state, county, or private assistance grants to support ongoing operations or implement the programs of 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 easements, 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 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.
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 and use of the land can only be exempt if it is properly exempt under another exemption type.

Type 8, Part 2:

1. None

EXEMPTION TYPE 9: Acquisition of land and existing structure, including single or multi-unit dwelling units, for the provision of affordable housing, involving no material change of use beyond previously existing uses, and for which the legislature has appropriated or otherwise authorized funding.

Type 9, Part 1:

1. Acquisition of real property and structures, by purchase, set aside, or other method, that are consistent with both the ADC mission and Chapter 163D, HRS.

Type 9, Part 2:

1. None

EXEMPTION TYPE 10: New construction of affordable housing, where affordable housing is defined by the controlling law applicable for the state or county proposing agency or approving agency, that meets the following:

- A. Has the use of state or county lands or funds or is within Waikiki as the sole triggers for compliance with chapter 343, HRS.
- B. As proposed conforms with the existing state urban land use classification.
- C. As proposed is consistent with the existing county zoning classification that allows housing.
- D. As proposed does not require variances for shoreline setbacks or siting in an environmentally sensitive area, as stated in section 11-200.1-13(b)(11)

Type 10, Part 1:

- 1. None

Type 10, Part 2:

- 1. None