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May 1, 2026

Via Email

Ms. Patricia Cadiz
Certified Coastal Practitioner, CZM
Maui, Hawai'i
Pbc5@mac.com

Re: Patricia Cadiz Comments on the Department of Land and Natural Resources' Proposed Exemption List

Aloha Ms. Cadiz,

Thank you for your comments on the Department of Land and Natural Resources' (DLNR) Proposed Exemption List. Your comments focused on *General Exemption Type 4, Part 1, Number 21* and *General Exemption Type 8, Part 1, Numbers 6-10*.

General Exemption Type 4, Part 1, Number 21: Currently, DLNR utilizes *General Exemption Type 1, Part 1, Number 44* to issue a variety of permits across various Divisions. This language is notably similar to the language proposed for *General Exemption Type 4, Part 1, Number 21* and *General Exemption Type 5, Part 1, Number 20*:

(Current DLNR Exemption List, rev. 11/10/20) General Exemption Type 1, Part 1, Number 44: "Permits, licenses, registrations, and rights-of-entry issued by the Department that are routine in nature, involving negligible impacts beyond that previously existing."

(Proposed Revisions, 2026) General Exemption Type 4, Part 1, Number 21: "Issue permits, licenses, registrations, and rights-of-entry that are routine in nature, involving negligible impacts beyond that previously existing and result in minor alterations in the conditions of land, water, or vegetation."

(Proposed Revisions, 2026) General Exemption Type 5, Part 1, Number 20: "Issue permits, licenses, registrations, and rights-of-entry that are routine in nature, involving negligible impacts beyond that previously existing and do not result in a serious or major disturbance to an environmental resource."

DLNR's intention to add the two proposed exemptions was to better differentiate between permits, licenses, registrations, and rights-of-entry by more closely reflecting the General Exemption Type in which they are categorized:

- 1) General 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;
- 2) General Exemption Type 4:** Minor alterations in the conditions of land, water, or vegetation; and
- 3) General Exemption Type 5:** Basic data collection, research, experimental management, and resource and infrastructure testing and evaluation activities that do not result in a serious or major disturbance to an environmental resource.

DLNR is not amenable to adding the clarifier of "non-extractive activities," as there are "extractive" activities, such as gathering for personal use, collection for traditional and customary Hawaiian practices, and research that DLNR believes fit the intent of HRS § 343-6(a)(2). Exemptions are only for activities that "probably have minimal or no significant effects on the environment" (HRS § 343-6(a)(2)), considered "individually or cumulatively" (HAR § 11-200.1-59(a)).

Additionally, in 2017 the Hawai'i Supreme Court concluded that commercial aquarium collection of an unlimited number of fish is an action under HEPA that is not exempt from the preparation of an environmental assessment. In 2021, the environmental impact statement for West Hawai'i commercial aquarium collection was accepted. After the HEPA environmental review process was completed, DLNR began the rulemaking process to begin issuing permits for West Hawai'i commercial aquarium collection. The proposed rules require that applicants demonstrate that they are a party of an approved environmental assessment with a finding of no significant impact or an accepted environmental impact statement. According to the 2017 Hawai'i Supreme Court ruling, applicants do not qualify for an exemption.

General Exemption Type 8, Part 1, Numbers 6-10: This change relocated five exemptions that were previously General Exemption Type 1, Part 1, Numbers 36-39 and 41; these exemptions are not newly created.

The Department may do one of these administrative actions to acquire a tract of land, subdivide a parcel, etc., so that the Department may gain the management authority to do an action. If the Department's proposed action is to plant native trees, which is on the exemption list, the Department would be able to proceed with this action with an exemption notification. It would not be logical to require an Environmental Assessment (EA) or Environmental Impact Statement (EIS) in this instance solely because this project involved the acquisition or subdivision of land. However, if the Department is gaining management authority to build a road, which is not on the exemption list, an EA or EIS would be required.

In other cases, the Department may gain management authority by acquiring or subdividing a parcel, without any planned actions for the parcel. Until the Department has a plan for an action that would affect the physical properties of the land, there is no meaningful environmental review that can occur.

The lack of tangible changes in the condition of the environment due to the proposed Exemptions No. 6-10 is the reason why these administrative actions are included on the exemption list. While these actions are defined by HAR § 11-200.1-8(a)(1) as a “use,” the Department has analyzed them alongside all the other types of uses and has recommended that these items be included on the exemption list. These exemption items were also included in previous versions of the DLNR’s Exemption List and have undergone multiple reviews by the Environmental Council. The justification provided for these exemption items is that they represent an administrative act, rather than a physical change in the condition of the environment. An environmental review (including potentially an EA or an EIS) would still be triggered once an actual activity was proposed for a specific parcel of land. To be consistent with the previous versions concurred by the Environmental Council, DLNR will delete these proposed changes, reverting them to the original categorizations found in the current Exemption List (rev. November 11, 2020).

DLNR values public participation for its projects. If you have any further concerns or would like to meet about this issue, please contact me at ryan.kp.kanakaole@hawaii.gov.

Sincerely,



Ryan Kanaka‘ole
Acting Chairperson
Department of Land and Natural Resources

cc:
Environmental Review Program (dbedt.opsd.erp@hawaii.gov)
Michele Lefebvre (michele.louise.lefebvre@gmail.com)

Attachment: Patricia Cadiz Email

From: [Patricia B Cadiz](#)
To: [DBEDT OPSD Environmental Review Program](#)
Subject: [EXTERNAL] Proposed Exemption List, Department of Land and Natural Resources (February 3, 2026)
Date: Thursday, March 26, 2026 1:02:57 PM

Aloha Chair Hegger-Nordblom, Vice Chair Stone, and Council members:

I respectfully urge the Environmental Advisory Council to reject Proposed General Exemption Type 4, Part 1, No. 21 or include language that would exclude extractive activities from exemption.

I further urge the Council to reject the Proposed General Exemption Type 8, Part 1, Nos. 6–10.

1. Proposed General Exemption Type 4, Part 1, No. 21

Issue permits, licenses, registrations, and rights-of-entry that are routine in nature, involving negligible impacts beyond that previously existing and result in minor alterations in the conditions of land, water, or vegetation.

As currently drafted, Proposed General Exemption Type 4, Part 1, No. 21 fails to distinguish between minor administrative renewals and the continuation of large-scale, extractive uses of public trust resources including commercial-scale aquarium collection which has a history of significantly harming natural and cultural resources.

In *Umberger*, the Hawai'i Supreme Court rejected the argument that repeated renewals of commercial licenses for aquarium fish collection were routine or exempt, concluding that the activity had potential significant environmental effects that required environmental review regardless of how long it had been occurring. Proposed Exemption Type 4, Part 1, No. 21 authorizes the very conduct the courts have condemned, treating the continuation of extractive activities as routine and exempt, without any examination of cumulative harm to public trust resources.

To comply with the law and prevent DLNR from repeating the conduct that the courts have already condemned, the proposed exemption must be narrowed to exclude extractive activities as follows:

Amended Proposed General Exemption Type 4, Part 1, No. 21

*Issue permits, licenses, registrations, and rights-of-entry that are routine in nature, involving **non-extractive activities** with negligible impacts beyond that previously existing and result in minor alterations in the conditions of land, water, or vegetation.*

2. Proposed New Exemptions for Continuing Administrative Activities – General Exemption Type 8, Part 1, Nos. 6–10.

- *Transfer of management authority over state-owned land, such as setting aside of state lands to or from other government agencies through a Governor's executive order.*
- Transfer of title to land.
- Acquisition of land or interests in land.
- Creation or termination of easement, covenants, or other rights in structures or land.
- Subdivision or consolidation of lots not previously subdivided.

The use of state land is an agency action that triggers environmental review. Because

Proposed General Exemption Type 8, Part 1, Nos. 6–9 seeks to exempt from HEPA the very uses explicitly identified in that provision, the exemption effectively and improperly attempts to rewrite that rule. A wholesale exemption of an entire trigger category is beyond DLNR's authority and should not be entertained. I respectfully urge the Environmental Advisory Council to reject Proposed General Exemption Type 4, Part 1, No. 21 and Proposed General Exemption Type 8, Part 1, Nos. 6–10.

Thank you for the opportunity to provide input.

Patricia Cadiz
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Maui, Hawaii