

**AMENDMENT NO. 1
TO
STATE LEVEL AGREEMENT
BETWEEN THE
UNITED STATES DEPARTMENT OF AGRICULTURE
NATURAL RESOURCES CONSERVATION SERVICE
AND THE
STATE OF HAWAII,
DEPARTMENT OF LAND AND NATURAL RESOURCES,
STATE HISTORIC PRESERVATION DIVISION**

Relative to: Conservation Assistance

THIS AMENDMENT NO. 1 is entered into as of the 23RD day of JUNE, 2009, between the United States Department of Agriculture (USDA), Natural Resources Conservation Service (NRCS), hereinafter called the NRCS and the State of Hawaii, Department of Land and Natural Resources, Historic Preservation Division, hereinafter called the SHPD.

WITNESSETH THAT:

WHEREAS, the parties hereto on February 8, 2007, entered into a State Level Agreement (SLA) for the purpose of implementing Stipulation 2.A. of the National Programmatic Agreement among the USDA Natural Resources Conservation Service (NRCS), Advisory Council on Historic Preservation (ACHP), and the National Conference of State Historic Preservation Officers (NCSHPO), relative to conservation assistance on private and public lands.

The SLA establishes compliance procedures to be followed by the NRCS in Hawaii to meet its obligations under Section 106 of the National Historic Preservation Act (NHPA) by implementing regulations to local conditions in Hawaii that could not be uniformly addressed at the national level, and to facilitate NRCS conservation assistance on private and public lands.

NOW, THEREFORE, the NRCS and the SHPD mutually agree that the State Level Agreement, is hereby amended follows:

The attached Appendices A, B, and C are revised to include the definitions for the three categories of conservation practices, as follows:

Appendix A, Conservation Practices Considered as Undertakings;

Appendix B, Conservation Practices Considered as Undertakings, Except When Non-Intrusive; and

Appendix C, Conservation Practices Exempt from Case-By-Case Review (Not Considered as Undertakings).

The Appendices are also revised to reflect changes in conservation practices including new practices, name changes, and movement from one Appendix to another. The revisions are shown in red italicized letters.

This Amendment 1 is effective upon the date of the final signature by both parties.

APPENDIX A

Hawaii State Level Agreement – Cultural Resources

Conservation Practices Considered as Undertakings

Some conservation practices have the potential to cause effects to cultural resources, assuming such resources are present, because the potential is high for disturbing the ground when installed according to standard NRCS criteria. Such practices are considered undertakings and cultural resource consideration and Section 106 compliance is required.

*The following conservation practices, as found in the NRCS Pacific Islands Area Field Office Technical Guide (FOTG), and in consultation with the State Historic Preservation Division, are **Considered as Undertakings** in the State of Hawaii:*

| Practice Name | Code | Practice name | Code |
|--|--------------|---|------------|
| Access Road | 560 | Pond | 378 |
| <i>Clearing and Snagging</i> | <i>326</i> | Precision Land Forming | 462 |
| Dam | 402 | Recreation Land Grading and Shaping | 566 |
| <i>Deep Tillage</i> | <i>324</i> | Recreation Trail and Walkway | 568 |
| Dike | 356 | Sediment Basin | 350 |
| Diversion | 362 | <i>Spring Development</i> | <i>647</i> |
| Firebreak | 394 | Streambank and Shoreline Protection | 580 |
| Forest Trails and Landings | 655 | Structure for Water Control | 587 |
| Grade Stabilization Structure | 410 | Surface Drainage, Field Ditch | 607 |
| Grassed Waterway | 412 | Surface Drainage, Main or Lateral | 608 |
| Irrigation Regulating Reservoir | 552 | Terrace | 600 |
| Irrigation Storage Reservoir | 436 | Tree/Shrub Site Preparation | 490 |
| Irrigation Water Conveyance, High Pressure, Underground, Plastic Pipeline | 430DD | Underground Outlet | 620 |
| <i>Irrigation Water Conveyance, Low Pressure, Underground, Plastic Pipeline</i> | <i>430EE</i> | Vertical Drain | 630 |
| Irrigation Water Conveyance, Steel Pipeline | 430FF | Waste Storage Facility, Fabricated Structure Pond | 313 |
| Land Clearing | 460 | Waste Treatment Lagoon | 359 |
| Land Smoothing | 466 | Water and Sediment Control Basin | 638 |
| Lined Waterway or Outlet | 468 | Wetland Creation | 658 |
| Open Channel | 582 | | |

APPENDIX B

Hawaii State Level Agreement – Cultural Resources

Conservation Practices Considered Undertakings Except When Non-Intrusive

Some conservation practices may cause effects to cultural resources (assuming such resources are present), unless they are installed under the following situations:

1. *The installation of the practice **will not exceed the depth, extent, or kind of previous cultivation(s); OR***
2. *If the land has not been previously cultivated, the installation of the practice **will result in no ground disturbance; AND***
3. *The practice **will not have any physical effects that could potentially alter a cultural resource** (e.g., the practice will not result in any water runoff or waste application).*

If these situations apply, no further cultural resource considerations or Section 106 compliance is required.

*The following conservation practices, as found in the NRCS Pacific Islands Area Field Office Technical Guide (FOTG), and in consultation with the State Historic Preservation Division, are **Considered Undertakings Except When Non-Intrusive** in the State of Hawaii:*

| Practice Name | Code | Practice Name | Code |
|---|------|---|------|
| <i>Access Control</i> | 472 | Pasture and Hay Planting | 512 |
| <i>Alley Cropping</i> | 311 | Pipeline | 516 |
| Animal Mortality Facility | 316 | Range Planting | 550 |
| Animal Trails and Walkways | 575 | Recreation Area Improvement | 562 |
| Brush Management | 314 | <i>Residue and Tillage Management, Mulch Till</i> | 345 |
| Channel Bank Vegetation | 322 | <i>Residue and Tillage Management, No Till/Strip Till/Direct Seed</i> | 329 |
| Composting Facility | 317 | <i>Residue and Tillage Management, Ridge Till</i> | 346 |
| Conservation Cover | 327 | Restoration and Management of Declining Habitats | 643 |
| Conservation Crop Rotation | 328 | Riparian Forest Buffer | 391 |
| Contour Farming | 330 | Riparian Herbaceous Cover | 390 |
| Contour Orchard and Other Fruit Area | 331 | <i>Rock Barrier</i> | 555 |
| Cover Crop | 340 | <i>Roof Runoff Structure</i> | 558 |
| Critical Area Planting | 342 | <i>Shallow Water Management and Development for Wildlife</i> | 646 |
| Cross Wind Trap Strips | 589C | Solid/Liquid Waste Separation Facility | 632 |
| Fence | 382 | Stream Crossing | 578 |
| Field Border | 386 | Stream Habitat Improvement and Management | 395 |
| Filter Strip | 393 | Stripcropping | 585 |
| <i>Forest Slash Treatment</i> | 384 | Tree/Shrub Establishment | 612 |
| <i>Forest Stand Improvement</i> | 666 | Tree/Shrub Pruning | 660 |
| Fuel Break | 383 | Vegetative Barrier | 601 |
| Grazing Land Mechanical Treatment | 548 | <i>Waste Facility Cover</i> | 367 |
| Heavy Use Area Protection | 561 | <i>Waste Transfer</i> | 634 |
| Hedgerow Planting | 422 | <i>Waste Treatment</i> | 629 |
| Herbaceous Wind Barriers | 603 | Waste Utilization | 633 |
| Hillside Ditch | 423 | <i>Water Harvesting Catchment</i> | 636 |
| Irrigation Land Leveling | 464 | Watering Facility | 614 |
| Irrigation System, Microirrigation | | <i>Wetland Enhancement</i> | 659 |
| Irrigation System, Sprinkler | 441 | Wetland Restoration | 657 |
| Irrigation System, Surface and Subsurface | 442 | Windbreak/Shelterbreak Establishment | 380 |
| <i>Multi-Story Cropping</i> | 443 | Windbreak/Shelterbreak Renovation | 650 |

APPENDIX C

Hawaii State Level Agreement – Cultural Resources

Conservation Practices Exempt from Case-By-Case Review *(Not Considered as Undertakings)*

Some conservation practices do not have the potential to cause effects to cultural resources, (assuming such resources are present). These are primarily management related and have a benign or beneficial effect on cultural resources. Such practices do not require cultural resources considerations or Section 106 compliance.

The following conservation practices, as found in the NRCS Pacific Islands Area Field Office Technical Guide (FOTG), and in consultation with the State Historic Preservation Division, are Exempt from Case-By-Case Review (Not Considered as Undertakings) in the State of Hawaii:

| Practice Name | Code |
|--|------------|
| Amendments for Treatment of Agricultural Waste | 591 |
| Atmospheric Resource Quality Management | 370 |
| Fishpond Management | 399 |
| Irrigation Water Management | 449 |
| Mulching | 484 |
| Nutrient Management | 590 |
| Pest Management | 595 |
| Pond Sealing or Lining, Compacted Clay Treatment | 521D |
| Pond Sealing or Lining, Flexible Membrane | 521A |
| Prescribed Grazing | 528 |
| Residue Management, Seasonal | 344 |
| <i>Row Arrangement</i> | <i>557</i> |
| Upland Wildlife Habitat Management | 645 |
| Wetland Wildlife Habitat Management | 644 |

