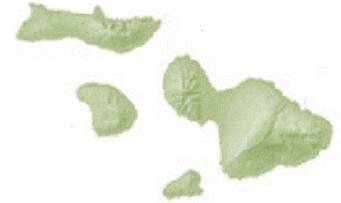


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November 21, 2025

Shane Sinenci, Chair
and Members of the Water Authority,
Social Services, and Parks Committee
County of Maui
200 South High Street
Wailuku, Hawai'i 96793

Re: Penalties for Prohibited Noise Violations (WASSP-9)

Dear Chair Sinenci:

This is in response to your request of October 24, 2025, for a legal opinion on whether Chapter 11-46 of the Hawaii Administrative Rules, and Sections 291-24 and 291-24.5 of the Hawaii Revised Statutes, preempt Sections 9.36.030, 9.36.040 and 10.20.440 of Maui County Code.

HRS § 46-17 provides that “[a]ny provision of law to the contrary notwithstanding, the council of any county may adopt and provide for the enforcement of ordinances regulating or prohibiting noise ... No such ordinance shall be held invalid on the ground that it covers any subject or matter embraced within any statute or rule of the State; provided that in any case of conflict between a statute or rule and an ordinance, the law affording the most protection to the public shall apply ...” Haw. Rev. Stat. § 46-17 (2024).

HRS §§ 291-24 and 291-24.5 and Section 10.20.440, Maui County Code, specifically deal with mufflers including penalties for having modified mufflers that emit excessive noise. The penalty for violating this section are monetary fines only for the statute and a misdemeanor for the code. The maximum penalty for a misdemeanor offense is one year in jail or \$2000 in fines, or both. (HRS §§ 701-107(3), 706-663, 706-640(d)). Pursuant to HRS § 46-17, since the Maui County Code offers more protection for the public by having a higher penalty, the ordinance should apply.

Shane Sinenci, Chair

and Members of the Water Authority, Social Services, and Parks Committee
County of Maui

November 21, 2025

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The subject matter of HAR 11-46 differs from the above statutes and ordinances because the focus is on excessive noise from stationary noise sources and equipment related to agricultural, construction, and industrial activities. Thus, while HAR 11-46 address mufflers within the chapter, in HAR 11-45-6 the primary targets are construction vehicles, equipment, or mufflers. This section defines “excessive noise” and sets out a process where the director of the State Department of Health can establish its measurement. HAR 11-46-13 also gives county councils the power to adopt ordinances “regulating any matter relating to excessive noise.” Haw. Code § 11-46-13 (1996). HAR § 11-46, like HRS § 46-17, provides that “in any case of conflict between the statute or rule and ordinance, the law which affords the most protection to the public shall apply.” Id.

In contrast, Maui County Code Sections 9.26.030 and 9.26.040 specifically deal with noise control of “sound amplifications systems” in vehicles. None of the prior mentioned statutes, rules, or ordinances govern sound amplifications systems, so no analysis needs to be done on whether there are any conflicts with this section and HRS or HAR, and these sections of the code can be applied as is.

Should you have any further questions please do not hesitate to contact me.

Sincerely,



YUKARI MURAKAMI
Deputy Corporation Counsel

WASSP Committee

From: Yukari Murakami <Yukari.Murakami@co.maui.hi.us>
Sent: Friday, November 21, 2025 3:29 PM
To: WASSP Committee; Clarissa L. MacDonald; Megan K. Moniz
Cc: Candace H. Stahl
Subject: Re: WASSP-9: Penalties for Prohibited Noise Violations (2025-0170)
Attachments: 2025-11-21 YM Ltr to Sinensi re muffler ordinance WASSP-9.pdf

Please see attached response to your request for legal opinion dated 10/24/25.

Thank you,
Yukari

**** Department of Corporation Counsel emails may contain attorney-client privileged information and should not be forwarded without approval.**

Yukari Murakami
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