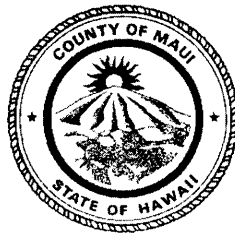


MICHAEL P. VICTORINO  
Mayor

MOANA M. LUTEY  
Acting Corporation Counsel

EDWARD S. KUSHI, JR.  
First Deputy

LYDIA A. TODA  
Risk Management Officer



2019 SEP 25 PM 2:19

DEPARTMENT OF THE CORPORATION COUNSEL  
COUNTY OF MAUI

200 SOUTH HIGH STREET, 3<sup>RD</sup> FLOOR

WAILUKU, MAUI, HAWAII 96793

EMAIL: CORPCOUN@MAUICOUNTY.GOV

TELEPHONE: (808) 270-7740

FACSIMILE: (808) 270-7152

September 25, 2019

T O: Mike Molina, Chair  
Governance, Ethics, and Transparency Committee

F R O M: Richelle M. Thomson, Deputy Corporation Counsel

RE: **GET-1 Litigation Matters:**

A BILL FOR AN ORDINANCE AUTHORIZING THE MAYOR OF THE COUNTY OF MAUI TO ENTER INTO INTERGOVERNMENTAL AGREEMENTS WITH THE STATE OF HAWAII, DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS, HAWAII OCCUPATIONAL SAFETY AND HEALTH DIVISION, FOR THE SETTLEMENT OF ALLEGED VIOLATIONS AT THE KAHULUI, KIHEI, AND LAHAINA WASTEWATER RECLAMATION FACILITIES

Our Department respectfully requests the opportunity discuss possible settlement options of the above-referenced matter. We would like to have the matter heard as soon as possible, as this matter is time-sensitive.

It is anticipated that an executive session may be necessary to discuss questions and issues pertaining to the powers, duties, privileges, immunities, and liabilities of the County, the Council, and the Committee.

Our Department would also like to request that a representative of the Department of Environmental Management be present at the meeting to answer any questions that may arise.

Thank you for your anticipated assistance in this matter.

ORDINANCE NO. \_\_\_\_\_

BILL NO. \_\_\_\_\_ (2019)

A BILL FOR AN ORDINANCE AUTHORIZING THE MAYOR OF THE COUNTY OF MAUI TO ENTER INTO INTERGOVERNMENTAL AGREEMENTS WITH THE STATE OF HAWAII, DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS, HAWAII OCCUPATIONAL SAFETY AND HEALTH DIVISION, FOR THE SETTLEMENT OF ALLEGED VIOLATIONS AT THE KAHULUI, KIHEI, AND LAHAINA WASTEWATER RECLAMATION FACILITIES

BE IT ORDAINED BY THE PEOPLE OF THE COUNTY OF MAUI:

SECTION 1. Purpose. The State of Hawaii, Department of Labor and Industrial Relations, Hawaii Occupational Safety and Health Division (“HIOSH”), alleged violations of the Hawaii Occupational Safety and Health Standards at the Kahului Wastewater Reclamation Facility, Kihei Wastewater Reclamation Facility, and Lahaina Wastewater Reclamation Facility regarding the handling and recordkeeping of chlorine gas, during inspections held in August 2018 (“Alleged Violations”), as described in the respective Citation(s) and Notification of Penalty, attached hereto as Exhibits 1 through 3.

The County and HIOSH, to avoid incurring expenses and the uncertainty of an administrative and judicial determination of the parties’ respective rights and liabilities, will attempt to reach a resolution of the Alleged Violations by way of negotiated settlements, the terms, conditions, ramifications, and consequences of which will be discussed in a duly called executive meeting before the Governance, Ethics, and Transparency Committee.

Section 2.20.020, Maui County Code, provides that, unless authorized by ordinance, the Mayor shall not enter into any intergovernmental agreement or any amendment thereto which places a financial obligation upon the county or

any department or agency thereof.

Section 3.16.020(B), Maui County Code, provides that any settlement in excess of \$7,500 shall require Council authorization. The Department of the Corporation Counsel has requested authority to settle the Alleged Violations under the terms presented in executive session as described above.

SECTION 2. Authorization. The Council hereby approves settlement of the Alleged Violations under the terms set forth in an executive meeting before the Governance, Ethics, and Transparency Committee. The Council hereby authorizes the Mayor to execute agreements reflecting those terms, all other necessary documents relating to the agreements, and any amendments thereto as may be imposed, and agreed to, by the Corporation Counsel. The Council further authorizes the Director of Finance to satisfy said settlement in these matters.

SECTION 3. Effective date. This ordinance shall take effect upon its approval.

APPROVED AS TO FORM  
AND LEGALITY:



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RICHELLE M. THOMSON  
Deputy Corporation Counsel  
County of Maui  
LIT-5990, LIT-5995, LIT-5996  
LF2019-0309

## State of Hawaii

Department of Labor and Industrial Relations  
HAWAII OCCUPATIONAL SAFETY AND HEALTH DIVISION  
830 PUNCHBOWL STREET, ROOM 423  
HONOLULU, HI 96813  
Phone: (808) 586-9090 Fax: (808) 586-9104



Certified Mail Number: 7017 3380 0000 0980 0529

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## Citation and Notification of Penalty

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<b>To:</b> County of Maui Dept. of Environmental Management Kahului WWRF and its successors 2200 Main Street #610 Wailuku, HI 96793	<b>Inspection Number:</b> 1342032 <b>Inspection Date(s):</b> 08/20/2018-10/17/2018 <b>Issuance Date:</b> 02/14/2019
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**Inspection Site:**  
281 Amala Place  
Kahului, HI 96732

*The violation(s) described in this Citation and Notification of Penalty is (are) alleged to have occurred on or about the day(s) the inspection was made unless otherwise indicated within the description given below.*

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This Citation and Notification of Penalty describes violations of the Hawaii Occupational Safety and Health (HIOSH) Law. The penalty listed herein is based on these violations. You must abate the violations referred to in this Citation by the dates listed and pay the penalties, unless within 20 calendar days from your receipt of this Citation and Notification of Penalty, you file a contest in the manner described in the section "Employer's Right to Contest" on page 2 of this Citation and Notification of Penalty. Please refer to the enclosed booklet (Employer Rights and Responsibilities Following a HIOSH Inspection) which outlines your rights and responsibilities and which should be read in conjunction with this Citation. Issuance of this Citation does not constitute a finding that a violation of the Law has occurred unless there is a failure to contest as allowed by Law or, if contested, the Citation is affirmed by the Hawaii Labor Relations Board (HLRB) or a court.

**Posting** - The law requires that a copy of this Citation and Notification of Penalty be posted immediately in a prominent place at or near the location of the violation(s) cited herein, or, if it is not practicable because of the nature of the employer's operations, where it will be readily observable by all affected employees. This Citation must remain posted until the violation(s) cited herein has (have) been abated, or for 3 working days (excluding weekends and State holidays), whichever is longer.

**Informal Conference** - An informal conference is not required. However, if you wish to have such a conference you may request one with the HIOSH Administrator during the 20 calendar day contest period. During such an informal conference, you may present any evidence or views which you believe would support an adjustment to the citation(s) and/or penalty. If you are considering a request for an informal conference to discuss any issues related to this Citation and Notification of Penalty, you must schedule it early enough to

allow time to contest after the informal conference, should you decide to do so. Please keep in mind that a written letter of intent to contest must be submitted to the Administrator within 20 calendar days of your receipt of this Citation. The running of this contest period is not interrupted by an informal conference.

If you decide to request an informal conference, please complete, remove and post the page 5, Notice to Employees, next to this Citation and Notification of Penalty as soon as the time, date, and place of the informal conference have been determined. Be sure to bring to the conference any and all supporting documentation of existing conditions as well as any abatement steps taken thus far. If conditions warrant, we can enter into an informal settlement agreement which amicably resolves this matter without litigation or contest.

**Employers' Right to Contest** - You have the right to contest this Citation and Notification of Penalty. You may also contest all citation items or only individual items. You may also contest the penalty and/or abatement dates without contesting the underlying violations. To contest you must submit a signed original letter of contest to the Administrator which must be postmarked or, if not mailed, received by the Administrator within 20 calendar days after you receive this Citation and Notification of Penalty. The letter of contest must be a signed original and may not be submitted by facsimile or e-mail. Address your letter of contest to the State of Hawaii Occupational Safety and Health Division at the address shown on the top of page 1 of this Citation and Notification of Penalty. Once a letter of contest is received, it becomes the jurisdiction of the HLRB. If a timely contest is not filed, the Citation and Notification of Penalty will become a final order of the Department of Labor and Industrial Relations and may not be reviewed by any court or agency.

**Penalty Payment** - Penalties are due within 20 calendar days of receipt of this notification unless contested. Make your check or money order payable to "Director of Budget and Finance." Please indicate the Inspection Number found on the front page on the remittance. HIOSH does not agree to any restrictions or conditions or endorsements put on any check or money order for less than the full amount due, and will cash the check or money order as if these restrictions, conditions, or endorsements do not exist.

**Notification of Corrective Action** - For each violation which you do not contest, you are required by Section 12-51-22 to submit an Abatement Certification to HIOSH. The certification must be sent by you within 5 calendar days of the abatement date indicated on the Citation. For Willful and Repeat violations, documents (examples: photos, copies of receipts, training records, etc.) demonstrating that abatement is complete must accompany the certification. Where the Citation is classified as Serious and the Citation states that abatement documentation is required, documents such as those described above are required to be submitted along with the abatement certificate. If the Citation indicates that the violation was corrected during the inspection, no abatement certification is required for that item.

**All abatement verification documents must contain the following information:** 1) Your name and address; 2) the inspection number (found on the front page); 3) the citation and citation item number(s) to which the submission relates; 4) a statement that the information is accurate; 5) the signature of the employer or employer's authorized representative; 6) the date the hazard was corrected; 7) a brief statement of how the hazard was corrected; and 8) a statement that affected employees and their representatives have been informed of the abatement. The law also requires a copy of all abatement verification documents, required by Section 12-51-22 to be sent to HIOSH, also be posted at the location where the violation appeared and the corrective action took place.

**Employer Discrimination Unlawful** - The law prohibits discrimination by an employer against an employee for filing a complaint or for exercising any rights under this Act. An employee who believes that he/she has been discriminated against may file a complaint no later than 60 days after the discrimination occurred with the Hawaii Occupational Safety and Health Division at the address shown on the top of page 1 of this Citation and Notification of Penalty.

**Employer Rights and Responsibilities** - The enclosed booklet (Employer Rights and Responsibilities Following a HIOSH Inspection) outlines additional employer rights and responsibilities and should be read in conjunction with this notification.

**Employees' Right to Contest** - The law gives an employee or his/her representative the opportunity to object to any abatement date set for a violation if he/she believes the date to be unreasonable. The signed original contest must be mailed to the Hawaii Occupational Safety and Health Division at the address shown on the top of page 1 of this Citation and Notification of Penalty and postmarked within 20 calendar days of the receipt by the employer of this Citation and Notification of Penalty.

**Inspection Activity Data** - You should be aware that OSHA publishes information on inspection and citation activity on the Internet under the provisions of the Electronic Freedom of Information Act. The information related to your inspection will be available 30 calendar days after the Citation Issuance Date. You are encouraged to review the information concerning your establishment at [WWW.OSHA.GOV](http://WWW.OSHA.GOV). If you have any dispute with the accuracy of the information displayed, please contact this office.

# ABATEMENT CERTIFICATION

**Company Name:** County of Maui Dept. of Environmental Management  
Kahului WWRF

**Inspection Number:** 1342032

**Inspection Site:** 281 Amala Place, Kahului, HI 96732

**Issuance Date:** 02/14/2019

List the specific method of correction for each citation item and supporting documentation as appropriate in this **Citation and Notification of Penalty** that does not state "Corrected" and return to: **Department of Labor and Industrial Relations - Hawaii Occupational Safety and Health Division, 830 Punchbowl Street, Room 423, Honolulu, HI 96813.**

Citation \_\_\_\_\_ and Item \_\_\_\_\_ was corrected on \_\_\_\_\_  
How corrected: \_\_\_\_\_

Citation \_\_\_\_\_ and Item \_\_\_\_\_ was corrected on \_\_\_\_\_  
How corrected: \_\_\_\_\_

Citation \_\_\_\_\_ and Item \_\_\_\_\_ was corrected on \_\_\_\_\_  
How corrected: \_\_\_\_\_

Citation \_\_\_\_\_ and Item \_\_\_\_\_ was corrected on \_\_\_\_\_  
How corrected: \_\_\_\_\_

Citation \_\_\_\_\_ and Item \_\_\_\_\_ was corrected on \_\_\_\_\_  
How corrected: \_\_\_\_\_

Citation \_\_\_\_\_ and Item \_\_\_\_\_ was corrected on \_\_\_\_\_  
How corrected: \_\_\_\_\_

Citation \_\_\_\_\_ and Item \_\_\_\_\_ was corrected on \_\_\_\_\_  
How corrected: \_\_\_\_\_

I attest that the information contained in this document is accurate and that the affected employees and their representative(s) have been informed of the abatement activities mentioned above and of their right to examine and copy this and all other abatement documents submitted to HIOSH.

\_\_\_\_\_  
Signature of the Employer or  
Employer's Authorized Representative

\_\_\_\_\_  
Date

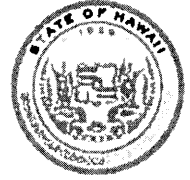
\_\_\_\_\_  
Typed or Printed Name

\_\_\_\_\_  
Title

**Posting:** For posting requirements please refer to Chapter 12-51, Hawaii Administrative Rules.

**State of Hawaii**

Department of Labor and Industrial Relations  
Hawaii Occupational Safety and Health Division



## **NOTICE TO EMPLOYEES OF INFORMAL CONFERENCE**

An informal conference has been scheduled with the Hawaii Occupational Safety and Health Division (HIOSH) to discuss the Citation and Notification of Penalty issued on 02/14/2019.

The informal conference will be at the HIOSH office located at:

830 PUNCHBOWL STREET  
ROOM 423  
HONOLULU, HI 96813

on \_\_\_\_\_ at \_\_\_\_\_. Employees and/or representatives of employees  
have a right to attend an informal conference.



**State of Hawaii**

Department of Labor and Industrial Relations  
Hawaii Occupational Safety and Health Division

Inspection Number: 1342032  
Inspection Date(s): 08/20/2018-10/17/2018  
Issuance Date: 02/14/2019

**Citation and Notification of Penalty**

**Company Name:** County of Maui Dept. of Environmental Management Kahului WWRF  
**Inspection Site:** 281 Amala Place, Kahului, HI 96732

The alleged violations below (1a – 1d) have been grouped because they involve similar or related hazards that may increase the potential for illness and injury.

**Citation 1 Item 1a      Type of Violation: **Serious****

29 CFR 1910.119(e)(2)[Refer to 12-60-50(a), HAR]: The employer shall use one or more of the following methodologies that are appropriate to determine and evaluate the hazards of the process being analyzed. What-If; Checklist; What-If/Checklist; Hazard and Operability Study (HAZOP); Failure Mode and Effects Analysis (FMEA); Fault Tree Analysis; or An appropriate equivalent methodology.

Kahului Plant - - The employer did not use one or more of the following methodologies that are appropriate to determine and evaluate the hazards of the process. What-If; Checklist; What-If/Checklist; Hazard and Operability Study (HAZOP); Failure Mode and Effects Analysis (FMEA); Fault Tree Analysis; or An appropriate equivalent methodology. The employer submitted their most recent RMP on March 9, 2015. The RMP indicated the process to be a Level 3 process under the EPA guidelines and that the last PHA was completed on June 1, 2014 using a what-if technique. A review of the documents submitted contained no RMP in checklist format (40 CFR PART 68) and the checklist submitted was dated June 2001 for the Kihei Plant.

**Date by Which Violation Must Be Abated:**  
**Penalty:**

**Corrected**  
**\$5,070.00**

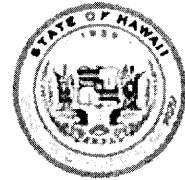
**Citation 1 Item 1b      Type of Violation: **Serious****

29 CFR 1910.119(e)(3)(vii)[Refer to 12-60-50(a), HAR]: The process hazard analysis shall address: A qualitative evaluation of a range of the possible safety and health effects of failure of controls on employees in the workplace.

Kahului Plant - - The employers process hazard analysis on their chlorination process did not address consequences of failure for engineering and administrative controls, facility siting, human factors and identification of any incident that had a likely potential for catastrophic release. On or about August 21, 2018, the plant had in storage and connected for use over 1500 lbs of chlorine. The last known Risk Management Protocol was submitted on March 9, 2015. This RMP did not contain an evaluation of failure for scrubber and piping outside of the chlorine room. There was also no evaluation of Operator error related to the change out of cylinders from the dock area.

**Date by Which Violation Must Be Abated:**  
**Penalty:**

**Corrected**  
**\$0.00**



## **Citation and Notification of Penalty**

**Company Name:** County of Maui Dept. of Environmental Management Kahului WWRF  
**Inspection Site:** 281 Amala Place, Kahului, HI 96732

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### **Citation 1 Item 1c**      Type of Violation: **Serious**

29 CFR 1910.119(e)(4)[Refer to 12-60-50(a), HAR]: The process hazard analysis shall be performed by a team with expertise in engineering and process operations, and the team shall include at least one employee who has experience and knowledge specific to the process being evaluated. Also, one member of the team must be knowledgeable in the specific process hazard analysis methodology being used.

Kahului Plant - - The employers process hazard analysis and RMP dated March 9, 2015 and June 2014 respectively, was not conducted by a team with expertise in engineering and process operations. No documents were provided to ensure that the process hazard analysis and RMP included members from operations and maintenance departments.

**Date by Which Violation Must Be Abated:**  
**Penalty:**

**Corrected**  
**\$0.00**

### **Citation 1 Item 1d**      Type of Violation: **Serious**

29 CFR 1910.119(e)(7)[Refer to 12-60-50(a), HAR]: Employers shall retain process hazards analyses and updates or revalidations for each process covered by this section, as well as the documented resolution of recommendations described in paragraph (e)(5) of this section for the life of the process.

Kahului Plant - - The employer did not retain the process hazard analysis indicated in their 2015 RMP submittal. This PHA was completed on June 1, 2014 however no records were provided. Employer indicated that they are submitting an RMP in lieu of the PHA, however a review of the RMP did not contain the requisite information necessary pursuant to 29 CFR 1910.119(e)(2).

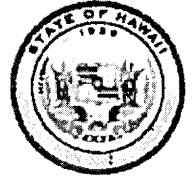
**Date by Which Violation Must Be Abated:**  
**Penalty:**

**Corrected**  
**\$0.00**

**State of Hawaii.**

Department of Labor and Industrial Relations  
Hawaii Occupational Safety and Health Division

Inspection Number: 1342032  
Inspection Date(s): 08/20/2018-10/17/2018  
Issuance Date: 02/14/2019

**Citation and Notification of Penalty**

**Company Name:** County of Maui Dept. of Environmental Management Kahului WWRF  
**Inspection Site:** 281 Amala Place, Kahului, HI 96732

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**Citation 1 Item 2      Type of Violation: **Serious****

29 CFR 1910.119(f)(3)[Refer to 12-60-50(a), HAR]: The operating procedures shall be reviewed as often as necessary to assure that they reflect current operating practice, including changes that result from changes in process chemicals, technology, and equipment, and changes to facilities. The employer shall certify annually that these operating procedures are current and accurate.

Kahului Plant - - The employer did not certify annually that the operating procedures were current and accurate. On or about August 21, 2018, written procedures were listed in the operations manual and also in certain Department documents. The employer also stated in their document submittal that no annual certification of the chlorine SOP was done because there have been no changes to the standard operating procedures. The following changes in equipment, procedures and the process should have resulted in a change in written procedures: Installation of emergency stop button from a safe location for the Scrubber unit; Removal of the switchover valves for the chlorine tanks.

**Date by Which Violation Must Be Abated:**  
**Penalty:**

**Corrected**  
**\$5,070.00**

**Citation 1 Item 3      Type of Violation: **Serious****

29 CFR 1910.119(g)(3)[Refer to 12-60-50(a), HAR]: Training documentation. The employer shall ascertain that each employee involved in operating a process has received and understood the training required by this paragraph. The employer shall prepare a record which contains the identity of the employee, the date of training, and the means used to verify that the employee understood the training.

Kahului Plant - - The employer did not ascertain that each employee involved in operating a process received and understood the training required by this paragraph. The employer did not prepare a record which contains the identity of the employee, the date of training, and the means used to verify that the employee understood the training. On or about August 21, 2018 and times thereto, Operators interviewed did not recall receiving specific training on changes to the process that would fall under a management of change and a pre-startup safety review.

**Date by Which Violation Must Be Abated:**  
**Penalty:**

**Corrected**  
**\$5,070.00**

**State of Hawaii**

Department of Labor and Industrial Relations  
Hawaii Occupational Safety and Health Division

Inspection Number: 1342032  
Inspection Date(s): 08/20/2018-10/17/2018  
Issuance Date: 02/14/2019

**Citation and Notification of Penalty**

**Company Name:** County of Maui Dept. of Environmental Management Kahului WWRF  
**Inspection Site:** 281 Amala Place, Kahului, HI 96732

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**Citation 1 Item 4      Type of Violation: **Serious****

29 CFR 1910.119(i)(2)[Refer to 12-60-50(a), HAR]: The pre-startup safety review shall confirm that prior to the introduction of highly hazardous chemicals to a process: Construction and equipment is in accordance with design specifications; Safety, operating, maintenance, and emergency procedures are in place and are adequate; For new facilities, a process hazard analysis has been performed and recommendations have been resolved or implemented before startup; and modified facilities meet the requirements contained in management of change, paragraph (l). Training of each employee involved in operating a process has been completed.

Kahului Plant - - The employer did not ensure pre-start safety review procedures were conducted. Specifically, training was not conducted and documented for employees when changes to the process including but not limited to the removal of the switchover valves off the one ton chlorine tanks and the installation of an emergency stop mechanism for the scrubber system.

**Date by Which Violation Must Be Abated:**  
**Penalty:**

**Corrected**  
**\$5,070.00**

**State of Hawaii**

Department of Labor and Industrial Relations  
Hawaii Occupational Safety and Health Division

Inspection Number: 1342032  
Inspection Date(s): 08/20/2018-10/17/2018  
Issuance Date: 02/14/2019

**Citation and Notification of Penalty**

**Company Name:** County of Maui Dept. of Environmental Management Kahului WWRF  
**Inspection Site:** 281 Amala Place, Kahului, HI 96732

**Citation 1 Item 5      Type of Violation: **Serious****

29 CFR 1910.119(j)(6)(ii)[Refer to 12-60-50(a), HAR]: Appropriate checks and inspections shall be performed to assure that equipment is installed properly and consistent with design specifications and the manufacturer's instructions.

Kahului Plant - Appropriate checks and inspections were not performed within the frequency determined by the employer. On or about August 21, 2018, the following deficiencies (current inspections) include but not limited to the following equipment was found:

Kahului Mixing Area, Chlorine Leak Detector, monthly inspection. Last performed on August 9, 2017.  
Vacuum Regulators (#1-4), 6/12 month inspection. Last performed March 26, 2017 and April 24, 2017.  
Scrubber Annual Check. Last performed on August 28, 2015.  
Scrubber Pump Drive Annual Check. February 22, 2017.

The employer has not documented a reason for why process related equipment did not receive the checks/inspections as scheduled in the CMSS system. No information provided if equipment scheduling was following the employers own risk based scheduling system in lieu of the CMSS scheduling per the manufacturers recommendations.

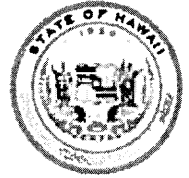
**Date by Which Violation Must Be Abated:**  
**Penalty:**

**Corrected**  
**\$5,070.00**

**State of Hawaii**

Department of Labor and Industrial Relations  
Hawaii Occupational Safety and Health Division

Inspection Number: 1342032  
Inspection Date(s): 08/20/2018-10/17/2018  
Issuance Date: 02/14/2019

**Citation and Notification of Penalty**

**Company Name:** County of Maui Dept. of Environmental Management Kahului WWRF  
**Inspection Site:** 281 Amala Place, Kahului, HI 96732

The alleged violations below (6a – 6c) have been grouped because they involve similar or related hazards that may increase the potential for illness and injury.

Citation 1 Item 6a      Type of Violation: **Serious**

29 CFR 1910.119(l)(1)[Refer to 12-60-50(a), HAR]: The employer shall establish and implement written procedures to manage changes (except for "replacements in kind") to process chemicals, technology, equipment, and procedures; and, changes to facilities that affect a covered process.

Kahului Plant -- The employer did not establish and implement written procedures to manage changes to process chemicals, technology, equipment, and procedures; and, changes to facilities that affect a covered process. Changes including but not limited to the following were implemented by the employer without an evaluation and documentation of potential impacts on employee safety and health.

The employer did not account for the removal of the switchover unit in the chlorine building.  
The employer did not account for the addition of an emergency stop button at a different location.  
The employer normally has (2) one ton cylinders in place for the disinfection process. The employer increased this amount sometime in 2017 via a memorandum with another department.

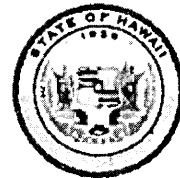
**Date by Which Violation Must Be Abated:**  
**Penalty:**

**Corrected**  
**\$5,070.00**

**State of Hawaii**

Department of Labor and Industrial Relations  
Hawaii Occupational Safety and Health Division

Inspection Number: 1342032  
Inspection Date(s): 08/20/2018-10/17/2018  
Issuance Date: 02/14/2019

**Citation and Notification of Penalty**

**Company Name:** County of Maui Dept. of Environmental Management Kahului WWRF  
**Inspection Site:** 281 Amala Place, Kahului, HI 96732

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**Citation 1 Item 6b      Type of Violation: **Serious****

29 CFR 1910.119(l)(4)[Refer to 12-60-50(a), HAR]: If a change covered by this paragraph results in a change in the process safety information required by paragraph (d) of this section, such information shall be updated accordingly.

Kahului Plant - - The employer did not establish and implement written procedures to manage changes to process chemicals, technology, equipment, and procedures; and, changes to facilities that affect a covered process. The following changes that required a management of change include but were not limited to:

Installation of an emergency stop button was installed thus changing the process safety information and operating procedures.

Removal of the switchover valve on the chlorine cylinders, thus changing operating procedures.

Increase in chlorine inventory per memorandum with another Department.

**Date by Which Violation Must Be Abated:**

**Penalty:**

**Corrected**

**\$0.00**

**Citation 1 Item 6c      Type of Violation: **Serious****

29 CFR 1910.119(l)(5)[Refer to 12-60-50(a), HAR]: If a change covered by this paragraph results in a change in the operating procedures or practices required by paragraph (f) of this section, such procedures or practices shall be updated accordingly.

Kahului Plant - - The employer did not establish and implement written procedures to manage changes to process chemicals, technology, equipment, and procedures; and, changes to facilities that affect a covered process. The following changes that required a management of change include but were not limited to:

Installation of an emergency stop button was installed thus changing the process safety information and operating procedures.

Removal of the switchover valve on the chlorine cylinders, thus changing operating procedures.

**Date by Which Violation Must Be Abated:**

**Penalty:**

**Corrected**

**\$0.00**



## Citation and Notification of Penalty

**Company Name:** County of Maui Dept. of Environmental Management Kahului WWRF  
**Inspection Site:** 281 Amala Place, Kahului, HI 96732

The alleged violations below (7a – 7b) have been grouped because they involve similar or related hazards that may increase the potential for illness and injury.

### Citation 1 Item 7a      Type of Violation: **Serious**

29 CFR 1910.119(n)[Refer to 12-60-50(a), HAR]: Emergency planning and response. The employer shall establish and implement an emergency action plan for the entire plant in accordance with the provisions of 29 CFR 1910.38. In addition, the emergency action plan shall include procedures for handling small releases. Employers covered under this standard may also be subject to the hazardous waste and emergency response provisions contained in 29 CFR 1910.120 (a), (p) and (q).

Kahului Plant - - The employers emergency action plan was not implemented pursuant to the provisions of 29 CFR 1910.38 and 29 CFR 1910.120 (a), (p) and (q). The employer had documented in the annual log changes between 2013 to 2016. Employees affected by these changes were not apprised or trained in the changes. The employer also did not annually review their emergency action plan. The employer also did not conduct annual drills.

**Date by Which Violation Must Be Abated:**  
**Penalty:**

**Corrected**  
**\$5,070.00**

### Citation 1 Item 7b      Type of Violation: **Serious**

29 CFR 1910.120(q)(6)(ii)[Refer to 12-60-50(a), HAR]: First responder operations level. First responders at the operations level are individuals who respond to releases or potential releases of hazardous substances as part of the initial response to the site for the purpose of protecting nearby persons, property, or the environment from the effects of the release. They are trained to respond in a defensive fashion without actually trying to stop the release. Their function is to contain the release from a safe distance, keep it from spreading, and prevent exposures. First responders at the operational level shall have received at least eight hours of training or have had sufficient experience to objectively demonstrate competency in the following areas in addition to those listed for the awareness level and the employer shall so certify:

Kahului Plant - - Employees involved in operating a process were not provided the requisite refresher training pursuant to 29 CFR 1910.120(q)(6). Documents provided by the employer indicated that not all individuals listed received the training dated January 25, 2017 for chlorine B Kit and only Maintenance personnel received training on the emergency action plan dated November 6, 2017.

**Date by Which Violation Must Be Abated:**  
**Penalty:**

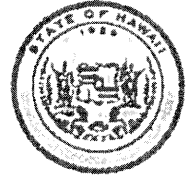
**Corrected**  
**\$0.00**



**State of Hawaii**

Department of Labor and Industrial Relations  
Hawaii Occupational Safety and Health Division

Inspection Number: 1342032  
Inspection Date(s): 08/20/2018-10/17/2018  
Issuance Date: 02/14/2019



**Citation and Notification of Penalty**

**Company Name:** County of Maui Dept. of Environmental Management Kahului WWRF  
**Inspection Site:** 281 Amala Place, Kahului, HI 96732

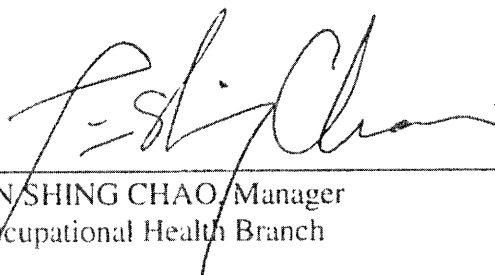
**Citation 1 Item 8**      Type of Violation: **Serious**

29 CFR 1910.119(o)(1)[Refer to 12-60-50(a), HAR]: Employers shall certify that they have evaluated compliance with the provisions of this section at least every three years to verify that the procedures and practices developed under the standard are adequate and are being followed.

Kahului Plant - - The employer did not certify compliance with provisions of 29 CFR 1910.119(o). The employer documented in their 2015 RMP submittal that the last compliance audit was performed in June 2014. A compliance audit was not performed for 2017 and the 2014 compliance audit was not documented.

**Date by Which Violation Must Be Abated:**  
**Penalty:**

**Corrected**  
**\$5,070.00**

  
\_\_\_\_\_  
TIN SHING CHAO, Manager  
Occupational Health Branch

**State of Hawaii**

Department of Labor and Industrial Relations

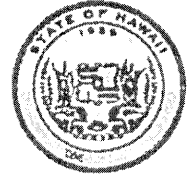
HAWAII OCCUPATIONAL SAFETY AND HEALTH DIVISION

830 PUNCHBOWL STREET, ROOM 423

HONOLULU, HI 96813

Phone: (808) 586-9090

Fax: (808) 586-9104



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## SUMMARY OF PENALTIES

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**Company Name:** County of Maui Department of Environmental Management Kahului WWRF

**Inspection Site:** 281 Amala Place, Kahului, HI 96732

**Issuance Date:** 02/14/2019

**Summary of Penalties for Inspection Number: 1342032**

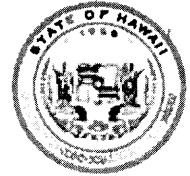
Citation 1 Item 1a, Serious	\$ 5,070.00
Citation 1 Item 1b, Serious	0.00
Citation 1 Item 1c, Serious	0.00
Citation 1 Item 1d, Serious	0.00
Citation 1 Item 2, Serious	5,070.00
Citation 1 Item 3, Serious	5,070.00
Citation 1 Item 4, Serious	5,070.00
Citation 1 Item 5, Serious	5,070.00
Citation 1 Item 6a, Serious	5,070.00
Citation 1 Item 6b, Serious	0.00
Citation 1 Item 6c, Serious	0.00
Citation 1 Item 7a, Serious	5,070.00
Citation 1 Item 7b, Serious	0.00
Citation 1 Item 8, Serious	5,070.00

**TOTAL PENALTIES:** **\$40,560.00**

Make check or money order payable to the "**Director of Budget and Finance.**" Please indicate the *inspection number* and *dba*, if company name is different, on the remittance. A fee of \$25.00 will be charged for any returned checks.

## State of Hawaii

Department of Labor and Industrial Relations  
HAWAII OCCUPATIONAL SAFETY AND HEALTH DIVISION  
830 PUNCHBOWL STREET, ROOM 423  
HONOLULU, HI 96813  
Phone: (808) 586-9090 Fax: (808) 586-9104



Certified Mail Number: 7017 3380 0000 0980 0512

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## Citation and Notification of Penalty

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**To:**  
County of Maui Dept. of Environmental Management  
Kihei WWTP  
and its successors  
2200 Main Street #610  
Wailuku, HI 96793

**Inspection Number:** 1342035  
**Inspection Date(s):** 08/20/2018-10/17/2018  
**Issuance Date:** 02/14/2019

**Inspection Site:**  
480 Welakahao Street  
Kihei, HI 96753

*The violation(s) described in this Citation and Notification of Penalty is (are) alleged to have occurred on or about the day(s) the inspection was made unless otherwise indicated within the description given below.*

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This Citation and Notification of Penalty describes violations of the Hawaii Occupational Safety and Health (HIOSH) Law. The penalty listed herein is based on these violations. You must abate the violations referred to in this Citation by the dates listed and pay the penalties, unless within 20 calendar days from your receipt of this Citation and Notification of Penalty, you file a contest in the manner described in the section "Employer's Right to Contest" on page 2 of this Citation and Notification of Penalty. Please refer to the enclosed booklet (Employer Rights and Responsibilities Following a HIOSH Inspection) which outlines your rights and responsibilities and which should be read in conjunction with this Citation. Issuance of this Citation does not constitute a finding that a violation of the Law has occurred unless there is a failure to contest as allowed by Law or, if contested, the Citation is affirmed by the Hawaii Labor Relations Board (HLRB) or a court.

**Posting** - The law requires that a copy of this Citation and Notification of Penalty be posted immediately in a prominent place at or near the location of the violation(s) cited herein, or, if it is not practicable because of the nature of the employer's operations, where it will be readily observable by all affected employees. This Citation must remain posted until the violation(s) cited herein has (have) been abated, or for 3 working days (excluding weekends and State holidays), whichever is longer.

**Informal Conference** - An informal conference is not required. However, if you wish to have such a conference you may request one with the HIOSH Administrator during the 20 calendar day contest period. During such an informal conference, you may present any evidence or views which you believe would support an adjustment to the citation(s) and/or penalty. If you are considering a request for an informal conference to discuss any issues related to this Citation and Notification of Penalty, you must schedule it early enough to

allow time to contest after the informal conference, should you decide to do so. Please keep in mind that a written letter of intent to contest must be submitted to the Administrator within 20 calendar days of your receipt of this Citation. The running of this contest period is not interrupted by an informal conference.

If you decide to request an informal conference, please complete, remove and post the page 5, Notice to Employees, next to this Citation and Notification of Penalty as soon as the time, date, and place of the informal conference have been determined. Be sure to bring to the conference any and all supporting documentation of existing conditions as well as any abatement steps taken thus far. If conditions warrant, we can enter into an informal settlement agreement which amicably resolves this matter without litigation or contest.

**Employers' Right to Contest** - You have the right to contest this Citation and Notification of Penalty. You may also contest all citation items or only individual items. You may also contest the penalty and/or abatement dates without contesting the underlying violations. To contest you must submit a signed original letter of contest to the Administrator which must be postmarked or, if not mailed, received by the Administrator within 20 calendar days after you receive this Citation and Notification of Penalty. The letter of contest must be a signed original and may not be submitted by facsimile or e-mail. Address your letter of contest to the State of Hawaii Occupational Safety and Health Division at the address shown on the top of page 1 of this Citation and Notification of Penalty. Once a letter of contest is received, it becomes the jurisdiction of the HLRB. If a timely contest is not filed, the Citation and Notification of Penalty will become a final order of the Department of Labor and Industrial Relations and may not be reviewed by any court or agency.

**Penalty Payment** - Penalties are due within 20 calendar days of receipt of this notification unless contested. Make your check or money order payable to "Director of Budget and Finance." Please indicate the Inspection Number found on the front page on the remittance. HIOSH does not agree to any restrictions or conditions or endorsements put on any check or money order for less than the full amount due, and will cash the check or money order as if these restrictions, conditions, or endorsements do not exist.

**Notification of Corrective Action** - For each violation which you do not contest, you are required by Section 12-51-22 to submit an Abatement Certification to HIOSH. The certification must be sent by you within 5 calendar days of the abatement date indicated on the Citation. For Willful and Repeat violations, documents (examples: photos, copies of receipts, training records, etc.) demonstrating that abatement is complete must accompany the certification. Where the Citation is classified as Serious and the Citation states that abatement documentation is required, documents such as those described above are required to be submitted along with the abatement certificate. If the Citation indicates that the violation was corrected during the inspection, no abatement certification is required for that item.

**All abatement verification documents must contain the following information:** 1) Your name and address; 2) the inspection number (found on the front page); 3) the citation and citation item number(s) to which the submission relates; 4) a statement that the information is accurate; 5) the signature of the employer or employer's authorized representative; 6) the date the hazard was corrected; 7) a brief statement of how the hazard was corrected; and 8) a statement that affected employees and their representatives have been informed of the abatement. The law also requires a copy of all abatement verification documents, required by Section 12-51-22 to be sent to HIOSH, also be posted at the location where the violation appeared and the corrective action took place.

**Employer Discrimination Unlawful** - The law prohibits discrimination by an employer against an employee for filing a complaint or for exercising any rights under this Act. An employee who believes that he/she has been discriminated against may file a complaint no later than 60 days after the discrimination occurred with the Hawaii Occupational Safety and Health Division at the address shown on the top of page 1 of this Citation and Notification of Penalty.

**Employer Rights and Responsibilities** - The enclosed booklet (Employer Rights and Responsibilities Following a HIOSH Inspection) outlines additional employer rights and responsibilities and should be read in conjunction with this notification.

**Employees' Right to Contest** - The law gives an employee or his/her representative the opportunity to object to any abatement date set for a violation if he/she believes the date to be unreasonable. The signed original contest must be mailed to the Hawaii Occupational Safety and Health Division at the address shown on the top of page 1 of this Citation and Notification of Penalty and postmarked within 20 calendar days of the receipt by the employer of this Citation and Notification of Penalty.

**Inspection Activity Data** - You should be aware that OSHA publishes information on inspection and citation activity on the Internet under the provisions of the Electronic Freedom of Information Act. The information related to your inspection will be available 30 calendar days after the Citation Issuance Date. You are encouraged to review the information concerning your establishment at [WWW.OSHA.GOV](http://WWW.OSHA.GOV). If you have any dispute with the accuracy of the information displayed, please contact this office.

# ABATEMENT CERTIFICATION

**Company Name:** County of Maui Dept. of Environmental Management  
Kihei WWTP

**Inspection Number:** 1342035

**Inspection Site:** 480 Welakahao Street, Kihei, HI 96753

**Issuance Date:** 02/14/2019

List the specific method of correction for each citation item and supporting documentation as appropriate in this **Citation and Notification of Penalty** that does not state "Corrected" and return to: **Department of Labor and Industrial Relations - Hawaii Occupational Safety and Health Division, 830 Punchbowl Street, Room 423, Honolulu, HI 96813.**

Citation \_\_\_\_\_ and Item \_\_\_\_\_ was corrected on \_\_\_\_\_

How corrected: \_\_\_\_\_

Citation \_\_\_\_\_ and Item \_\_\_\_\_ was corrected on \_\_\_\_\_

How corrected: \_\_\_\_\_

Citation \_\_\_\_\_ and Item \_\_\_\_\_ was corrected on \_\_\_\_\_

How corrected: \_\_\_\_\_

Citation \_\_\_\_\_ and Item \_\_\_\_\_ was corrected on \_\_\_\_\_

How corrected: \_\_\_\_\_

Citation \_\_\_\_\_ and Item \_\_\_\_\_ was corrected on \_\_\_\_\_

How corrected: \_\_\_\_\_

Citation \_\_\_\_\_ and Item \_\_\_\_\_ was corrected on \_\_\_\_\_

How corrected: \_\_\_\_\_

Citation \_\_\_\_\_ and Item \_\_\_\_\_ was corrected on \_\_\_\_\_

How corrected: \_\_\_\_\_

I attest that the information contained in this document is accurate and that the affected employees and their representative(s) have been informed of the abatement activities mentioned above and of their right to examine and copy this and all other abatement documents submitted to HIOSH.

\_\_\_\_\_  
Signature of the Employer or  
Employer's Authorized Representative

\_\_\_\_\_  
Date

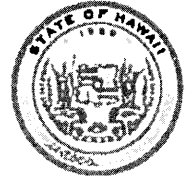
\_\_\_\_\_  
Typed or Printed Name

\_\_\_\_\_  
Title

**Posting: For posting requirements please refer to Chapter 12-51, Hawaii Administrative Rules.**

**State of Hawaii**

Department of Labor and Industrial Relations  
Hawaii Occupational Safety and Health Division



## **NOTICE TO EMPLOYEES OF INFORMAL CONFERENCE**

An informal conference has been scheduled with the Hawaii Occupational Safety and Health Division (HIOSH) to discuss the Citation and Notification of Penalty issued on 02/14/2019.

The informal conference will be at the HIOSH office located at:

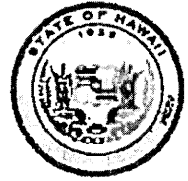
830 PUNCHBOWL STREET  
ROOM 423  
HONOLULU, HI 96813

on \_\_\_\_\_ at \_\_\_\_\_. Employees and/or representatives of employees  
have a right to attend an informal conference.

**State of Hawaii**

Department of Labor and Industrial Relations  
Hawaii Occupational Safety and Health Division

Inspection Number: 1342035  
Inspection Date(s): 08/20/2018-10/17/2018  
Issuance Date: 02/14/2019

**Citation and Notification of Penalty**

**Company Name:** County of Maui Department of Environmental Management Kihei WWTP  
**Inspection Site:** 480 Welakahao Street, Kihei, HI 96753

The alleged violations below (1a – 1e) have been grouped because they involve similar or related hazards that may increase the potential for illness and injury.

**Citation 1 Item 1a      Type of Violation: **Serious****

29 CFR 1910.119(e)(2)[Refer to 12-60-50(a), HAR]: The employer shall use one or more of the following methodologies that are appropriate to determine and evaluate the hazards of the process being analyzed. What-If; Checklist; What-If/Checklist; Hazard and Operability Study (HAZOP); Failure Mode and Effects Analysis (FMEA); Fault Tree Analysis; or An appropriate equivalent methodology.

Kihei Plant - - The employer did not use one or more of the following methodologies that are appropriate to determine and evaluate the hazards of the process. What-If; Checklist; What-If/Checklist; Hazard and Operability Study (HAZOP); Failure Mode and Effects Analysis (FMEA); Fault Tree Analysis; or An appropriate equivalent methodology. The employer submitted their most recent RMP on May 13, 2015. The RMP indicated the process to be a Level 3 process under the EPA guidelines and that the last PHA was completed on August 4, 2004 using a what-if and Failure Mode and Effects Analysis technique. A review of the documents submitted contained no RMP using a FMEA (40 CFR PART 68) and the checklist submitted was dated June 2001 and did not meet the requirements of a PHA.

**Date by Which Violation Must Be Abated:**  
**Penalty:**

**03/22/2019**  
**\$5,070.00**

**Citation 1 Item 1b      Type of Violation: **Serious****

29 CFR 1910.119(e)(3)(iii)[Refer to 12-60-50(a), HAR]: The process hazard analysis shall address: Consequences of failure for engineering and administrative controls.

Kihei Plant - - The employers process hazard analysis on their chlorination process did not address consequences of failure for engineering and administrative controls. On or about August 21, 2018, the plant had in storage and connected for use over 1500 lbs of chlorine. The last known Risk Management Protocol was performed and submitted in 2015. This RMP did not contain an evaluation of failure for scrubber and piping outside of the chlorine room. There was also no evaluation of failure of the sensors and interlocks related to the change out of cylinders from the dock area.

**Date by Which Violation Must Be Abated:**  
**Penalty:**

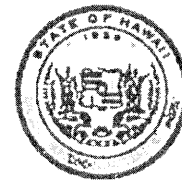
**03/22/2019**  
**\$0.00**



**State of Hawaii**

Department of Labor and Industrial Relations  
Hawaii Occupational Safety and Health Division

Inspection Number: 1342035  
Inspection Date(s): 08/20/2018-10/17/2018  
Issuance Date: 02/14/2019

**Citation and Notification of Penalty**

**Company Name:** County of Maui Department of Environmental Management Kihei WWTP  
**Inspection Site:** 480 Welakahao Street, Kihei, HI 96753

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**Citation 1 Item 1c      Type of Violation: **Serious****

29 CFR 1910.119(e)(4)[Refer to 12-60-50(a), HAR]: The process hazard analysis shall be performed by a team with expertise in engineering and process operations, and the team shall include at least one employee who has experience and knowledge specific to the process being evaluated. Also, one member of the team must be knowledgeable in the specific process hazard analysis methodology being used.

Kihei Plant - - The employers process hazard analysis and RMP dated June 1, 2001 and May 13, 2015 respectively, was not conducted by a team comprised of one employee from operations and one from maintenance. Such members provide additional expertise in engineering, maintenance and process operations.

**Date by Which Violation Must Be Abated:**  
**Penalty:**

**03/22/2019**  
**\$0.00**

**Citation 1 Item 1d      Type of Violation: **Serious****

29 CFR 1910.119(e)(6)[Refer to 12-60-50(a), HAR]: At least every five (5) years after the completion of the initial process hazard analysis, the process hazard analysis shall be updated and revalidated by a team meeting the requirements in paragraph (e)(4) of this section, to assure that the process hazard analysis is consistent with the current process.

Kihei Plant - - The employer did not update and revalidate the previous process hazard analysis conducted in 2001. RMP checklist conducted on June 2001 was completed for this plant. Several RMP submittals were made after this 2001 RMP, including a 2004, 2009 and 2015 RMP submittal. A review of the latest submittals did not contain the requisite information contained in the 2001 RMP checklist.

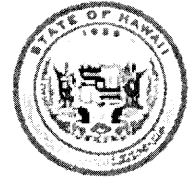
**Date by Which Violation Must Be Abated:**  
**Penalty:**

**03/22/2019**  
**\$0.00**

**State of Hawaii**

Department of Labor and Industrial Relations  
Hawaii Occupational Safety and Health Division

Inspection Number: 1342035  
Inspection Date(s): 08/20/2018-10/17/2018  
Issuance Date: 02/14/2019

**Citation and Notification of Penalty**

**Company Name:** County of Maui Department of Environmental Management Kihei WWTP  
**Inspection Site:** 480 Welakahao Street, Kihei, HI 96753

**Citation 1 Item 1e      Type of Violation: **Serious****

29 CFR 1910.119(e)(7)[Refer to 12-60-50(a), HAR]: Employers shall retain process hazards analyses and updates or revalidations for each process covered by this section, as well as the documented resolution of recommendations described in paragraph (e)(5) of this section for the life of the process.

Kihei Plant - - The employer did not retain the process hazard analysis indicated in their 2015 RMP submittal. This PHA was completed on August 4, 2004 however was not provided. What the employer provided was a checklist dated June 19, 2001. The employer also indicated that they are using the RMP submittal to the EPA dated May 2015. However a review of this document did not meet the requirements of 29 CFR 1910.119(e).

**Date by Which Violation Must Be Abated:**  
**Penalty:**

**03/22/2019**  
**\$0.00**

**Citation 1 Item 2      Type of Violation: **Serious****

29 CFR 1910.119(f)(3)[Refer to 12-60-50(a), HAR]: The operating procedures shall be reviewed as often as necessary to assure that they reflect current operating practice, including changes that result from changes in process chemicals, technology, and equipment, and changes to facilities. The employer shall certify annually that these operating procedures are current and accurate.

Kihei Plant - - The employer did not certify annually that the operating procedures were current and accurate. The employer has written procedures listed in the operations manual for the process equipment and also in certain Department documents. The employer also stated in their document submittal that no annual certification of the chlorine SOP was done because there have been no changes to the standard operating procedures. The following changes in equipment, procedures and the process was not evaluated by the employer for potential need to review their written procedures: New gas feeder installed in March 2018, Operator documented that he was untrained in this PM; Chlorine scrubber retrofits and motor replacement. Operator documented new training method needed in January 2016. Installation of Accutab Chlorine alongside the use of gaseous chlorine.

**Date by Which Violation Must Be Abated:**  
**Penalty:**

**03/22/2019**  
**\$5,070.00**

**State of Hawaii**

Department of Labor and Industrial Relations  
Hawaii Occupational Safety and Health Division

Inspection Number: 1342035  
Inspection Date(s): 08/20/2018-10/17/2018  
Issuance Date: 02/14/2019

**Citation and Notification of Penalty**

**Company Name:** County of Maui Department of Environmental Management Kihei WWTP  
**Inspection Site:** 480 Welakahao Street, Kihei, HI 96753

**Citation 1 Item 3      Type of Violation: **Serious****

29 CFR 1910.119(g)(3)[Refer to 12-60-50(a), HAR]: Training documentation. The employer shall ascertain that each employee involved in operating a process has received and understood the training required by this paragraph. The employer shall prepare a record which contains the identity of the employee, the date of training, and the means used to verify that the employee understood the training.

Kihei Plant - - The employer did not ascertain that each employee involved in operating a process received and understood the training required by this paragraph. The employer did not prepare a record which contains the identity of the employee, the date of training, and the means used to verify that the employee understood the training. On or about August 21, 2018 and times thereto, Operators interviewed did not recall receiving specific training on emergency procedures, changes to the process that would fall under a management of change and a pre-startup safety review.

**Date by Which Violation Must Be Abated:**  
**Penalty:**

**03/22/2019**  
**\$5,070.00**

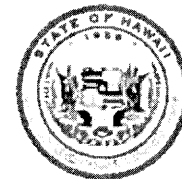
**Citation 1 Item 4      Type of Violation: **Serious****

29 CFR 1910.119(i)(2)[Refer to 12-60-50(a), HAR]: The pre-startup safety review shall confirm that prior to the introduction of highly hazardous chemicals to a process: Construction and equipment is in accordance with design specifications; Safety, operating, maintenance, and emergency procedures are in place and are adequate; For new facilities, a process hazard analysis has been performed and recommendations have been resolved or implemented before startup; and modified facilities meet the requirements contained in management of change, paragraph (l). Training of each employee involved in operating a process has been completed.

Kihei Plant - - The employer did not ensure pre-start safety review procedures were conducted. Specifically, training was not conducted and documented for employees when changes to the process including but not limited to the installation of a new gas feeder; Retro fit of the scrubber system; and the start of the accutab system.

**Date by Which Violation Must Be Abated:**  
**Penalty:**

**03/22/2019**  
**\$5,070.00**



## **Citation and Notification of Penalty**

**Company Name:** County of Maui Department of Environmental Management Kihei WWTP  
**Inspection Site:** 480 Welakahao Street, Kihei, HI 96753

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### **Citation 1 Item 5      Type of Violation: **Serious****

29 CFR 1910.119(j)(6)(ii)[Refer to 12-60-50(a), HAR]: Appropriate checks and inspections shall be performed to assure that equipment is installed properly and consistent with design specifications and the manufacturer's instructions.

Kihei Plant - - Appropriate checks and inspections were not performed within the frequency determined by the employer. On or about August 21, 2018, the following deficiencies (current inspections) include but not limited to the following equipment was found:

No annual replacements were documented in the work orders for the chlorine sensors.

Preventative Maintenance for the Swing Chlorinators were not being performed per Operators.

Auto Switchover Units monthly, bi annual and every 2 year checks were last completed on August 15, 2017, July 5, 2017 and June 28, 2016 on the employers scheduling system. No closed work orders nor regular preventative maintenance work orders were noted in the submittal.

Exhaust Fan annual checks were last performed in 2010 and 2011 per the list of work orders provided.

The employer has a CMSS system to document preventative maintenance on all process equipment as determined by the manufacturers recommendations. No employer risk based management system was in use to determine if frequencies on preventative maintenance could be lengthened or shortened from the manufacturers recommendations.

**Date by Which Violation Must Be Abated:**  
**Penalty:**

**03/22/2019**  
**\$5,070.00**



## **Citation and Notification of Penalty**

**Company Name:** County of Maui Department of Environmental Management Kihei WWTP  
**Inspection Site:** 480 Welakahao Street, Kihei, HI 96753

The alleged violations below (6a – 6c) have been grouped because they involve similar or related hazards that may increase the potential for illness and injury.

### **Citation 1 Item 6a**      Type of Violation: **Serious**

29 CFR 1910.119(l)(1)[Refer to 12-60-50(a), HAR]: The employer shall establish and implement written procedures to manage changes (except for "replacements in kind") to process chemicals, technology, equipment, and procedures; and, changes to facilities that affect a covered process.

Kihei Plant - - The employer did not establish and implement written procedures to manage changes to process chemicals, technology, equipment, and procedures; and, changes to facilities that affect a covered process. Notable changes in the process include the implementation of Accutabs alongside gaseous chlorine in the system, storage of additional one ton cylinders in the chlorine storage area. The employer also did not consider the use of temporary management of change procedures for those instances when process equipment had been out of service.

**Date by Which Violation Must Be Abated:**  
**Penalty:**

**03/22/2019**  
**\$5,070.00**

### **Citation 1 Item 6b**      Type of Violation: **Serious**

29 CFR 1910.119(l)(4)[Refer to 12-60-50(a), HAR]: If a change covered by this paragraph results in a change in the process safety information required by paragraph (d) of this section, such information shall be updated accordingly.

Kihei Plant - - The employer did not establish and implement written procedures to manage changes to process chemicals, technology, equipment, and procedures; and, changes to facilities that affect a covered process. The following changes that required a management of change include but were not limited to:

New gas feeder installed in March 2018 affecting the process and leading Operators to request training on this PM

Installation of Accutab system potentially requiring modifications to previous chlorine operations.

**Date by Which Violation Must Be Abated:**  
**Penalty:**

**03/22/2019**  
**\$0.00**

**State of Hawaii**

Department of Labor and Industrial Relations  
Hawaii Occupational Safety and Health Division

Inspection Number: 1342035  
Inspection Date(s): 08/20/2018-10/17/2018  
Issuance Date: 02/14/2019



**Citation and Notification of Penalty**

**Company Name:** County of Maui Department of Environmental Management Kihei WWTP  
**Inspection Site:** 480 Welakahao Street, Kihei, HI 96753

Citation 1 Item 6c      Type of Violation: **Serious**

29 CFR 1910.119(l)(5)[Refer to 12-60-50(a), HAR]: If a change covered by this paragraph results in a change in the operating procedures or practices required by paragraph (f) of this section, such procedures or practices shall be updated accordingly.

Kihei Plant - - The employer did not establish and implement written procedures to manage changes to process chemicals, technology, equipment, and procedures; and, changes to facilities that affect a covered process. The following changes that required a management of change include but were not limited to:

Installation of a gas feeder system

Installation of chlorine accutab system

Any periods wherein process equipment was deemed out of service and no analysis was made as to how that may have affected operating procedures.

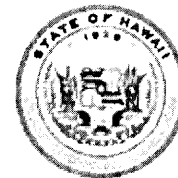
**Date by Which Violation Must Be Abated:**  
**Penalty:**

**03/22/2019**  
**\$0.00**

**State of Hawaii**

Department of Labor and Industrial Relations  
Hawaii Occupational Safety and Health Division

Inspection Number: 1342035  
Inspection Date(s): 08/20/2018-10/17/2018  
Issuance Date: 02/14/2019

**Citation and Notification of Penalty**

**Company Name:** County of Maui Department of Environmental Management Kihei WWTP  
**Inspection Site:** 480 Welakahao Street, Kihei, HI 96753

The alleged violations below (7a – 7c) have been grouped because they involve similar or related hazards that may increase the potential for illness and injury.

**Citation 1 Item 7a      Type of Violation: **Serious****

29 CFR 1910.119(n)[Refer to 12-60-50(a), HAR]: Emergency planning and response. The employer shall establish and implement an emergency action plan for the entire plant in accordance with the provisions of 29 CFR 1910.38. In addition, the emergency action plan shall include procedures for handling small releases. Employers covered under this standard may also be subject to the hazardous waste and emergency response provisions contained in 29 CFR 1910.120 (a), (p) and (q).

Kihei - - The employers emergency action plan was not implemented pursuant to the provisions of 29 CFR 1910.38 and 29 CFR 1910.120 (a), (p) and (q). The employer had documented in the annual log changes between 2013 to 2016. Employees affected by these changes were not apprised or trained in the changes. The employer also did not annually review their emergency action plan. The employer also did not conduct annual drills. Not all employees were documented as having received the requisite training.

**Date by Which Violation Must Be Abated:**  
**Penalty:**

**03/22/2019**  
**\$5,070.00**

**Citation 1 Item 7b      Type of Violation: **Serious****

29 CFR 1910.38(f)(3)[Refer to 12-60-50(a), HAR]: Review of emergency action plan. An employer must review the emergency action plan with each employee covered by the plan: When the plan is changed.

Kihei Plant - - The employer did not review the emergency action plan with affected employees when changes were made. The employer documented approximately 4 changes to the EAP between 2013 and 2016. A review of training records did not show that all employees at this plant received training. The employer also did not conduct an annual evacuation drill with employees affected by this plan.

03

**Date by Which Violation Must Be Abated:**  
**Penalty:**

**03/22/2019**  
**\$0.00**



### Citation and Notification of Penalty

**Company Name:** County of Maui Department of Environmental Management Kihei WWTP  
**Inspection Site:** 480 Welakahao Street, Kihei, HI 96753

Citation I Item 7c      Type of Violation: **Serious**

29 CFR 1910.120(q)(6)(ii)[Refer to 12-60-50(a), HAR]: First responder operations level. First responders at the operations level are individuals who respond to releases or potential releases of hazardous substances as part of the initial response to the site for the purpose of protecting nearby persons, property, or the environment from the effects of the release. They are trained to respond in a defensive fashion without actually trying to stop the release. Their function is to contain the release from a safe distance, keep it from spreading, and prevent exposures. First responders at the operational level shall have received at least eight hours of training or have had sufficient experience to objectively demonstrate competency in the following areas in addition to those listed for the awareness level and the employer shall so certify:

Kihei Plant - - Employees involved in operating a process were not provided the requisite refresher training pursuant to 29 CFR 1910.120(q)(6). Documents provided by the employer indicated that not all individuals listed received the training dated January 25, 2017 for chlorine B Kit and only Maintenance personnel received training on the emergency action plan dated November 6, 2017.

**Date by Which Violation Must Be Abated:**  
**Penalty:**

**22/03/2019**  
**\$0.00**

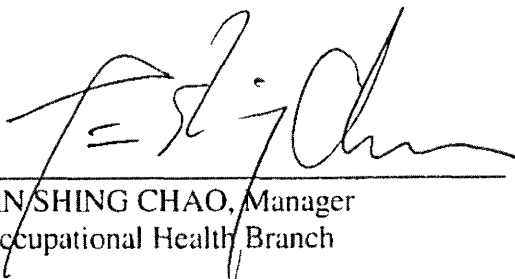
Citation I Item 8      Type of Violation: **Serious**

29 CFR 1910.119(o)(1)[Refer to 12-60-50(a), HAR]: Employers shall certify that they have evaluated compliance with the provisions of this section at least every three years to verify that the procedures and practices developed under the standard are adequate and are being followed.

Kihei Plant -- The employer did not certify compliance with provisions of 29 CFR 1910.119(o). The employers 2015 RMP submittal confirmed no compliance audit pursuant to 29 CFR 1910.119(o) was performed.

**Date by Which Violation Must Be Abated:**  
**Penalty:**

**03/22/2019**  
**\$5,070.00**

  
TIN SHING CHAO, Manager  
Occupational Health Branch



**State of Hawaii**

Department of Labor and Industrial Relations

HAWAII OCCUPATIONAL SAFETY AND HEALTH DIVISION

830 PUNCHBOWL STREET, ROOM 423

HONOLULU, HI 96813

Phone: (808) 586-9090

Fax: (808) 586-9104



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## SUMMARY OF PENALTIES

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**Company Name:** County of Maui Department of Environmental Management Kihei WWTP

**Inspection Site:** 480 Welakahao Street, Kihei, HI 96753

**Issuance Date:** 02/14/2019

**Summary of Penalties for Inspection Number: 1342035**

Citation 1 Item 1a, Serious	\$ 5,070.00
Citation 1 Item 1b, Serious	0.00
Citation 1 Item 1c, Serious	0.00
Citation 1 Item 1d, Serious	0.00
Citation 1 Item 1e, Serious	0.00
Citation 1 Item 2, Serious	5,070.00
Citation 1 Item 3, Serious	5,070.00
Citation 1 Item 4, Serious	5,070.00
Citation 1 Item 5, Serious	5,070.00
Citation 1 Item 6a, Serious	5,070.00
Citation 1 Item 6b, Serious	0.00
Citation 1 Item 6c, Serious	0.00
Citation 1 Item 7a, Serious	5,070.00
Citation 1 Item 7b, Serious	0.00
Citation 1 Item 7c, Serious	0.00
Citation 1 Item 8, Serious	5,070.00

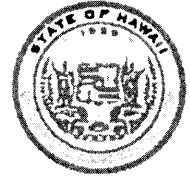
**TOTAL PENALTIES:**

**\$40,560.00**

Make check or money order payable to the "Director of Budget and Finance." Please indicate the *inspection number and dba*, if company name is different, on the remittance. A fee of \$25.00 will be charged for any returned checks.

## State of Hawaii

Department of Labor and Industrial Relations  
HAWAII OCCUPATIONAL SAFETY AND HEALTH DIVISION  
830 PUNCHBOWL STREET, ROOM 423  
HONOLULU, HI 96813  
Phone: (808) 586-9090 Fax: (808) 586-9104



Certified Mail Number: 7017 3380 0000 0980 0536

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## Citation and Notification of Penalty

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**To:**

County of Maui Dept. of Environmental Management  
Lahaina WWRF  
and its successors  
2200 Main Street #610  
Wailuku, HI 96793

**Inspection Number:** 1342036

**Inspection Date(s):** 08/20/2018-10/17/2018

**Issuance Date:** 02/14/2019

**Inspection Site:**

2200 Main St.  
Wailuku, HI 96793

*The violation(s) described in this Citation and Notification of Penalty is (are) alleged to have occurred on or about the day(s) the inspection was made unless otherwise indicated within the description given below.*

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This Citation and Notification of Penalty describes violations of the Hawaii Occupational Safety and Health (HIOSH) Law. The penalty listed herein is based on these violations. You must abate the violations referred to in this Citation by the dates listed and pay the penalties, unless within 20 calendar days from your receipt of this Citation and Notification of Penalty, you file a contest in the manner described in the section "Employer's Right to Contest" on page 2 of this Citation and Notification of Penalty. Please refer to the enclosed booklet (Employer Rights and Responsibilities Following a HIOSH Inspection) which outlines your rights and responsibilities and which should be read in conjunction with this Citation. Issuance of this Citation does not constitute a finding that a violation of the Law has occurred unless there is a failure to contest as allowed by Law or, if contested, the Citation is affirmed by the Hawaii Labor Relations Board (HLRB) or a court.

**Posting** - The law requires that a copy of this Citation and Notification of Penalty be posted immediately in a prominent place at or near the location of the violation(s) cited herein, or, if it is not practicable because of the nature of the employer's operations, where it will be readily observable by all affected employees. This Citation must remain posted until the violation(s) cited herein has (have) been abated, or for 3 working days (excluding weekends and State holidays), whichever is longer.

**Informal Conference** - An informal conference is not required. However, if you wish to have such a conference you may request one with the HIOSH Administrator during the 20 calendar day contest period. During such an informal conference, you may present any evidence or views which you believe would support an adjustment to the citation(s) and/or penalty. If you are considering a request for an informal conference to discuss any issues related to this Citation and Notification of Penalty, you must schedule it early enough to

allow time to contest after the informal conference, should you decide to do so. Please keep in mind that a written letter of intent to contest must be submitted to the Administrator within 20 calendar days of your receipt of this Citation. The running of this contest period is not interrupted by an informal conference.

If you decide to request an informal conference, please complete, remove and post the page 5, Notice to Employees, next to this Citation and Notification of Penalty as soon as the time, date, and place of the informal conference have been determined. Be sure to bring to the conference any and all supporting documentation of existing conditions as well as any abatement steps taken thus far. If conditions warrant, we can enter into an informal settlement agreement which amicably resolves this matter without litigation or contest.

**Employers' Right to Contest** - You have the right to contest this Citation and Notification of Penalty. You may also contest all citation items or only individual items. You may also contest the penalty and/or abatement dates without contesting the underlying violations. To contest you must submit a signed original letter of contest to the Administrator which must be postmarked or, if not mailed, received by the Administrator within 20 calendar days after you receive this Citation and Notification of Penalty. The letter of contest must be a signed original and may not be submitted by facsimile or e-mail. Address your letter of contest to the State of Hawaii Occupational Safety and Health Division at the address shown on the top of page 1 of this Citation and Notification of Penalty. Once a letter of contest is received, it becomes the jurisdiction of the HLRB. If a timely contest is not filed, the Citation and Notification of Penalty will become a final order of the Department of Labor and Industrial Relations and may not be reviewed by any court or agency.

**Penalty Payment** - Penalties are due within 20 calendar days of receipt of this notification unless contested. Make your check or money order payable to "Director of Budget and Finance." Please indicate the Inspection Number found on the front page on the remittance. HIOSH does not agree to any restrictions or conditions or endorsements put on any check or money order for less than the full amount due, and will cash the check or money order as if these restrictions, conditions, or endorsements do not exist.

**Notification of Corrective Action** - For each violation which you do not contest, you are required by Section 12-51-22 to submit an Abatement Certification to HIOSH. The certification must be sent by you within 5 calendar days of the abatement date indicated on the Citation. For Willful and Repeat violations, documents (examples: photos, copies of receipts, training records, etc.) demonstrating that abatement is complete must accompany the certification. Where the Citation is classified as Serious and the Citation states that abatement documentation is required, documents such as those described above are required to be submitted along with the abatement certificate. If the Citation indicates that the violation was corrected during the inspection, no abatement certification is required for that item.

**All abatement verification documents must contain the following information:** 1) Your name and address; 2) the inspection number (found on the front page); 3) the citation and citation item number(s) to which the submission relates; 4) a statement that the information is accurate; 5) the signature of the employer or employer's authorized representative; 6) the date the hazard was corrected; 7) a brief statement of how the hazard was corrected; and 8) a statement that affected employees and their representatives have been informed of the abatement. The law also requires a copy of all abatement verification documents, required by Section 12-51-22 to be sent to HIOSH, also be posted at the location where the violation appeared and the corrective action took place.

**Employer Discrimination Unlawful** - The law prohibits discrimination by an employer against an employee for filing a complaint or for exercising any rights under this Act. An employee who believes that he/she has been discriminated against may file a complaint no later than 60 days after the discrimination occurred with the Hawaii Occupational Safety and Health Division at the address shown on the top of page 1 of this Citation and Notification of Penalty.

**Employer Rights and Responsibilities** - The enclosed booklet (Employer Rights and Responsibilities Following a HIOSH Inspection) outlines additional employer rights and responsibilities and should be read in conjunction with this notification.

**Employees' Right to Contest** - The law gives an employee or his/her representative the opportunity to object to any abatement date set for a violation if he/she believes the date to be unreasonable. The signed original contest must be mailed to the Hawaii Occupational Safety and Health Division at the address shown on the top of page 1 of this Citation and Notification of Penalty and postmarked within 20 calendar days of the receipt by the employer of this Citation and Notification of Penalty.

**Inspection Activity Data** - You should be aware that OSHA publishes information on inspection and citation activity on the Internet under the provisions of the Electronic Freedom of Information Act. The information related to your inspection will be available 30 calendar days after the Citation Issuance Date. You are encouraged to review the information concerning your establishment at [WWW.OSHA.GOV](http://WWW.OSHA.GOV). If you have any dispute with the accuracy of the information displayed, please contact this office.

# ABATEMENT CERTIFICATION

**Company Name:** County of Maui Dept. of Environmental Management  
Lahaina WWRF

**Inspection Site:** 2200 Main St, Wailuku, HI 96793

**Inspection Number:** 1342036

**Issuance Date:** 02/14/2019

List the specific method of correction for each citation item and supporting documentation as appropriate in this **Citation and Notification of Penalty** that does not state "Corrected" and return to: **Department of Labor and Industrial Relations - Hawaii Occupational Safety and Health Division, 830 Punchbowl Street, Room 423, Honolulu, HI 96813.**

Citation \_\_\_\_\_ and Item \_\_\_\_\_ was corrected on \_\_\_\_\_  
How corrected: \_\_\_\_\_

Citation \_\_\_\_\_ and Item \_\_\_\_\_ was corrected on \_\_\_\_\_  
How corrected: \_\_\_\_\_

Citation \_\_\_\_\_ and Item \_\_\_\_\_ was corrected on \_\_\_\_\_  
How corrected: \_\_\_\_\_

Citation \_\_\_\_\_ and Item \_\_\_\_\_ was corrected on \_\_\_\_\_  
How corrected: \_\_\_\_\_

Citation \_\_\_\_\_ and Item \_\_\_\_\_ was corrected on \_\_\_\_\_  
How corrected: \_\_\_\_\_

Citation \_\_\_\_\_ and Item \_\_\_\_\_ was corrected on \_\_\_\_\_  
How corrected: \_\_\_\_\_

Citation \_\_\_\_\_ and Item \_\_\_\_\_ was corrected on \_\_\_\_\_  
How corrected: \_\_\_\_\_

I attest that the information contained in this document is accurate and that the affected employees and their representative(s) have been informed of the abatement activities mentioned above and of their right to examine and copy this and all other abatement documents submitted to HIOSH.

\_\_\_\_\_  
Signature of the Employer or  
Employer's Authorized Representative

\_\_\_\_\_  
Date

\_\_\_\_\_  
Typed or Printed Name

\_\_\_\_\_  
Title

**Posting: For posting requirements please refer to Chapter 12-51, Hawaii Administrative Rules.**



## NOTICE TO EMPLOYEES OF INFORMAL CONFERENCE

An informal conference has been scheduled with the Hawaii Occupational Safety and Health Division (HIOSH) to discuss the Citation and Notification of Penalty issued on 02/14/2019.

The informal conference will be at the HIOSH office located at:

830 PUNCHBOWL STREET  
ROOM 423  
HONOLULU, HI 96813

on \_\_\_\_\_ at \_\_\_\_\_. Employees and/or representatives of employees  
have a right to attend an informal conference.



## **Citation and Notification of Penalty**

**Company Name:** County of Maui Department of Environmental Management Lahaina WWRF  
**Inspection Site:** 2200 Main St, Wailuku, HI 96793

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The alleged violations below (1a – 1d) have been grouped because they involve similar or related hazards that may increase the potential for illness and injury.

### **Citation I Item 1a**      Type of Violation: **Serious**

29 CFR 1910.119(e)(2)[Refer to 12-60-50(a), HAR]: The employer shall use one or more of the following methodologies that are appropriate to determine and evaluate the hazards of the process being analyzed. What-If; Checklist; What-If/Checklist; Hazard and Operability Study (HAZOP); Failure Mode and Effects Analysis (FMEA); Fault Tree Analysis; or An appropriate equivalent methodology.

Lahaina Plant - - The employer did not use one or more of the following methodologies that are appropriate to determine and evaluate the hazards of the process. What-If; Checklist; What-If/Checklist; Hazard and Operability Study (HAZOP); Failure Mode and Effects Analysis (FMEA); Fault Tree Analysis; or An appropriate equivalent methodology. The employer submitted their most recent RMP on May 13, 2015. The RMP indicated the process to be a Level 3 process under the EPA guidelines and that the last PHA was completed on August 4, 2004 using a what-if and Failure Mode and Effects Analysis technique. A review of the documents submitted contained no RMP using a FMEA (40 CFR PART 68) and the checklist submitted was dated June 2001 and did not meet the requirements of a PHA.

**Date by Which Violation Must Be Abated:**  
**Penalty:**

**03/22/2019**  
**\$8,873.00**

### **Citation I Item 1b**      Type of Violation: **Serious**

29 CFR 1910.119(e)(3)(vii)[Refer to 12-60-50(a), HAR]: The process hazard analysis shall address: A qualitative evaluation of a range of the possible safety and health effects of failure of controls on employees in the workplace.

Lahaina Plant - - The employers process hazard analysis on their chlorination process did not address consequences of failure for engineering and administrative controls. On or about August 21, 2018, the plant had in storage and connected for use over 1500 lbs of chlorine. The last known Risk Management Protocol performed in 2006. This RMP did not contain an evaluation of failure for scrubber and piping outside of the chlorine room. There was also no evaluation of failure of the sensors and interlocks related to the change out of cylinders from the dock area.

**Date by Which Violation Must Be Abated:**  
**Penalty:**

**03/22/2019**  
**\$0.00**

**State of Hawaii**

Department of Labor and Industrial Relations  
Hawaii Occupational Safety and Health Division

Inspection Number: 1342036  
Inspection Date(s): 08/20/2018-10/17/2018  
Issuance Date: 02/14/2019

**Citation and Notification of Penalty**

**Company Name:** County of Maui Department of Environmental Management Lahaina WWRF  
**Inspection Site:** 2200 Main St, Wailuku, HI 96793

**Citation 1 Item 1c      Type of Violation: **Serious****

29 CFR 1910.119(e)(4)[Refer to 12-60-50(a), HAR]: The process hazard analysis shall be performed by a team with expertise in engineering and process operations, and the team shall include at least one employee who has experience and knowledge specific to the process being evaluated. Also, one member of the team must be knowledgeable in the specific process hazard analysis methodology being used.

Lahaina Plant - - The employers process hazard analysis and RMP dated June 1, 2001 and May 13, 2015 respectively, was not conducted by a team comprised of one employee from operations and one from maintenance. Such members provide additional expertise in engineering, maintenance and process operations.

**Date by Which Violation Must Be Abated:**

**03/22/2019**

**Penalty:**

**\$0.00**

**Citation 1 Item 1d      Type of Violation: **Serious****

29 CFR 1910.119(e)(7)[Refer to 12-60-50(a), HAR]: Employers shall retain process hazards analyses and updates or revalidations for each process covered by this section, as well as the documented resolution of recommendations described in paragraph (e)(5) of this section for the life of the process.

Lahaina Plant - - The employer did not retain the process hazard analysis indicated in their 2015 RMP submittal. This PHA was completed on August 4, 2004 however was not provided. What the employer provided was a checklist dated June 19, 2001. The employer also indicated that they are using the RMP submittal to the EPA dated May 2015. However a review of this document did not meet the requirements of 29 CFR 1910.119(e).

**Date by Which Violation Must Be Abated:**

**03/22/2019**

**Penalty:**

**\$0.00**



**State of Hawaii**

Department of Labor and Industrial Relations  
Hawaii Occupational Safety and Health Division

Inspection Number: 1342036  
Inspection Date(s): 08/20/2018-10/17/2018  
Issuance Date: 02/14/2019

**Citation and Notification of Penalty**

**Company Name:** County of Maui Department of Environmental Management Lahaina WWRF  
**Inspection Site:** 2200 Main St, Wailuku, HI 96793

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**Citation 1 Item 2      Type of Violation: **Serious****

29 CFR 1910.119(f)(3) [Refer to 12-60-50(a), HAR]: The operating procedures shall be reviewed as often as necessary to assure that they reflect current operating practice, including changes that result from changes in process chemicals, technology, and equipment, and changes to facilities. The employer shall certify annually that these operating procedures are current and accurate.

Lahaina Plant - - The employer did not certify annually that the operating procedures were current and accurate. The employer has written procedures listed in the operations manual for the process equipment and also in certain Department documents. The employer also stated in their document submittal that no annual certification of the chlorine SOP was done because there have been no changes to the standard operating procedures. The following changes in equipment, procedures and the process was not evaluated by the employer for potential need to review their written procedures: New gas feeder installed in March 2018, Operator documented that he was untrained in this PM; Chlorine scrubber retrofits and motor replacement, Operator documented new training method needed in January 2016; Installation of Accutab Chlorine alongside the use of gaseous chlorine.

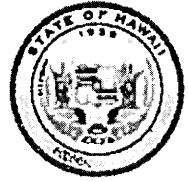
**Date by Which Violation Must Be Abated:**  
**Penalty:**

**03/22/2019**  
**\$8,873.00**

**State of Hawaii**

Department of Labor and Industrial Relations  
Hawaii Occupational Safety and Health Division

Inspection Number: 1342036  
Inspection Date(s): 08/20/2018-10/17/2018  
Issuance Date: 02/14/2019

**Citation and Notification of Penalty**

**Company Name:** County of Maui Department of Environmental Management Lahaina WWRF  
**Inspection Site:** 2200 Main St, Wailuku, HI 96793

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The alleged violations below (3a – 3b) have been grouped because they involve similar or related hazards that may increase the potential for illness and injury.

**Citation 1 Item 3a      Type of Violation: **Serious****

29 CFR 1910.119(g)(2)[Refer to 12-60-50(a), HAR]: Refresher training. Refresher training shall be provided at least every three years, and more often if necessary, to each employee involved in operating a process to assure that the employee understands and adheres to the current operating procedures of the process. The employer, in consultation with the employees involved in operating the process, shall determine the appropriate frequency of refresher training.

Lahaina Plant - - The employer did not ascertain that each employee involved in operating a process received and understood received refresher training required by this paragraph. The employer did not prepare a record which contains the identity of the employee, the date of training, and the means used to verify that the employee understood the training. On or about August 21, 2018 and times thereto, Operators interviewed did not recall receiving specific training on emergency procedures, changes to the process that would fall under a management of change and a pre-startup safety review.

**Date by Which Violation Must Be Abated:**  
**Penalty:**

**03/22/2019**  
**\$8,873.00**

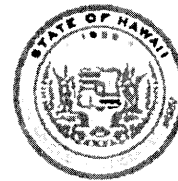
**Citation 1 Item 3b      Type of Violation: **Serious****

29 CFR 1910.119(g)(3)[Refer to 12-60-50(a), HAR]: Training documentation. The employer shall ascertain that each employee involved in operating a process has received and understood the training required by this paragraph. The employer shall prepare a record which contains the identity of the employee, the date of training, and the means used to verify that the employee understood the training.

Lahaina Plant - - The employer did not ascertain that each employee involved in operating a process received and understood the training required by this paragraph. The employer did not prepare a record which contains the identity of the employee, the date of training, and the means used to verify that the employee understood the training. On or about August 21, 2018 and times thereto, Operators interviewed did not recall receiving specific training on emergency procedures, changes to the process that would fall under a management of change and a pre-startup safety review.

**Date by Which Violation Must Be Abated:**  
**Penalty:**

**03/22/2019**  
**\$0.00**



## **Citation and Notification of Penalty**

**Company Name:** County of Maui Department of Environmental Management Lahaina WWRF  
**Inspection Site:** 2200 Main St, Wailuku, HI 96793

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### **Citation 1 Item 4      Type of Violation: **Serious****

29 CFR 1910.119(h)(2)(iv)[Refer to 12-60-50(a), HAR]: The employer shall periodically evaluate the performance of contract employers in fulfilling their obligations as specified in paragraph (h)(3) of this section.

Lahaina Plant - - The employer did not evaluate the performance of contractors on site. One general contractor and several sub contractors performing capital improvement projects were not apprised and evaluated periodically on issues relevant to process safety management including but not limited to management of changes, emergency action plan and response and hot work permits.

**Date by Which Violation Must Be Abated:**  
**Penalty:**

**03/22/2019**  
**\$8,873.00**

### **Citation 1 Item 5      Type of Violation: **Serious****

29 CFR 1910.119(i)(2)[Refer to 12-60-50(a), HAR]: The pre-startup safety review shall confirm that prior to the introduction of highly hazardous chemicals to a process: Construction and equipment is in accordance with design specifications; Safety, operating, maintenance, and emergency procedures are in place and are adequate; For new facilities, a process hazard analysis has been performed and recommendations have been resolved or implemented before startup; and modified facilities meet the requirements contained in management of change, paragraph (l). Training of each employee involved in operating a process has been completed.

Lahaina Plant - - The employer did not ensure pre-start safety review procedures were conducted. Specifically, training was not conducted and documented for employees when equipment has been out of service and when contractors have been on site to work on the process equipment. Specifically, Scrubber system, switchover units, chlorinators and vacuum regulators have been restarted after repairs, however no training documented.

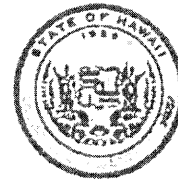
**Date by Which Violation Must Be Abated:**  
**Penalty:**

**03/22/2019**  
**\$8,873.00**

**State of Hawaii**

Department of Labor and Industrial Relations  
Hawaii Occupational Safety and Health Division

Inspection Number: 1342036  
Inspection Date(s): 08/20/2018-10/17/2018  
Issuance Date: 02/14/2019

**Citation and Notification of Penalty**

**Company Name:** County of Maui Department of Environmental Management Lahaina WWRF  
**Inspection Site:** 2200 Main St, Wailuku, HI 96793

**Citation 1 Item 6**      Type of Violation: **Serious**

29 CFR 1910.119(j)(6)(ii)[Refer to 12-60-50(a), HAR]: Appropriate checks and inspections shall be performed to assure that equipment is installed properly and consistent with design specifications and the manufacturer's instructions.

Lahaina Plant - - Appropriate checks and inspections were not performed within the frequency determined by the employer. On or about August 21, 2018, the following deficiencies (current inspections) include but not limited to the following equipment was found:

Chlorine switchover unit monthly inspection (Exercise Module), last performed on July 27, 2017  
75 Chlorine Injector every 3 months inspection, last performed on June 30, 2014  
85 RAS Cl Injector every 3 months inspection, last performed on July 27, 2017  
Gas Feed Control Valve #1 annual inspection, last performed on October 13, 2016  
Gas Feed Control Valve #2 annual inspection, last performed on November 9, 2016  
Scrubber monthly inspection last performed on July 27, 2017  
Scrubber every 3 month inspection, last performed on July 27, 2017  
Scrubber pump drive, every 6 month inspection, last performed on April 5 and 10, 2017  
Scrubber pump drive, annual inspection, last performed on May 10, 2017

Note: Equipment may have received the required maintenance after August 20, 2018, the opening date of the HIOSH inspection. Equipment however has passed the planned frequency for maintenance as determined by the employer.

**Date by Which Violation Must Be Abated:**

**03/22/2019**

**Penalty:**

**\$8,873.00**

**State of Hawaii**

Department of Labor and Industrial Relations  
Hawaii Occupational Safety and Health Division

Inspection Number: 1342036  
Inspection Date(s): 08/20/2018-10/17/2018  
Issuance Date: 02/14/2019

**Citation and Notification of Penalty**

**Company Name:** County of Maui Department of Environmental Management Lahaina WWRF  
**Inspection Site:** 2200 Main St, Wailuku, HI 96793

The alleged violations below (7a – 7c) have been grouped because they involve similar or related hazards that may increase the potential for illness and injury.

**Citation 1 Item 7a**      Type of Violation: **Serious**

29 CFR 1910.119(l)(1)[Refer to 12-60-50(a), HAR]: The employer shall establish and implement written procedures to manage changes (except for "replacements in kind") to process chemicals, technology, equipment, and procedures; and, changes to facilities that affect a covered process.

Lahaina Plant - - The employer did not implement written procedures to manage changes to process chemicals, technology, equipment, and procedures; and, changes to facilities that affect a covered process. Notable changes that may affect the process include numerous capital improvement projects resulting in the chlorination system being modified. The employer also did not consider the use of temporary management of change procedures for those instances when process equipment had been out of service.

**Date by Which Violation Must Be Abated:**  
**Penalty:**

**03/22/2019**  
**\$8,873.00**

**Citation 1 Item 7b**      Type of Violation: **Serious**

29 CFR 1910.119(l)(4)[Refer to 12-60-50(a), HAR]: If a change covered by this paragraph results in a change in the process safety information required by paragraph (d) of this section, such information shall be updated accordingly.

Lahaina Plant - - The employer did not establish and implement written procedures to manage changes to process chemicals, technology, equipment, and procedures; and, changes to facilities that affect a covered process. The following changes that required a management of change include but were not limited to:

Capital improvement projects that resulted in modification to equipment related to the process Scrubber system repairs requiring a startup and operator training. Injectors, Gas Control feed valve, vacuum regulators being out of service for an extended period of time, thus missing their next due preventive maintenance

**Date by Which Violation Must Be Abated:**  
**Penalty:**

**03/22/2019**  
**\$0.00**

**State of Hawaii**

Department of Labor and Industrial Relations  
Hawaii Occupational Safety and Health Division

Inspection Number: 1342036  
Inspection Date(s): 08/20/2018-10/17/2018  
Issuance Date: 02/14/2019

**Citation and Notification of Penalty**

**Company Name:** County of Maui Department of Environmental Management Lahaina WWRF  
**Inspection Site:** 2200 Main St, Wailuku, HI 96793

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Citation 1 Item 7c      Type of Violation: **Serious**

29 CFR 1910.119(l)(5)[Refer to 12-60-50(a), HAR]: If a change covered by this paragraph results in a change in the operating procedures or practices required by paragraph (f) of this section, such procedures or practices shall be updated accordingly.

Lahaina Plant - - The employer did not establish and implement written procedures to manage changes to process chemicals, technology, equipment, and procedures; and, changes to facilities that affect a covered process. The following changes that required a management of change include but were not limited to:

Capital improvement projects that resulted in modification to equipment related to the process Scrubber system repairs requiring a startup and operator training. Injectors, Gas Control feed valve, vacuum regulators being out of service for an extended period of time, thus missing their next due preventive maintenance

**Date by Which Violation Must Be Abated:**

**03/22/2019**

**Penalty:**

**\$0.00**

The alleged violations below (8a –8b) have been grouped because they involve similar or related hazards that may increase the potential for illness and injury.

Citation 1 Item 8a      Type of Violation: **Serious**

29 CFR 1910.119(n)[Refer to 12-60-50(a), HAR]: Emergency planning and response. The employer shall establish and implement an emergency action plan for the entire plant in accordance with the provisions of 29 CFR 1910.38. In addition, the emergency action plan shall include procedures for handling small releases. Employers covered under this standard may also be subject to the hazardous waste and emergency response provisions contained in 29 CFR 1910.120 (a), (p) and (q).

Lahaina - - The employers emergency action plan was not implemented pursuant to the provisions of 29 CFR 1910.38 and 29 CFR 1910.120 (a), (p) and (q). The employer had documented in the annual log changes between 2013 to 2016. Employees affected by these changes were not apprised or trained in the changes. The employer also did not annually review their emergency action plan. The employer also did not conduct annual drills. Not all employees were documented as having received the requisite training.

**Date by Which Violation Must Be Abated:**

**03/22/2019**

**Penalty:**

**\$8,873.00**

**State of Hawaii**Department of Labor and Industrial Relations  
Hawaii Occupational Safety and Health DivisionInspection Number: 1342036  
Inspection Date(s): 08/20/2018-10/17/2018  
Issuance Date: 02/14/2019**Citation and Notification of Penalty****Company Name:** County of Maui Department of Environmental Management Lahaina WWRF  
**Inspection Site:** 2200 Main St, Wailuku, HI 96793**Citation 1 Item 8b      Type of Violation: **Serious****


29 CFR 1910.120(q)(6)(ii)[Refer to 12-60-50(a), HAR]: First responder operations level. First responders at the operations level are individuals who respond to releases or potential releases of hazardous substances as part of the initial response to the site for the purpose of protecting nearby persons, property, or the environment from the effects of the release. They are trained to respond in a defensive fashion without actually trying to stop the release. Their function is to contain the release from a safe distance, keep it from spreading, and prevent exposures. First responders at the operational level shall have received at least eight hours of training or have had sufficient experience to objectively demonstrate competency in the following areas in addition to those listed for the awareness level and the employer shall so certify:

Lahaina Plant - - Employees involved in operating a process were not provided the requisite refresher training pursuant to 29 CFR 1910.120(q)(6). Documents provided by the employer indicated that not all individuals listed received the training dated January 25, 2017 for chlorine B Kit and only Maintenance personnel received training on the emergency action plan dated November 6, 2017.

**Date by Which Violation Must Be Abated:**  
**Penalty:****03/22/2019**  
**\$0.00****Citation 1 Item 9      Type of Violation: **Serious****

29 CFR 1910.119(o)(1)[Refer to 12-60-50(a), HAR]: Employers shall certify that they have evaluated compliance with the provisions of this section at least every three years to verify that the procedures and practices developed under the standard are adequate and are being followed.

Lahaina Plant - - The employer did not certify compliance with provisions of 29 CFR 1910.119(o). The employers 2015 RMP submittal confirmed no compliance audit pursuant to 29 CFR 1910.119(o) was performed.

**Date by Which Violation Must Be Abated:**  
**Penalty:****03/22/2019**  
**\$8,873.00**  
\_\_\_\_\_  
TIN SHING CHAO, Manager  
Occupational Health Branch

**State of Hawaii**

Department of Labor and Industrial Relations

HAWAII OCCUPATIONAL SAFETY AND HEALTH DIVISION

830 PUNCHBOWL STREET, ROOM 423

HONOLULU, HI 96813

Phone: (808) 586-9090

Fax: (808) 586-9104



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## SUMMARY OF PENALTIES

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**Company Name:** County of Maui Department of Environmental Management Lahaina WWRF

**Inspection Site:** 2200 Main St, Wailuku, HI 96793

**Issuance Date:** 02/14/2019

**Summary of Penalties for Inspection Number: 1342036**

Citation 1 Item 1a, Serious	\$ 8,873.00
Citation 1 Item 1b, Serious	0.00
Citation 1 Item 1c, Serious	0.00
Citation 1 Item 1d, Serious	0.00
Citation 1 Item 2, Serious	8,873.00
Citation 1 Item 3a, Serious	8,873.00
Citation 1 Item 3b, Serious	0.00
Citation 1 Item 4, Serious	8,873.00
Citation 1 Item 5, Serious	8,873.00
Citation 1 Item 6, Serious	8,873.00
Citation 1 Item 7a, Serious	8,873.00
Citation 1 Item 7b, Serious	0.00
Citation 1 Item 7c, Serious	0.00
Citation 1 Item 8a, Serious	8,873.00
Citation 1 Item 8b, Serious	0.00
Citation 1 Item 9, Serious	8,873.00

**TOTAL PENALTIES:**

**\$79,857.00**

Make check or money order payable to the "Director of Budget and Finance." Please indicate the *inspection number* and *dba*, if company name is different, on the remittance. A fee of \$25.00 will be charged for any returned checks.



### Unit 4 Union Final - Cost Summary - Hawaii County

All Funds

	FY 20	FY 21	FY 22	FY 23	FY 24	FY 25	Total
<u>Wages (Delete 2 Steps - Add 3 Steps Jul 19-4 Del-Add 4 Ranges 6% ATB Jul 20 SM)(HGEA Union Final)</u>							
Hawaii County	463,151	1,509,245	1,534,757	1,534,757	1,534,757	1,534,757	8,111,422
<u>Night Differential (increase from \$0.60/hr to \$1.00/hr) + Change in Language <sup>2</sup></u>							
Hawaii County	6,359	6,456	6,456	6,456	6,456	6,456	38,642
<u>Time off for Overtime Worked (Decrease from 18 hours to 16 for Qualification) <sup>2</sup></u>							
Hawaii County	3,002	3,780	3,780	3,780	3,780	3,780	21,903
<u>Standby Pay ("Two Portions" language) <sup>2</sup>.</u>							
Hawaii County	-	-	-	-	-	-	-
<u>Working Cond. Differential (increase from \$0.50/hr to \$3.00/hr)</u>							
Hawaii County	-	-	-	-	-	-	-
<u>Total Cost</u>							
Hawaii County	472,513	1,519,481	1,544,993	1,544,993	1,544,993	1,544,993	8,171,966

**Notes:**

<sup>1</sup>. Includes members of the bargaining unit and their excluded counterparts.

<sup>2</sup>. Data for estimated costs related to new contract language is incomplete due to difficulties in obtaining appropriate data.

### Unit 4 Union Final - Cost Summary - City & County of Honolulu

All Funds

	FY 20	FY 21	FY 22	FY 23	FY 24	FY 25	Total
<u>Wages (Delete 2 Steps - Add 3 Steps Jul 19-4 Del-Add 4 Ranges 6% ATB Jul 20 SM)(HGEA Union Final)</u>							
Honolulu	1,494,237	5,021,792	5,097,059	5,097,059	5,097,059	5,097,059	26,904,267
<u>Night Differential (increase from \$0.60/hr to \$1.00/hr) + Change in Language <sup>2</sup></u>							
Honolulu	28,336	28,757	28,757	28,757	28,757	28,757	172,124
<u>Time off for Overtime Worked (Decrease from 18 hours to 16 for Qualification) <sup>2</sup></u>							
Honolulu	3,593	4,524	4,524	4,524	4,524	4,524	26,211
<u>Standby Pay ("Two Portions" language) <sup>2</sup></u>							
Honolulu	2,045	2,575	2,575	2,575	2,575	2,575	14,919
<u>Working Cond. Differential (increase from \$0.50/hr to \$3.00/hr)</u>							
Honolulu	-	-	-	-	-	-	-
<u>Total Cost</u>							
Honolulu	1,528,211	5,057,648	5,132,915	5,132,915	5,132,915	5,132,915	27,117,520

Notes:

<sup>1</sup>. Includes members of the bargaining unit and their excluded counterparts.

<sup>2</sup>. Data for estimated costs related to new contract language is incomplete due to difficulties in obtaining appropriate data.

### Unit 4 Union Final - Cost Summary - Kauai County

All Funds

	FY 20	FY 21	FY 22	FY 23	FY 24	FY 25	Total
<u>Wages (Delete 2 Steps - Add 3 Steps Jul 19-4 Del-Add 4 Ranges 6% ATB Jul 20 SM)(HGEA Union Final)</u>							
Kauai County	155,140	622,570	650,818	650,818	650,818	650,818	3,380,984
<u>Night Differential (increase from \$0.60/hr to \$1.00/hr) + Change in Language <sup>2</sup></u>							
Kauai County	57	58	58	58	58	58	345
<u>Time off for Overtime Worked (Decrease from 18 hours to 16 for Qualification) <sup>2</sup></u>							
Kauai County	418	526	526	526	526	526	3,047
<u>Standby Pay ("Two Portions" language) <sup>2</sup>.</u>							
Kauai County	-	-	-	-	-	-	-
<u>Working Cond. Differential (increase from \$0.50/hr to \$3.00/hr)</u>							
Kauai County	-	-	-	-	-	-	-
<u>Total Cost</u>							
Kauai County	155,615	623,154	651,402	651,402	651,402	651,402	3,384,376

**Notes:**

<sup>1</sup>. Includes members of the bargaining unit and their excluded counterparts.

<sup>2</sup>. Data for estimated costs related to new contract language is incomplete due to difficulties in obtaining appropriate data.

### Unit 4 Union Final - Cost Summary - Maui County

All Funds

	FY 20	FY 21	FY 22	FY 23	FY 24	FY 25	Total
<u>Wages (Delete 2 Steps - Add 3 Steps Jul 19-4 Del-Add 4 Ranges 6% ATB Jul 20 SM)(HGEA Union Final)</u>							
Maui County	381,455	1,291,501	1,320,343	1,320,343	1,320,343	1,320,343	6,954,328
<u>Night Differential (increase from \$0.60/hr to \$1.00/hr) + Change in Language <sup>2</sup></u>							
Maui County	7,898	8,020	8,020	8,020	8,020	8,020	47,999
<u>Time off for Overtime Worked (Decrease from 18 hours to 16 for Qualification) <sup>2</sup></u>							
Maui County	-	-	-	-	-	-	-
<u>Standby Pay ("Two Portions" language) <sup>2</sup></u>							
Maui County	-	-	-	-	-	-	-
<u>Working Cond. Differential (increase from \$0.50/hr to \$3.00/hr)</u>							
Maui County	-	-	-	-	-	-	-
<u>Total Cost</u>							
Maui County	389,353	1,299,521	1,328,363	1,328,363	1,328,363	1,328,363	7,002,327

Notes:

<sup>1</sup>. Includes members of the bargaining unit and their excluded counterparts.

<sup>2</sup>. Data for estimated costs related to new contract language is incomplete due to difficulties in obtaining appropriate data.