

JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA



CATHY BETTS
DIRECTOR
KA LUNA HO'OKELE

JOSEPH CAMPOS II
DEPUTY DIRECTOR
KA HOPE LUNA HO'OKELE

STATE OF HAWAII
KA MOKU'ĀINA O HAWAI'I
DEPARTMENT OF HUMAN SERVICES
KA 'OIHANA MĀLAMA LAWELAWE KANAKA
Office of the Director
P. O. Box 339
Honolulu, Hawaii 96809-0339

January 27, 2023

TO: The Honorable Representative David A. Tarnas, Chair
House Committee on Judiciary & Hawaiian Affairs

FROM: Cathy Betts, Director

SUBJECT: [HB 108](#) – RELATING TO PUBLIC NOTICE.

Hearing: January 31, 2023, 2:00 p.m.
Conference Room 325 & Videoconference, State Capitol

DEPARTMENT'S POSITION: The Department of Human Services (DHS) supports this measure and requests clarification.

PURPOSE: This bill will allow government agencies to publish public notices on their official websites as an alternative to publishing them in the newspaper.

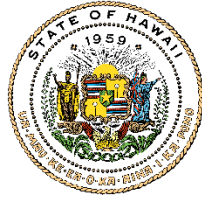
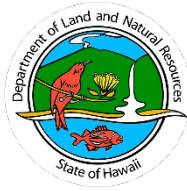
DHS supports the option to publish notices via posting on our website. DHS remains committed to maintaining timely communication with its applicants and recipients. DHS will continue utilizing its website to communicate program information that may affect applicant and recipient eligibility and disbursement of essential benefits.

DHS requests clarification of the proposed paragraph (3) on whether posting to a calendar on the department's website is required.

Thank you for the opportunity to provide comments on this measure.

JOSH GREEN, M.D.
GOVERNOR | KE KIA'ĀINA

SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA



**STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII'
DEPARTMENT OF LAND AND NATURAL RESOURCES
KA 'OIHANA KUMUWAIWAI 'ĀINA**

P.O. BOX 621
HONOLULU, HAWAII 96809

DAWN N.S. CHANG
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE
MANAGEMENT

LAURA H.E. KAAKUA
FIRST DEPUTY

M. KALEO MANUEL
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE
MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES
ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

**Testimony of
DAWN N.S. CHANG
Chairperson**

**Before the House Committee on
JUDICIARY & HAWAIIAN AFFAIRS**

**Tuesday, January 31, 2023
2:00 PM**

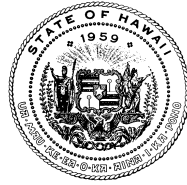
State Capitol Conference Room 325 and Videoconference

**In Consideration of
HOUSE BILL 108
RELATING TO PUBLIC NOTICE**

House Bill 108 proposes to allow government agencies the option to publish notices via a posting on the agency's official website, in lieu of, or in addition to publishing in a daily or weekly publication, such as a printed newspaper. **The Department of Land and Natural Resources (Department) supports this measure as it increases efficiency, lowers costs, and may reach a broader community.**

The Department supports this measure as it will make the notification process simpler, timelier and more effective. Newspaper subscriptions have decreased as more people rely on web-based news sources and information. For example, the Star Advertiser had a circulation of 268,244 in 2012. In 2022, its circulation is 147,959, a decrease of nearly 50%. Thirty percent (30%) of people under 30 have never read a newspaper (Statistica, 2022). The option to use web-based notification allows government agencies to choose the most effective media for their public notices.

Thank you for this opportunity to comment on this measure.



STATE OF HAWAII
DEPARTMENT OF HEALTH
P. O. Box 3378
Honolulu, HI 96801-3378
doh.testimony@doh.hawaii.gov

**Testimony in SUPPORT of HB108
RELATING TO PUBLIC NOTICE.**

REP. DAVID A. TARNAS, CHAIR
HOUSE COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS

Hearing Date: January 31, 2023

Room Number: 325

1 **Fiscal Implications:** Operational cost savings in the tens of thousands of dollars for individual
2 programs.

3 **Department Testimony:** The Department of Health (DOH) supports this measure to improve
4 government efficiency without compromising public engagement and transparency. As drafted,
5 this measure provides the option for online posting.

6 DOH acknowledges that many residents and communities rely on printed newspapers due to lack
7 of access to broadband or unfamiliarity with digital telecommunications systems. In order to
8 assure access to government postings, the department recommends amendments that:

- 9 1. Authorize online-only posts only after one year of printed public notices of the intent to
10 switch to online-only public notices,
- 11 2. Analyze and demonstrate any impacts of going online only, and
- 12 3. Assure a format of online postings compatible with technology used by visually impaired
13 persons.

14 The Legislature may also consider limiting the online option to counties with populations greater
15 than 750,000 as a pilot.

16

1 The Department of Health will utilize the online-only option for postings for public notices such
2 as those required by the certain federal agencies. For example, the US Environmental Protection
3 Agency requires certain Clean Water Act permit information to be published as public notice for
4 which internet publication is acceptable, but state law requires print publication and thus the
5 stricter state statute prevails. In nearly all of these cases, regulated industries are the subject of
6 these postings, not the public at large, and these industries employ staff to monitor the regulatory
7 environment. Example of postings that would qualify are listed below and attached:

- 8 • Clean Air Branch: Modifications to portable crushing and screening plants, specifically
9 the use of water suppression to mitigate fugitive emissions for a 253 TPH Powerscreen
10 Maxtrack Crushing Plant and a 441 TPF Powerscreen Chieftain Screening Plant;
- 11 • Waste Water Branch: Variance to continue previously approved use of an individual
12 wastewater system at TMK (4) 4-6-016: 005;
- 13 • Clean Water Branch: Modification of the chlordane maximum daily and average annual
14 effluent limitations pursuant to a change in 40 CFR Sections 122.62(a)(2), specifically,
15 consideration of additional data and new dilution study; and
- 16 • Safe Drinking Water Branch: Notification of a violation of the Volatile Organic Chemical
17 monitoring requirements, specifically that sample water collected was received by the
18 testing lab over the allowable sample temperature.

19 Public notices of substance or general public interest, such as those for public hearings for
20 Hawaii Administrative Rules, Sunshine Law notices, or contested case hearings are governed by
21 more specific statutes that require newspaper and internet posting, so SB2111 would not apply.

22 Cost savings this measure will provide are estimated: public notices for National Pollutant
23 Discharge Elimination System permits cost applicants about \$100,000 annually; public notices
24 for the Wastewater Branch variance program cost applicants about \$100,000 annually; public
25 notices for Underground Injection Control permits cost applicants about \$5000 annually; and
26 public notices for Clean Air Branch permits cost applicants about \$30,000 annually.

27 Thank you for the opportunity to testify.

1 **Offered Amendments:**

2 SECTION 2. Section 1-28.5, Hawaii Revised Statutes, is
3 amended by amending subsection (a) to read as follows:

4 "(a) Notwithstanding any other statute, law, charter
5 provision, ordinance, or rule to the contrary, whenever a
6 government agency is required to give public notice or to
7 publish notice, the notice shall be given only as follows:

8 (1) For statewide publication:

9 (A) In a daily or weekly publication of statewide
10 circulation; or

11 (B) By publication in separate daily or weekly
12 publications whose combined circulation is
13 statewide; [~~and~~]

14 (2) For county-wide publication, by publication in a daily
15 or weekly publication in the affected county[~~-~~

16 ~~Additional supplemental notice may also be given through Hawaii~~
17 ~~FYI, the State's interactive computer system.]; or~~

18 (3) For statewide or county publication of routine and
19 non-critical public notices, as applicable, by posting

1 on an electronic calendar on an official website for
2 legal notices maintained by the State or the
3 appropriate county, provided that the state or county
4 agency shall:

5 (A) Conduct and document the evaluation process and
6 rationale to justify an online-only posting if
7 the subject of the public notice is likely to
8 impact persons with limited, inconsistent, or
9 unreliable broadband access or significant
10 inexperience with broadband-enabled
11 telecommunications;

12 (B) Retain the evaluation and furnish it upon
13 request;

14 (C) Publish the intention to post only online a
15 minimum of one year prior to implementing online-
16 only posts; and

17 (D) Post the online-only public notice in a format
18 accessible to technology that assists individuals
19 who are visually impaired."

1 SECTION 3. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3

4

**REQUEST FOR PUBLIC COMMENTS
ON DRAFT AIR PERMIT
REGULATING THE EMISSIONS OF AIR POLLUTANTS**

(Docket No. 21-CA-PA-13)

Pursuant to Hawaii Revised Statutes (HRS), Chapter 342B-13 and Hawaii Administrative Rules (HAR), Chapter 11-60.1, the Department of Health, State of Hawaii (DOH), is requesting public comments on the following **DRAFT PERMIT** presently under review for:

Temporary Covered Source Permit (CSP) No. 0856-01-CT

Application for Significant Modification Nos. 0856-02, 0856-03

Big Island Hauling, Inc., dba Soil Plus

Portable Crushing and Screening Plants

Located At: Various Temporary Sites, State of Hawaii

Initial Location: 74-591 Honokohau Street, Kailua-Kona, Hawaii

The **DRAFT PERMIT** is described as follows:

The issuance of Temporary CSP No. 0856-01-CT will grant conditional approval for the addition of a 253 TPH Powerscreen Maxtrak Crushing Plant and a 441 TPH Powerscreen Chieftain Screening Plant to the existing 308 TPH Powerscreen Premiertrak Crushing Plant and 441 TPH Powerscreen Chieftain Screening Plant. Water suppression will be used as necessary to minimize fugitive emissions from crushing and screening operations, material transfer points, stockpiles, and plant roads. The crushing and screening plant is subject to 40 Code of Federal Regulations (CFR) Part 60, Subpart OOO, Standards of Performance for Nonmetallic Mineral Processing Plants. This permit, if issued, will supersede CSP No. 0856-01-CT, issued on February 9, 2018, in its entirety.

The **ADMINISTRATIVE RECORD**, consisting of the **APPLICATION** and non-confidential supporting material from the applicant, the permit review summary, and the **DRAFT PERMIT**, is available for public inspection online at <http://health.hawaii.gov/cab/public-notices/> and at the following locations during regular office hours, Monday through Friday, 7:45 a.m. to 4:15 p.m.:

Oahu:

- State of Hawaii
Clean Air Branch
2827 Waimano Home Road, #130
Pearl City, Hawaii 96782

Hawaii:

- Hawaii District Health Office
Department of Health
1582 Kamehameha Avenue
Hilo, Hawaii 96720
- Sanitation Branch
Department of Health
79-1020 Haukapila Street, Room 115
Kona, Hawaii 96750

All comments on the draft permit and any request for a public hearing must be in writing, addressed to the Clean Air Branch at the above address on Oahu and must be postmarked or received by **January 18, 2022**.

Any person may request a public hearing by submitting a written request that explains the party's interest and the reasons why a hearing is warranted. The DOH may hold a public hearing if a hearing would aid in DOH's decision. If a public hearing is warranted, a public notice for the hearing will be published at least thirty (30) days in advance of the hearing.

Interested persons may obtain copies of the administrative record or parts thereof at a copying cost of five (5) cents per page. Please send written requests to the Clean Air Branch listed above or call Mr. Jensen Kennedy at the Clean Air Branch at (808) 586-4200.

Comments on the draft permit should address, but need not be limited to, the permit conditions and the facility's compliance with federal and state air pollution laws, including: (1) the National and State Ambient Air Quality Standards; and (2) HRS, Chapter 342B and HAR, Chapter 11-60.1.

DOH will make a final decision on the permit after considering all comments and will send notice of the final decision to each person who has submitted comments or requested such notice.

Elizabeth A. Char, M.D.
Director of Health

DAVID Y. IGE
GOVERNOR OF HAWAII



VIRGINIA PRESSLER, M.D.
DIRECTOR OF HEALTH

STATE OF HAWAII
DEPARTMENT OF HEALTH
P.O. BOX 3378
HONOLULU, HI 96801-3378

In reply, please refer to:
File: SDWB
237M0218.docx

February 23, 2018

SDWLS
5/11/18 SIA 1/3/18 ✓
— SIF 6/27/18 ✓
6/5 SOX 6/5/18 ✓

Ms. Joy Gannon
Director of Utilities
Pulama Lanai
P.O. Box 630310
Lanai City, HI 96763
[via jgannon@pulamalanai.com only]

Dear Ms. Gannon:

SUBJECT: PUBLIC WATER SYSTEM ID 237, LANAI CITY WATER SYSTEM, NOTICE OF VOLATILE ORGANIC CHEMICAL MONITORING VIOLATIONS (TIER 3), 2017 MONITORING PERIOD

The Department of Health (DOH) informed you on January 3, 2018, that the Lanai City water system violated the Volatile Organic Chemical (VOC) monitoring requirements in 2017. A sample was collected and sent to a private laboratory, but it was received at over the allowable sample temperature. Pulama Lanai incurred violations for each regulated VOC contaminant as follows:

Contaminant(s)	Number of contaminants	Number of violations
VOCs*	21	21

* VOCs include the following regulated contaminants: 1,1,1-Trichloroethane (TCA); 1,1,2-Trichloroethane; 1,1-Dichloroethylene; 1,2,4-Trichlorobenzene; 1,2-Dichloroethane (EDC); 1,2-Dichloropropane (DCP); Benzene; Carbon Tetrachloride (CTC); Chlorobenzene; cis-1,2-Dichloroethylene; Dichloromethane; Ethylbenzene; o-Dichlorobenzene; p-Dichlorobenzene; Styrene; Tetrachloroethylene; Toulene; trans-1,2-Dichloroethylene; Trichloroethylene (TCE); Vinyl Chloride; and Xylenes (total).

Failure to comply with a monitoring requirement is a Tier 3 violation. Tier 1 violations are the most serious violations, and Tier 3 violations are the least serious. However, these 21 violations are major monitoring violations because no sample for VOCs was properly analyzed during the monitoring period.

Public Notification Requirements. Tier 3 violations require public notification through mail delivery:

Public Notice Requirement Deadline
Mail delivery Deliver public notice within 1 year – by **January 2, 2019**

Ms. Joy Gannon
February 23, 2018
Page 2

We highly encourage you to distribute the public notice within one quarter, or by April 2, 2018, due to the number of violations incurred. You also have the option of distributing the public notice with your annual Consumer Confidence Report in June.

We also encourage you to collect your 2018 VOC sample as soon as possible so that you would be able to report in your public notice if there were any VOCs detected in the current monitoring period. Please note that you must report these violations in your Consumer Confidence Report in June.

The following documents are enclosed for your use and information:

1. A brief explanation of the public notice requirements,
2. A sample public notice for mail delivery,
3. A sample public notice issuance form letter which must be returned to the SDWB.

Please complete the issuance letter and send it **within 10 days of delivering the public notice**, with a copy of the notice, to the SDWB Chief, Ms. Joanna L. Seto, P.E., at the address above.

If you have questions concerning these violations, please call Mr. Zhaohui Wang of the Compliance Section at 808-586-4258. If you have any questions on the public notice requirements, please call Ms. Ann Zane, Supervisor of the SDWB Compliance Section, at the same phone number.

Sincerely,

JOANNA L. SETO, P.E., ACTING CHIEF
Environmental Management Division

AZ:mc

Enclosures

Instructions for Monitoring Violations Annual Notice

If you are required to provide Tier 3 notification, you must provide public notice to persons served within one year after you learn of the violation. Multiple monitoring violations can be serious, and your primacy agency may have more stringent requirements. Check with your primacy agency to make sure you meet its requirements.

Community systems must use one of the following:

- Hand or direct delivery
- Mail, or a separate notice included with the water bill

Noncommunity systems must use one of the following:

- Posting in conspicuous locations
- Hand delivery
- Mail

In addition, both community and noncommunity systems must use another method reasonably calculated to reach others if they would not be reached by the first method [40 CFR 141.204(c)]. Such methods could include newspapers, email, or delivery to community organizations. If you post this notice, it must remain posted until the violation is resolved. If the violation has already been resolved, you must post the notice for at least seven days [40 CFR 141.204(b)]. If you mail, post, or hand deliver, print your notice on your system's letterhead, if available.

The notice on the next page is appropriate for insertion in an annual notice of the Consumer Confidence Report (CCR), as long as public notification timing and delivery requirements are met [40 CFR 141.204(d)]. You may need to modify the template for a notice for individual monitoring violations. This example represents violations in a table; however, you may write out an explanation for each violation if you wish. For any monitoring violation for volatile organic compounds (VOCs) or other groups, you may list the group name in the table, but you must provide the name of every chemical in the group on the notice, e.g. in a footnote.

You may need to modify the notice if you had any monitoring violations for which monitoring later showed a maximum contaminant level or other violation. In such cases, you should refer to the public notice you issued at that time. If you do modify the notice, you must still include all the required PN elements from 40 CFR 141.205(1) and leave the mandatory language unchanged (see below).

Mandatory Language

Mandatory language for monitoring and testing procedure violations [40 CFR 141.205(d)] must be included as written (with blanks filled in) and is presented in this notice in italics. You must also include standard language to encourage the distribution of the public notice to all persons served, where applicable [40 CFR 141.205(d)].

Corrective Action

In your notice, describe corrective actions you took, or are taking. Listed below are some steps commonly taken by water systems with monitoring violations. You can use the following language, if appropriate, or develop your own:

- We have since taken the required samples, as described in the last column of the table above. The samples showed we are meeting drinking water standards.
- We have since taken the required samples, as described in the last column of the table above. The sample for [contaminant] exceeded the limit. [Describe corrective action; use information from public notice prepared for violating the limit.]
- We plan to take the required samples soon, as described in the last column of the table above.

After Issuing the Notice

Make sure to send your primacy agency a copy of each type of notice and a certification that you have met all the public notice requirements within 10 days after issuing the notice [40 CFR 141.31(d)].

SAMPLE PUBLIC NOTICE

DRINKING WATER NOTICE

Monitoring requirements not met for the Lanai City water system

Our water system violated drinking water monitoring requirements in 2017. Even though this was not an emergency, as our customers, you have a right to know what happened and what we are doing to correct this situation.

We are required to monitor your drinking water for specific contaminants on a regular basis. Results of regular monitoring are an indicator of whether or not your drinking water meets health standards. During 2017, we did not complete all monitoring or testing at the Lanai City water system for Volatile Organic Chemicals (VOCs). We therefore cannot be sure of the quality of the Lanai City drinking water with regard to these chemicals at that time.

What should I do?

There is nothing you need to do at this time.

The table below lists the contaminants we did not properly test for during the time period, how many samples we were supposed to take, how many samples we took, and when samples were last collected.

Contaminant(s)	Required sampling frequency	Number of samples taken	When sample was last taken
VOCs ¹	1 sample every year	0	Month/year

One sample for VOCs was collected in 2016, and these chemicals were not detected.

Steps We Are Taking

[Describe corrective action.] e.g. you may add "...After samples have been collected in current year, the water system is expected to again be in compliance with drinking water monitoring requirements for VOCs." For more information, please contact name of contact of at phone number or location/address.

Please share this information with all the other people who drink this water, especially those who may not have received this notice directly (for example, people in apartments, nursing homes, schools, and businesses). You can do this by posting this notice in a public place or distributing copies by hand or mail.

State Water System ID#: 237

Date Distributed: date

¹VOCs include the following regulated contaminants: 1,1,1-Trichloroethane (TCA); 1,1,2-Trichloroethane; 1,1-Dichloroethylene; 1,2,4-Trichlorobenzene; 1,2-Dichloroethane (EDC); 1,2-Dichloropropane (DCP); Benzene; Carbon Tetrachloride (CTC); Chlorobenzene; cis-1,2-Dichloroethylene; Dichloromethane; Ethylbenzene; o-Dichlorobenzene; p-Dichlorobenzene; Styrene; Tetrachloroethylene; Toulene; trans-1,2-Dichloroethylene; Trichloroethylene (TCE); Vinyl Chloride; Xylenes (total).

SAMPLE PUBLIC NOTICE ISSUANCE LETTER

date

Ms. Joanna L. Seto, P.E.
Department of Health
Safe Drinking Water Branch
919 Ala Moana Blvd., Room 308
Honolulu, HI 96814-4920

Dear Ms. Seto:

SUBJECT: PWS ID 237, LANAI CITY WATER SYSTEM, VOLATILE ORGANIC CHEMICAL MONITORING VIOLATIONS, 2017 MONITORING PERIOD, PUBLIC NOTICE

The public water system indicated above hereby affirms that public notice has been provided to consumers in accordance with the delivery, content, format requirements and deadlines in Chapter 11-20, "Rules Relating to Potable Water Systems," sections 11-20-18(d) and (e) (Tier 3 violations).

Please contact name at phone if there are any questions. A copy of the public notice is attached. The following information pertains to this public notice.

- ___ Consultation with primacy agency on date
- ___ Public notice contained required language, and DOH reviewed the draft
- ___ Notice distributed by: method on date

Form completed by:

Signature Date

Sincerely,

Signature of owner/operator Date

RECEIVED
SAFE DRINKING WATER BRANCH

JUL 12 2018

J 2.12.18
AL



LANA'I WATER COMPANY, INC.
P.O. Box 630310
Lana'i City, Hawaii 96763
Telephone: (808) 565-3355
Fax: (808) 565-3360

July 2, 2018

Ms. Joanna L. Seto, P.E.
Department of Health
Safe Drinking Water Branch
919 Ala Moana Blvd., Room 308
Honolulu, HI 96814-4920

Subject: PWS ID 237, Lanai City Water System, Volatile Organic Chemical Monitoring Violations,
2017 Monitoring Period, Public Notice

Dear Mr. Seto:

The Public Water System indicated above hereby affirms that public notice has been provided to consumers in accordance with the deliver, content, format requirements and deadlines in Chapter 11-20, "Rules Relating to Potable Water Systems," Section 11-20-18(d) and (e) (Tier 3 violations).

Please contact Joy Gannon at 808-563-0259 if there are any questions. A copy of the public notice is attached. The following information pertains to this public notice.

- Consultation with primary agency on 6/19/18
- Public notice contained required language, and DOH reviewed the draft
- Notice distributed by mail throughout the week of June 25th – June 28th (Large mailing and it took several days).
- Form completed by Joy Gannon on July 2, 2018

Sincerely,

Joy Gannon
Director of Utilities



LANA'I WATER COMPANY, INC.

P.O. Box 630310
Lana'i City, Hawaii 96763
Telephone: (808) 565-3355
Fax: (808) 565-3360

DRINKING WATER NOTICE

Monitoring Requirements not met for the Lanai City water system

Our water system violated drinking water monitoring requirements in 2017. Even though this was not an emergency, as our customers, you have a right to know what happened and what we are doing to correct the situation.

We are required to monitor the Lanai Water System drinking water for specific contaminants on a regular basis. Results of regular monitoring are an indicator of whether or not your drinking water meets health standards. During 2017, we did not complete all monitoring or testing at the Lanai City water system for Volatile Organic Chemicals (VOCs). We therefore cannot be sure of the quality of the Lanai City drinking water with regard to these chemicals at that time.

What should I do?

There is nothing you need to do at this time.

The table below lists the contaminants we did not properly test for during the time period, how many samples we were supposed to take, how many samples we took, and when samples were last collected.

Contaminant(s)	Required sampling frequency	Number of samples taken	When sample was taken previous to 2017
VOCs ¹	1 sample every year	0	2016

One sample for VOCs was collected in 2016, and these chemicals were not detected.

Steps We Are Taking

VOC samples were taken in June of 2018 and were non-detectable. After samples were collected this year, the Lanai Water system is again in compliance with drinking water monitoring requirements for VOCs. For more information, please contact Joy Gannon at 808.563.0259 or at the Lanai Water Company office located at 1311 Fraser Ave. in Lanai City.

Please share this information with all the other people who are customers in Lanai City service area, especially those who may not have received this notice directly (for example, people in apartments, nursing homes, schools, and businesses).

State Water System ID#: 237

Date Distributed: June 27, 2018

¹VOCs include the following regulated contaminants: 1,1,1-Trichloroethane (TCA); 1,1,2-Trichloroethane; 1,1-Dichloroethylene; 1,2,4-Trichlorobenzene; 1,2-Dichloroethane (EDC); 1,2-Dichloropropane (DCP); Benzene; Carbon Tetrachloride (CTC); Chlorobenzene; cis-1,2-Dichloroethylene; Dichloromethane; Ethylbenzene; o-Dichlorobenzene; p-Dichlorobenzene; Styrene; Tetrachloroethylene; Toulene; trans-1,2-Dichloroethylene; Trichloroethylene (TCE); Vinyl Chloride; Xylenes (total).

AFFIDAVIT OF PUBLICATION

IN THE MATTER OF
Public Notice

STATE OF HAWAII
City and County of Honolulu

Doc. Date: MAY 01 2018 # Pages: 1
Notary Name: COLLEEN E. SORANAKA First Judicial Circuit
Doc. Description: Affidavit of Publication
Notary Signature: [Signature] Date: MAY 01 2018
Notary Public Seal: COLLEEN E. SORANAKA, NOTARY PUBLIC, No. 90-263, STATE OF HAWAII

Gwyn Pang being duly sworn, deposes and says that she is a clerk, duly authorized to execute this affidavit of Oahu Publications, Inc. publisher of The Honolulu Star-Advertiser, MidWeek, The Garden Island, West Hawaii Today, and Hawaii Tribune-Herald, that said newspapers are newspapers of general circulation in the State of Hawaii, and that the attached notice is true notice as was published in the

Honolulu Star-Advertiser 1 times on: 05/01/2018
MidWeek 0 times on:
The Garden Island 0 times on:
Hawaii Tribune-Herald 0 times on:
West Hawaii Today 0 times on:
Other Publications: 0 times on:

And that affiant is not a party to or in any way interested in the above entitled matter.

Gwyn Pang
Gwyn Pang
Subscribed to and sworn before me this 1 day of May A.D. 2018
Colleen E. Soranaka, Notary Public of the First Judicial Circuit, State of Hawaii
My commission expires: Jan 06 2020

Ad # 0001093494

NOTICE OF PROPOSED MODIFICATION OF WATER POLLUTION CONTROL PERMIT

May 1, 2018

The Department of Health (DOH) proposes to modify the Sand Island Wastewater Treatment Plant (SIWWTP), HI 0020117, National Pollutant Discharge Elimination System (NPDES) permit to discharge to receiving State waters:

This permit, issued to the City and County of Honolulu, is being modified pursuant to Hawaii Administrative Rules (HAR), Section 11-55-16 and Title 40 Code of Federal Regulations (40 CFR), Section 122.62(a)(2). The proposed major modification includes:

- 1. Removing the DDT maximum daily and average annual effluent limitations and revising the monitoring frequency from monthly to semi-annually pursuant to 40 CFR Section 122.62(a)(15) (specifically, excluding non-detects from RPA calculations);
2. Removing the chlordane maximum daily and average annual effluent limitations pursuant to 40 CFR Sections 122.62(a)(2) (specifically, consideration of additional data and new dilution study) and (a)(15) (specifically, (1) utilizing an RPA that projected daily maximum concentrations, thereby not considering the long exposure time associated with human health criteria for carcinogens (e.g. 70 years) and the fact that human health criteria for carcinogens is expressed as an annual average and (2) the treatment of non-detects in RPA calculations);
3. Revising the dieldrin maximum daily and average annual effluent limitations pursuant to 40 CFR Sections 122.62(a)(2) (specifically, consideration of additional data and new dilution study) and (a)(15) (specifically, (1) utilizing an RPA that projected daily maximum concentrations, thereby not considering the long exposure time associated with human health criteria for carcinogens (e.g. 70 years) and the fact that human health criteria for carcinogens is expressed as an annual average and (2) the treatment of non-detects in RPA calculations);
4. Removing the ammonia nitrogen maximum daily effluent limitations pursuant to 40 CFR Sections 122.62(a)(2) (specifically, utilization of additional data) and (a)(15) (specifically, the treatment of non-detects in RPA calculations);
5. Revising the enterococcus maximum daily and average monthly effluent limitations pursuant to 40 CFR Section 122.62(a)(2) (specifically, consideration of additional data and new dilution study);
6. Revising certain Whole Effluent Toxicity ("WET") requirements, including for the Instream Waste Concentration ("IWC") and test species pursuant to 40 CFR Section 122.62(a)(2) (specifically, consideration of additional information regarding projected changes to the treatment train and species sensitivities, and new dilution study); and
7. Removing Part 1.5 of the 2014 Permit, "Planned Changes" pursuant to 40 CFR Section 122.62(a)(15) (specifically, to achieve consistency with 40 CFR 122.41(l)).

The draft modified permit shall expire on November 11, 2019.

In accordance with 40 CFR Sections 124.5(c)(2) and 122.62, only the conditions outlined above are being proposed for modification. Please note that DOH is only requesting comments on, or considering requests for a public hearing on, the items proposed for modification as described above.

Persons wishing to comment upon or object to the proposed modified SIWWTP NPDES permit or to request a public hearing, should submit their comments or requests in writing no later than 30 calendar days after the date of this notice, either in person or by mail, to:

Clean Water Branch
Environmental Management Division
Department of Health
2827 Waimano Home Road, Room 225
Pearl City, HI 96782

Copies of the proposed modified permit and other information are available for public inspection, Monday through Friday (excluding holidays) from 7:45 a.m. until 4:15 p.m., at the DOH office address shown above and on the WPC Viewer located at:

http://eha-web.doh.hawaii.gov/wpc-viewer. Copies may be bought. The proposed modified permit and rationale are also available on the internet at: http://health.hawaii.gov/cwb/site-map/clean-water-branch-home-page/public-notices-and-updates and on the WPC Viewer located at: http://eha-web.doh.hawaii.gov/wpc-viewer. For more information or if you have special needs due to disability that will aid you in inspecting and/or commenting on the proposed modified permit and related information, please contact Mr. Darryl Lum, Supervisor of the Engineering Section, at the above address or (808) 586-4309 (Voice) at least seven (7) calendar days before the comment deadline. For those who use a TTY/TDD, please call through Sprint Relay Hawaii, at 1-711 or 1-877-447-5991.

All comments and requests received on time will be considered. If DOH determines that there is significant public interest, a public hearing may be held after at least 30 calendar days of public notice.

If DOH's position is substantially unchanged after considering all timely written comments and all oral comments at any public hearing that may be held, then the DOH will issue the modified NPDES permit and this action will be final.

VIRGINIA PRESSLER, M.D.
Director of Health

OFFICE OF INFORMATION PRACTICES

STATE OF HAWAII
NO. 1 CAPITOL DISTRICT BUILDING
250 SOUTH HOTEL STREET, SUITE 107
HONOLULU, HAWAII 96813
TELEPHONE: 808-586-1400 FAX: 808-586-1412
EMAIL: oip@hawaii.gov

To: House Committee on Judiciary & Hawaiian Affairs

From: Cheryl Kakazu Park, Director

Date: January 31, 2023, 2:00 p.m.
State Capitol, Conference Room 325

Re: Testimony on H.B. No. 108
Relating to Public Notice

Thank you for the opportunity to submit testimony on this bill, which would allow government agencies to publish public notices on an official website as an alternative to a newspaper in some circumstances. The Office of Information Practices (OIP) is neutral as to the intent of this bill, but is concerned that the wording of **where notices are to be posted is confusing due to what appears to be a typographical error.**

Although OIP itself does not oversee notice requirements other than as set out in the Sunshine Law, part 1 of chapter 92, HRS, and does not oversee the notice requirement being amended here, OIP is the State agency contact for the State's electronic calendar operated by the ehawaii.gov portal provider. **OIP recommends an amendment to clarify that a notice may be posted either on an electronic calendar or a website for legal notices**, thus allowing for appropriate posting of both notices of hearings or other events and informational notices not linked to a specific time and date.

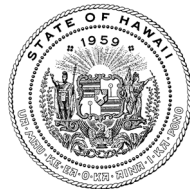
The bill (at page 2 line 19 to page 3 line 2) currently requires electronically posted public notices to be "on an electronic calendar on an official website for legal notices maintained by the State or the appropriate

county[.]” (Emphasis added.) **The State’s public meetings calendar at calendar.ehawaii.gov is set up for postings of only calendar-type events, i.e., events planned for a particular date and time, and thus is used for Sunshine Law meetings, public hearings, agency-hosted community meetings, and other events scheduled to take place at a specified date and time. However, the purpose section of this bill indicates that the notices intended to be posted electronically also include legal notices that are informational and are not linked to a specific date and time, such as clean water environmental hazard advisories and information about disaster-related response and recovery activities. A calendar sorted by date and time would be an inappropriate format for such legal notices, which would be more suitably posted in a similar format to a blog or news site with postings sorted by topic and recency of posting.**

Given the clear intent of this bill to cover health advisories and other non-date-specific legal notices, it seems likely that the requirement for where notices may be posted had a **typographical error**: instead of “on an electronic calendar **on** an official website for legal notices,” it should have read “on an electronic calendar **or** an official website for legal notices.” (Emphasis added.) **OIP recommends that the bill be amended to fix that likely error, thus allowing for meetings, public hearings, and similar events to be posted on the State or county calendar, while health advisories, emergency information, and other informational notices are posted on an official website for legal notices. This would require amending page 2 line 20 to page 3 line 1 to replace the “on” at the end of line 20 with “or,” to read: “. . . an electronic calendar or an official website for legal notices[.]”**

Thank you for considering OIP’s testimony.

JOSH GREEN, M.D.
GOVERNOR



LUIS P. SALAVERIA
DIRECTOR

SABRINA NASIR
DEPUTY DIRECTOR

EMPLOYEES' RETIREMENT SYSTEM
HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND
OFFICE OF THE PUBLIC DEFENDER

STATE OF HAWAII
DEPARTMENT OF BUDGET AND FINANCE
Ka 'Oihana Mālama Mo'ohelu a Kālā
P.O. BOX 150
HONOLULU, HAWAII 96810-0150

ADMINISTRATIVE AND RESEARCH OFFICE
BUDGET, PROGRAM PLANNING AND MANAGEMENT DIVISION
FINANCIAL ADMINISTRATION DIVISION
OFFICE OF FEDERAL AWARDS MANAGEMENT

WRITTEN ONLY
TESTIMONY BY LUIS P. SALAVERIA
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
TO THE HOUSE COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS
ON
HOUSE BILL NO. 108

January 31, 2023
2:00 p.m.
Room 325 and Videoconference

RELATING TO PUBLIC NOTICE

The Department of Budget and Finance (B&F) supports House Bill (H.B.) No. 108.

This measure amends Section 1-28.5, HRS, to provide government agencies the option to publish notices via a posting on the agency's official website, in lieu of or in addition to publishing in a daily or weekly publication such as a printed newspaper.

The Director of Finance is currently required to give, twice in successive weeks, statewide public notice of the state growth and expenditure ceiling. Additionally, the Governor reports the status of unreleased grants once every quarterly allotment period in the manner prescribed by Section 1-28.5, HRS. Section 1-28.5 requires the public notice to be published statewide in a daily or weekly publication of statewide circulation or by publication in separate daily or weekly publications whose combined circulation is statewide. In practice, the Governor has delegated the reporting of the status of grants to the Director of Finance.

The cost of publishing public notices in the newspaper at B&F totals approximately \$11,000 each fiscal year. It would be more cost effective if the Governor or Director of Finance could report the information on the Governor's or B&F's website, as applicable.

Thank you for the opportunity to provide testimony in support of this bill.

OFFICE OF THE MAYOR
CITY AND COUNTY OF HONOLULU

530 SOUTH KING STREET, ROOM 300 • HONOLULU, HAWAII 96813
PHONE: (808) 768-4141 • FAX: (808) 768-4242 • INTERNET: www.honolulu.gov



RICK BLANGIARDI
MAYOR

MICHAEL D. FORMBY
MANAGING DIRECTOR
KRISHNA F. JAYARAM
DEPUTY MANAGING DIRECTOR

January 30, 2023

The Honorable David A. Tarnas, Chair
The Honorable Gregg Takayama, Vice Chair
and Members of the Committee on Judiciary and Hawaiian Affairs
House of Representatives
State Capitol, Room 442
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Tarnas, Vice Chair Takayama, and Members of the Committee:

SUBJECT: House Bill No. 108
RELATING TO PUBLIC NOTICE.

House Bill No. 108 was submitted on behalf of the City and County of Honolulu's (City) Mayor's package. This measure would allow government agencies to publish public notices on their official websites as an alternative to publishing them in the newspaper. However, respectfully, the City requests this bill be held at this time.

Noting the amendments made by the Senate last year and our efforts in transparency and accessibility, we have discovered that preparing our systems for certain formats and for a more user-friendly interface will take more time than initially forecasted. In addition, the advanced file formats requested by the Disability and Communication Access Board in previous testimony have unearthed timing concerns for any postings made for highly time sensitive projects. Finally, we do have equity concerns regarding income and demographic groups that may not have access to alternative means of public notice.

Thank you for the opportunity to provide testimony on this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "M. Formby".

Michael D. Formby
Managing Director



ASSISTIVE TECHNOLOGY RESOURCE CENTERS OF HAWAII
200 NORTH VINEYARD, SUITE 430
HONOLULU, HAWAII 96817
(808) 532-7110

HOUSE OF REPRESENTATIVES
THE THIRTY-SECOND LEGISLATURE
REGULAR SESSION OF 2023

COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS

Testimony on H.B. 108
Hearing: January 31, 2023

RELATING TO PUBLIC NOTICES

Chair Tarnas, Vice Chair Takayama, members of the Committee, Assistive Technology Resource Centers (“ATRC”), the State of Hawaii’s designated Assistive Technology Act agency under the Technical Assistance Act of 1998 (Tech Act), is testifying in **opposition to House Bill 108**.

This bill would discriminate against individuals with disabilities, kupuna and citizens without access to broadband internet or the internet. Notices could be voided or suspended when a court renders a decision concerning whether the notices are accessible and meet the requirements of the Americans with Disabilities Act (ADA).

This bill would place a burden on the public. The public would have to search multiple sites for notices instead finding public notices from agencies in single newspaper with state wide circulation. If this legislation advances, it should include funding for a single website operated by an independent party.

Public Notices

Public notices include subjects such as abandoned property, opening of public housing waiting lists, summons, street closings, water quality, Requests for Proposals and council hearings.

An internet notice is an inadequate substitute for a printed, fixed newspaper notice.

Notices published in newspapers observe the four traditional elements of public notice, 1. publication by an independent party, 2. accessibility (newspapers are accessible to individuals that use screen readers), 3. ability to easily verify and authenticate, and 4. capable of archiving at a reasonable cost.

Verification

This bill does not have provisions for verification of the publication of a public notice. A statutory notice is an official record. Ensuring that the official notice is published in print and on the internet is one small way official records can be preserved. Verifying publication is difficult-to impossible on the web. If there was a question about when a notice was published on a website, a court would have to subject digital evidence to far greater scrutiny than evidence published in newspapers. A website used for publication of a public notice should be independent of the publisher. The State Calendar is operated by an independent company and any website used for publication of public notices should be independent of the agency publishing the notice.

Records have been lost because of programming changes. CNN published a story about how the demise of Adobe Flash wiped out “some of the most iconic 9/11 news coverage” as well as “other major events from the early days of online journalism.” The same could happen to a notice that was published electronically.

It could be a mistake to rely on the web as the sole publication point for statutory notice, since the notice is an official record that could be wiped out.

The State Archives should be required to write rules governing the preservation and archiving of electronically published public notices.

Accessibility for the Disabled

This bill does not have any requirement that public notices that are published electronically be accessible nor does the bill define what is an accessible notice.

Title II of the ADA prohibits a state or local government from discriminating against an individual with a disability. Title II requires that websites and information posted on a website meet certain standards for accessibility. These standards are generally known as the 508 Standards.¹ The standards require that an electronic document have certain accessibility features necessary Assistive Technology, such as text to speech programs, needed by disabled individuals to access an electronic document.

If a document or website does not meet these requirements for accessibility, an individual can file an ADA lawsuit in Federal Court for injunctive relief if a website or public notice does not meet the accessibility requirements of the ADA. When a state agency published an inaccessible RFP, a citizen challenged the agency and the agency had to restart the procurement process with an accessible RFP.

¹ 36 CFR 1194 §§ 1194.1 and 1194.2

Accessibility for Certain Members of the Public


The digital divide is decreasing due to the massive migration to smartphones and other small-screen digital devices. However, reading a public notice on the small screen of a smart phone would be difficult.

Significant numbers of people in rural areas still lack access to high-speed internet access needed to download a large notice.

People older than 65 or people that have lower incomes are cut off from the internet in far higher numbers than the average. For example, an individual eligible for an opening on the public housing waiting list might be unaware of the opening because they did not have access to the internet.

Thank you for the opportunity to testify.

Assistive Technology Resource Centers by:



Peter L. Fritz

Representative David Tarnas, Chair
Representative Gregg Takayama, Vice Chair
House Committee on Judiciary & Hawaiian Affairs

January 31, 2023; 2:00 PM
Via Videoconference or conference room 325

RE: HB 108 Relating to Public Notice – IN OPPOSITION

Aloha Chair Tarnas, Vice Chair Takayama and members of the committee:

Oahu Publications Inc. (OPI) respectfully opposes HB 108, which allows government agencies to publish public notices on their official websites as an alternative to publishing them in the newspaper.

OPI publishes 4 of the 5 daily newspapers in the State, including the Honolulu Star-Advertiser, The Garden Island, Hawaii Tribune-Herald and West Hawaii Today. This bill is unnecessary as we already have all legal ads on the following websites:

www.staradvertiser.com
www.hawaiitribune-herald.com
www.westhawaii.com
www.thegardenisland.com

The total combined monthly views per month is over 28 million. Anyone can view these ads, not just subscribers. You don't need a password or subscription to view them.

The intent of most legal notices is to make a valid attempt to reach (notice) the largest general public audience possible. Allowing other websites for legal notices maintained by the State or a county, which will incur costs and resources, is duplicative and we question whether it will accomplish the intent. There may be confusion if government agencies each selected a different venue to publish their notices. Government websites may be inadequate as people may be unaware of them and will not check them with any regularity. This undermines the intent to notify the public and increase transparency.

A shift to an internet-based publication would disproportionately disadvantage low-income residents and rural communities that have less access to the internet. Also, a significant number of kupuna do not use the internet at all. The Star-Advertiser print version alone has nearly 300,000 daily readers. The neighbor island papers are the primary source for local news with over 60% reach of all households.



Further, websites do not create permanent records. In some cases, it is important to have a hard-copy archival of historical documents.

The Star-Advertiser views public notices as a necessary service to the community, and the print version is vital for kupuna and those without reliable internet access. In the last ten years, our already low State rate (half of normal rate) has only increased 6%, although our costs for paper, shipping, distribution and labor have increased.

For these reasons, we ask that you hold this bill. Thank you for the opportunity to submit testimony.

Dennis E. Francis
President & Publisher





MAUI

CHAMBER OF COMMERCE

VOICE OF BUSINESS

HEARING BEFORE THE HOUSE COMMITTEE ON
JUDICIARY AND HAWAIIAN AFFAIRS
HAWAII STATE CAPITOL, HOUSE CONFERENCE ROOM 325
TUESDAY, JANUARY 31, 2023 AT 2:00 P.M.

To The Honorable David A. Tarnas, Chair
The Honorable Gregg Takayama, Vice Chair
Members of the committee on Judiciary and Hawaiian Affairs

COMMENTING ON HB108 RELATING TO PUBLIC NOTICE

The Maui Chamber of Commerce would like to offer **comments on HB108** which allows government agencies to publish public notices on their official websites as an alternative to publishing them in the newspaper.

The Chamber supports posting notices online. However, just posting public notices on an agency's official website may not be enough notice to the public. The public would have to read a large number of different websites every day just to see if there are notices of important hearings. We would like to suggest that there be some sort of standardized notification system where notices get posted on the state's official social media pages as well. Also, there should be an option to receive notices via email and/or text messages since those two methods of communication are the most frequently checked by a vast majority of citizens.

While we understand this bill is seeking to find alternatives for posting notices beyond the newspaper, we would like to point out that there are a lot of citizens (especially kupuna) who only read the newspaper and who may not be able to find notices online.

Mahalo for the opportunity to offer **comments on HB108**.

Sincerely,

Pamela Tumpap
President

HB-108

Submitted on: 1/27/2023 4:03:54 PM

Testimony for JHA on 1/31/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Gerard Silva	Individual	Oppose	Written Testimony Only

Comments:

Nobody looks at there offical Government web sit so this would not be Far for the People of Hawaii!!!

HB-108

Submitted on: 1/28/2023 12:25:49 AM

Testimony for JHA on 1/31/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Susan Pcola_Davis	Individual	Oppose	Written Testimony Only

Comments:

I suggest that both be required. It is difficult enough to find public notices. Having to go to individual websites is ridiculous. Looking at one newspaper announcement is much better!

TO: Members of the Committee on Judiciary & Hawaiian Affairs

FROM: Natalie Iwasa
808-395-3233

HEARING: 2 p.m. Tuesday, January 31, 2023

SUBJECT: HB 108, Allows Government Agencies to Publish Public Notices Online Only -
COMMENTS

Aloha Chair Tarnas and Committee Members,

Thank you for allowing me the opportunity to provide testimony on HB 108, which would allow government agencies to post certain public notices online only instead of in a newspaper.

While I agree it is more expedient and cheaper to post public notices online, please consider that some people, especially the elderly, may not have access to the internet. How would online-only notification impact this segment of the population?