

COUNCIL OF THE COUNTY OF MAUI  
**PUBLIC WORKS AND  
TRAFFIC COMMITTEE**

March 19, 2004

**Committee  
Report No.**

04-60

Honorable Chair and Members  
of the County Council  
County of Maui  
Wailuku, Maui, Hawaii

Chair and Members:

Your Public Works and Traffic Committee, having met on March 4, 2004, makes reference to County Communication No. 04-48, from the Director of Public Works and Environmental Management, transmitting a list of businesses that are not in compliance with grease interceptor requirements set forth in Section 14.21A.080, Maui County Code (MCC).

By correspondence dated February 25, 2004, your Committee received a summary of Section 14.21A.080, MCC, and a description of the efforts by the Department of Public Works and Environmental Management (Department), Division of Wastewater Reclamation, to implement and enforce the fats, oil and grease (FOG) interceptor regulations, prepared by your Committee's staff.

By correspondence dated March 2, 2004, Barry Lewin, General Manager, Hyatt Regency Maui Resort and Spa, transmitted correspondence dated February 23, 2004, from Gary Bulson, Senior Engineer, Hyatt Regency Maui Resort and Spa to the Director of Public Works and Environmental Management, relating to an appeal to the Notice of Violation (NOV) and Order issued by the Department dated February 10, 2004.

By correspondence dated March 2, 2004, your Committee's Chair transmitted the following:

1. correspondence dated February 2, 2001, July 1, 2002, January 22, 2003 and July 11, 2003, from the former Director of Public Works and Waste Management and the Director of Public Works and Environmental Management, relating to information notices to businesses of FOG interceptor requirements; and
2. a copy of a document entitled "Uniform Plumbing Code Appendix H Interceptor Sizing".

COUNCIL OF THE COUNTY OF MAUI  
**PUBLIC WORKS AND  
TRAFFIC COMMITTEE**

March 19, 2004  
Page 2

Committee  
Report No. 04-60

At its meeting, your Committee met with the Director of Public Works and Environmental Management; the Wastewater Reclamation Division Chief (Division Chief), Department of Public Works and Environmental Management; a Deputy Corporation Counsel; and Lani Correa, Executive Director, Maui Hotel Association.

There was no public testimony.

Your Committee received an overview of the matter from the Division Chief. He noted that 545 businesses are required to comply with the FOG interceptor regulations. Of this amount, 363 businesses achieved compliance by the December 31, 2003 deadline. Of the 182 businesses that did not comply with the regulations by the deadline, 80 have approved plans, 78 have plans under review, 14 have no submittals, and 10 businesses have closed. He noted that 85 NOV have been issued.

The Division Chief stated that the FOG program was initiated in 1993. He noted that the purpose of the FOG program is to significantly reduce the materials from entering the wastewater reclamation system and clogging the collection lines. He indicated that verbal notification of the FOG interceptor requirements began in 1995, by the Wastewater Source Control Technician (inspectors). He noted that since 1998, the release of FOG into the collection system has reduced significantly. Furthermore, in 1998, less than 100 tons of FOG was diverted from the collection system. In 2003, approximately 500 tons of FOG was diverted from entering the collection system. He also noted that grease spills have reduced from 25 in 1996 to 2 in 2003.

Your Committee raised concerns relating to the implementation and enforcement of the FOG interceptor compliance requirements. Your Committee noted that the initial fine of \$500 for noncompliance, cannot be waived. However, your Committee noted that under certain circumstances, the daily fine of \$100 can be waived by the Director. Your Committee inquired about the statutory authority given to the Director, and the subjectivity of the Director when reviewing requests to waive the daily fines.

In response to your Committee, the Director noted that he is communicating with the Department of the Corporation Counsel to ensure objectivity and fairness in reviewing requests to waive the daily fines.

COUNCIL OF THE COUNTY OF MAUI  
**PUBLIC WORKS AND  
TRAFFIC COMMITTEE**

March 19, 2004  
Page 3

Committee  
Report No. 04-60

The Deputy Corporation Counsel stated that Chapter 14.21A, MCC, grants authority to the Director for assessing fines and establishing administrative rules to implement this Chapter. She also noted that pursuant to Title 15, Chapter 2, Rules for Administrative Procedures and Civil Fines for Violations of Title 14, the initial \$500 fine must be paid prior to the Director considering the disposition of the daily fines and granting an extension.

The Director advised your Committee that 90 inspections have been completed. He noted that the FOG interceptor inspections of applicable businesses should be completed by the end of March 2004. He also noted that the Division currently has 1.5 inspectors available to complete the inspection process. He noted that businesses, which have been inspected and have not achieved compliance, will be issued an NOV. Your Committee noted that certain businesses have received an NOV and others have not. Accordingly, the Director advised your Committee that because of the limited staff performing the inspections, the process is moving slowly. However, he indicated that all businesses, which have not complied with FOG regulations upon inspection, will receive an NOV.

Ms. Correa advised your Committee that certain hotels and resorts have been unable to comply with FOG regulations because of various extenuating circumstances. She noted the following issues that impact hotels and resorts from achieving compliance: (1) the plan review process is slow; (2) there is a limited availability of contractors to perform the work; (3) site conditions are not conducive for such improvements; and (4) design requirements make the installation of interceptors cost prohibitive. She noted, however, that hotels and resorts fully intend to comply with the requirements of the Maui County Code.

Your Committee noted that the Department's implementation of this program has been effective, especially with regard to their efforts to progressively notify applicable businesses of the FOG interceptor regulations. Your Committee requested that the Department and the Administration maintain objectivity and fairness in determining which businesses will receive consideration for waiving the daily fines.

Your Committee voted to file the communication.

COUNCIL OF THE COUNTY OF MAUI  
**PUBLIC WORKS AND  
TRAFFIC COMMITTEE**

March 19, 2004  
Page 4

Committee  
Report No. 04-60

Your Public Works and Traffic Committee RECOMMENDS that County Communication No. 04-48 be FILED.

Adoption of this report is respectfully requested.

pwt:cr:0428ba:grs

COUNCIL OF THE COUNTY OF MAUI  
**PUBLIC WORKS AND  
TRAFFIC COMMITTEE**

March 19, 2004  
Page 5

Committee  
Report No. 04-60

---

**MICHAEL J. MOLINA** Chair

---

**DAIN P. KANE** Member

---

**CHARMAINE TAVARES** Vice-Chair

---

**JOSEPH PONTANILLA** Member

---

**G. RIKI HOKAMA** Member