

## Appendix A

FY 2009 Hawaii State Plan (HIOSH) Enhanced FAME Report prepared by Region IX

### Summary of Findings and Recommendations

Complaint Findings		Complaint Recommendations	
1	HIOSH did not notify all complainants of inspection results within 20 workdays of citation issuance or within 30 workdays of closing conference without citation.	HIOSH must ensure that complainants are notified of inspection results in a timely manner.	
2	The OSHA 7 was not always completed correctly and was not always in the related case file. Letters that acknowledged receipt of the complaint and those that discussed HIOSH's Findings about the complaint items were not always found in files where complainant name and contact information were known.	HIOSH must complete the OSHA 7 correctly, send the required correspondence to complaints, and include copies of these documents in the case files.	
3	The program did not respond to two out of nine complaints classified as imminent danger within a day of receiving the complaint.	Review the complaint processing system and ensure there is adequate staffing to respond to complaints classified as imminent danger in a timely fashion.	
Fatalities Findings		Fatalities Recommendations	
4	Although the information had been entered into IMIS, there was no copy of the OSHA 170 in four of the five cases classified as FAT/CATs.	HIOSH must properly complete the OSHA 170 with sufficient details to describe the accident and include a copy in the case file.	
5	Families of the victims of occupational fatalities were sent the initial contact letter in one of the five fatality cases. There was no evidence of any other written contact with the families in the fatality case files.	HIOSH must follow their FOM and keep the families of victims of occupational fatalities informed by staying in contact with the families and by sending the appropriate letters in a timely fashion during the course of the inspection. While the State program was not required to and did not adopt CPL 02-00-137, <i>Fatality/Catastrophe Investigation Procedures</i> , OSHA strongly recommends adoption of similar procedures.	
Targeting Findings		Targeting Recommendations	
6	HIOSH health inspectors conducted sampling in only five of 121 health inspections conducted in FY 2009.	HIOSH must ensure that health inspectors are conducting appropriate sampling during inspections and properly entering the information into IMIS.	
7	HIOSH completed only 426 inspections (51 percent) of its goal of 835 inspections in FY 2009.	HIOSH should evaluate its staffing and enforcement efforts in order to meet its inspection goals.	
8	Enforcement inspection activities on the neighbor islands were not proportionate to the population of workers represented on each island, especially Maui.	HIOSH needs to evaluate resources or consider hiring additional personnel to ensure that proportionate inspection coverage is provided to the neighbor islands, especially Maui.	
9	Construction contractors working on military bases were seldom inspected by HIOSH.	HIOSH must conduct a proportionate number of inspections of contractors on military bases.	
10	Case file documentation and required forms in HIOSH inspection files were not organized and ordered consistently.	Ensure that all files contain documentation and forms in a consistent order.	
11	In 10 of the 43 case files reviewed, there was no diary sheet.	Record all pertinent information onto the diary sheet in accordance with the HIOSH FOM and keep a copy of the diary sheet with the case file.	
12	The OSHA 1 and the OSHA 1A were not always signed and dated.	Ensure that all compliance officers sign and date the OSHA 1 and the OSHA 1A as required.	
13	In four OSHA 1Bs, the employee's address and/or phone number was not obtained. In one case with six 1Bs, there was no injury or illness documented. On five OSHA 1Bs, the incorrect standard was cited. In three cases, grouping was not used correctly.	HIOSH must complete the 1B correctly. HIOSH must follow the procedures in Section C of Chapter V of its FOM to determine when grouping of violations is appropriate.	

	Targeting Findings	Targeting Recommendations
14	S/W/R violations were not found in the same proportion of HIOSH programmed inspections as in OSHA programmed inspections.	OSHA continues to recommend that HIOSH refine their targeting system to ensure that the establishments selected are the ones that could most benefit from inspection.
	Employee and Union Involvement Findings	Employee and Union Involvement Recommendations
15	There was not always evidence in the case file to show that union representatives had accompanied the walk around. There was no evidence to show that union representatives participated in the closing conference, were sent copies of the citations issued, or were notified of informal conferences.	a: HIOSH must ensure employee representatives are presented the opportunity to participate during each inspection in accordance with its FOM. b: HIOSH must follow its FOM with respect to providing copies of the citation to union representatives. c: HIOSH must follow its FOM regarding union notification of and participation in informal conferences.
	Citations and Penalties Findings	Citations and Penalties Recommendations
16	In 24 of the 43 case files reviewed, HIOSH did not appropriately classify the violations and/or cite all of the obvious hazards. Seven other-than-serious violations (OTS) should have been classified as serious (S). There were 19 case files where the narrative or a photo provided sufficient information to document a hazard which was not cited. There was nothing in the case files to indicate why these hazards were not cited.	Managers must thoroughly review case files to ensure that documentation is complete and citations and classification of violations are consistent and appropriate to the hazards identified during inspections.
17	There was no documentation that all relevant safety and health programs required by the HIOSH standards were evaluated during programmed planned comprehensive inspections.	Ensure that the OSHA 1A narrative is completed to document the evaluation of all relevant safety and health programs for all programmed planned inspections and where appropriate for un-programmed activity.
18	HIOSH did not cite any standard from 29 CFR 1910.38 during FY 2009.	HIOSH must ensure that compliance officers evaluate each workplace to determine if it is required to have an Emergency Action Plan during comprehensive and planned general industry inspections, and that citations are issued as appropriate.
19	Documentation that employer injury illness records were reviewed and evaluated as part of the inspection process was missing from the case files.	HIOSH must instruct managers and compliance officers to comply with HIOSH's FOM Chapter III – <i>General Inspection Procedures</i> , which specifies that injury and illness records will be inspected, analyzed and documented in the case file.
20	HIOSH altered the OSHA 2 to print the compliance officer's full name on the first page of the citation.	HIOSH should take appropriate steps to ensure that the compliance officer's name does not appear on the citations or any other official documents issued to or shared with employers or the public.
21	The average number of calendar days it took HIOSH to issue citations has more than doubled since FY 2007 to an average of 102 days, which is approximately twice as long as federal OSHA.	HIOSH must improve its citation processing system to effectively decrease citation lapse time. HIOSH must ensure the managers run <i>Open Inspection</i> reports on a weekly basis to track lapse time and intervene when appropriate to ensure that cases are completed in a timely manner. HIOSH should also consider eliminating the final review by the State Designee to reduce additional review time.
22	Penalties were not always calculated in accordance with Ch. VI of its FOM.	HIOSH must ensure that citations are reviewed to confirm that the penalty calculation includes the appropriate probability and severity for the related employee exposure and type of hazard identified.

Abatement Findings		Abatement Recommendations
23	S/W/R violations were not always abated in a timely fashion, nor were follow-up inspections conducted in all instances when required.	HIOSH must ensure that abatement is achieved and entered in a timely fashion, and that follow-up inspections are scheduled and conducted when appropriate.
24	Case files did not document the rationale for changing citations during the informal conference.	HIOSH must ensure that management follows Section G.2 of its FOM and includes pertinent documentation of the informal conference in the case file, including the rationale for changing citations and related penalties.
25	There was no evidence of the final outcomes of contested cases (i.e. copy of the Formal Settlement Agreement) in the files reviewed.	HIOSH should review and revise the contested case process to ensure that copies of the FSA and documentation of final resolutions are included in the case files prior to closing the files.
Public Employee Program Findings		Public Employee Program Recommendations
26	The number and percentage of inspections HIOSH has conducted in the public sector has decreased in the past three years from 86 (10 %) in FY 2007 to 30 (6%) in FY 2008 to a low of 22 (5%) in FY 2009. This corresponds disproportionately with the increase in the last three years in the public sector injury and illness rates.	HIOSH must increase its inspections in the public sector.
Information Management Findings		Information Management Recommendations
27	Valid backups of the NCR and the Windows computer systems have not occurred since the former IT administrator was transferred to another department.	Valid and complete backups must be done for both the NCR and the Windows Server on a daily, weekly and monthly basis.
28	As of 2/17/10, there were 110 error rejects listed on the SOD report.	Correct errors listed on the SOD report on a daily basis.
29	HIOSH was not running and using the Desired State Reports.	HIOSH needs to ensure that reports are run regularly and that action is taken based on the information in the reports to help to ensure each case file is being managed properly.
30	As of 2/18/10, there were 220 draft forms in HIOSH's NCR.	HIOSH needs to convert draft forms into a final format or delete them as appropriate.
31	As of February 2010 HIOSH has not designated a backup administrator.	HIOSH should designate a backup system administrator.
32	The current person designated as the system administrator, as well as the entire enforcement branch, has not had sufficient training in how to effectively use and maintain the NCR and the OSHA IMIS system.	HIOSH must ensure that the systems administrator, the backup systems administrator, and all enforcement branch personnel receive appropriate IMIS training.
Standards Adoption Findings		Standards Adoption Recommendations
33	HIOSH did not adopt federal OSHA standards within the six month requirement.	Develop and implement a tracking system for the adoption of new Federal Standards to ensure that the six month deadline is met.
Federal Program/State Initiated Changes Findings		Federal Program/State Initiated Changes Recommendations
34	HIOSH has not yet adopted the Training Directive and OSHA's revision to the Field Operations Manual.	Adopt a Training Directive and provisions to match OSHA's revision to the Field Operations Manual, and Develop and implement a tracking system to ensure that new Federal Program Changes are evaluated and adopted in a timely manner.
Public Sector Consultation Findings		Public Sector Consultation Recommendations
35	HIOSH did not ensure that 65% or more of serious hazards documented during consultation visits were abated on site or by the original abatement date.	HIOSH must ensure abatement of serious hazards as quickly as possible.
Discrimination Program Findings		Discrimination Program Recommendations
36	Only four of 14 (29%) of discrimination cases were completed within the 90 day statutory period.	HIOSH needs to ensure that adequate resources are available to complete discrimination investigations in a timely manner.

Abatement Findings		Abatement Recommendations
37	All HIOSH staff assigned to conduct discrimination investigations had not received formal training.	Ensure that all of HIOSH's discrimination investigators receive appropriate formal discrimination training.
38	HIOSH does not accept verbal discrimination complaints.	HIOSH should accept and docket orally filed complaints in IMIS upon receipt and not require a Complainant to submit a complaint in writing.
39	Not all of HIOSH staff knew that they could use unilateral settlements.	HIOSH should develop and enforce a consistent policy regarding unilateral settlements, per OSHA's whistleblower manual, DIS 0.09, Ch. 6, Section (IV)(B)(3).
Voluntary Compliance Programs Findings		Voluntary Compliance Programs Recommendations
40	One site has not been timely re-evaluated and has not been removed as a VPP participant.	HIOSH should revoke the employer's VPP status. HIOSH should take immediate steps to develop a team to evaluate the site, including the use of qualified SGEs and OSHA personnel.
41	HIOSH charged its VPP activities to the 21(d) grant.	Time spent on VPP activities must be charged to the 23(g) grant funds as 50/50.
Program Administration Findings		Program Administration Recommendations
42	HIOSH lapsed \$144,095.37 at the end of FY 2009.	HIOSH must closely track expenditure of grant funds and ensure that funds are projected for expenditure by the grantee. Funds that are not projected to be expended by the end of the grant period must be returned to OSHA at the beginning of the fourth quarter.
43	Ten disbursements totaling \$377,000 have been made since December 29, 2009 without approval.	HIOSH must submit a written request for prior approval through the grant administrator 30 days in advance of the original award end date in accordance with OSHA directives, and must not take action unless it receives written authorization.
44	Drawdown of grant funds was not uniform during the fiscal year.	HIOSH needs to closely monitor drawdown of funding from the grants on a monthly basis to ensure grant funds are properly managed.
45	23g Grant funds were used to pay a temporary employee without requesting written permission to do so and to purchase and maintain a color copier in the Director's office.	HIOSH must ensure that expenditures and equipment purchases made with 23g funds are used for activities covered and authorized by the 23g Grant.
46	HIOSH staffing levels are below benchmarks.	HIOSH must develop a plan to address the critical vacancies for compliance and consultation personnel.
47	Salaries paid to staff are not equivalent to the work activities being performed and all position duties are not accurately described in HIOSH's FOM nor in its other directives.	HIOSH must ensure that salaries paid to staff are equivalent to the work activities being performed and that all position duties are accurately described in its FOM and its other directives.
48	None of the employees in the enforcement branch had completed all of the required classes listed in OSHA's training directive, <i>TED 01-00-018 Initial training Program for OSHA Compliance Personnel</i> .	HIOSH needs to ensure that all compliance staff receives at least the basic required OSHA courses. HIOSH must develop a training plan and allocate the necessary funds to do so.
Annual Performance Goals Findings		Annual Performance Goals Recommendations
49	Public Sector Injury and Illness Rates increased 10 percent from the baseline in 2005 to 2008. HIOSH did not complete as many public sector inspections and consultations as it projected in FY 2009.	HIOSH needs to re-evaluate its efforts to more effectively address reducing injury and illness in the public sector.
50	In the State of Hawaii, the number of fatalities from falls to lower level went from three in FY 2007 to two in FY 2008 to zero in FY 2009, and then back up to three in the first half of FY 2010.	Develop and implement a combined enforcement and outreach initiative to address the increase in fall-related fatalities.