

**2009  
Federal Annual Monitoring and Evaluation Report  
(FAME)**

**Hawaii Occupational Safety and Health Program**



**Evaluation Period:**

**October 1, 2008- September 30, 2009**

**Plan Approval:**

**December 28, 1973**

**Plan Certification:**

**April 26, 1978**

**Final 18(e) Approval:**

**April 30, 1984**

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# **I. Executive Summary**

## **Section 1. Introduction and Summary**

This report assessed the Hawaii Department of Labor and Industrial Relations, Occupational Safety and Health (HIOSH) Division's progress towards achieving their performance goals established in their Federal Fiscal Year (FY) 2009 Annual Performance Plan and reviewed the effectiveness of programmatic areas related to enforcement activities during the period of October 1, 2008 to September 30, 2009. Relevant observations from the first quarter of FY 2010 have also been included.

The Hawaii program has significant program deficiencies which raise questions as to the State's ability and commitment to operate an effective enforcement program. Many of the performance problems appear to be the result of staffing and funding cutbacks. It is not clear that the state has a plan to address these problem areas and in fact is deobligating an additional \$600,000 (or one-half of the Federal funding) this year. The state must develop a Corrective Action Plan that presents reasonable plans for expeditiously improving the status of the State plan.

A major concern identified in this report is HIOSH's inability to maintain a fully staffed enforcement and consultation program. The program's compliance staffing benchmarks established a minimum of 18 compliance officers (nine safety and nine health) and four consultants (two safety and two health). By the end of FY 2009 there were only ten compliance officers (six safety and four health) and three consultants (two safety and one health). Additional layoffs due to the State budget shortfall occurred in the first quarter of FY 2010, and the staff was further reduced to nine compliance staff (50 percent below the benchmark) and one consultant (75 percent below the benchmark). In 2009, Hawaii lapsed \$144,095 in Federal funds. In Fiscal Year 2010, the State reduced its State plan grant award by \$148,400, declined a \$67,300 increase and deobligated \$600,000. Unless HIOSH successfully addresses this staffing shortage, the program will have significant difficulties in providing an effective safety and health enforcement and consultation program for the working people of Hawaii.

Consistent with the reduced staffing levels, the program could not meet its inspection goal of 835 inspections or its consultation goal of 14 visits. In FY 2009, HIOSH conducted 426 inspections (only 51 percent of the number projected) and six public sector consultation visits (only 43 percent of its goal).

The staffing issue also impacted HIOSH's ability to effectively manage its discrimination program. HIOSH does not have a separate discrimination department or branch, and discrimination complaints are handled as collateral duties by the health enforcement branch. In FY 2009 only four of 14 (29%) of discrimination cases were completed within the 90 day statutory period, and none of the HIOSH staff assigned to conduct discrimination investigations has attended the course given by the OSHA Training Institute (OTI). HIOSH needs to more effectively focus resources on managing the discrimination program to ensure that investigators are properly trained and investigations are conducted in a timely manner.

HIOSH did not provide adequate inspection coverage for contractors working on military installations. In FY 2009, HIOSH conducted five un-programmed inspections at two military bases. During the past five fiscal years, HIOSH has not opened any inspections at 14 of the 23 known military bases. As a result of military movement out of Japan, construction activity has risen at these bases, necessitating an increased enforcement presence.

Issues concerning union involvement, contact with family members of fatality victims, and responsiveness to complainants were noted when case files were reviewed. Some case files were marked to indicate that a union representative had accompanied the walk around. No other documentation could be found to confirm that HIOSH was including unions in inspection and post inspection activity. Only one fatality inspection file contained the initial contact letter to the victim's family. No other correspondence or indication of contact was found in any of the fatality/catastrophe inspection files reviewed. Inspection files for complaints did not always contain all the required correspondence to the complainant. HIOSH must ensure that it is responsive to its stakeholders by notifying all complainants of inspection results in a timely fashion, sending the required letters to the families of fatality victims as well as keeping in contact with them during the course of the inspection process, and documenting the opportunities unions have been offered to participate in the inspection process, including notification of informal conferences.

HIOSH did not ensure that state inspectors conducting programmed and/or comprehensive inspections always evaluated mandatory safety and health programs such as emergency action plans, fire prevention plans, and other required programs. HIOSH must ensure that inspectors evaluate the required safety and health programs when it conducts programmed or comprehensive inspections and document this in the case files.

In some cases citations were not issued for obvious hazards identified in the narrative or by photos, and some violations were not properly classified and penalized in accordance with Chapter VI of the HIOSH *Field Operations Manual* (FOM). Several inspection files did not have the forms completed properly, and data was not effectively entered into the computer system and transferred to the host computer via OSHA's Integrated Management Information System (IMIS). As part of effective case file documentation, HIOSH needs to ensure that inspectors complete OSHA forms correctly, that case files are carefully reviewed to ensure that all identified hazards are cited and documented sufficiently, and that violations are properly classified with appropriate penalties. HIOSH needs to make improvements in data entry and transfer as well to ensure that enforcement data is accurate and complete.

Timeliness was an issue in some aspects of the program. HIOSH must decrease lapse time between the opening conference and citation issuance. For safety inspections, the project exceeded the national average by 242 percent. Health cases exceeded the national average by 157 percent when compared to other state plans despite the fact that only five of the 121 health inspections contained documentation that sampling was conducted. HIOSH must ensure timely issuance of citations and completion of abatement to ensure that employee exposure to hazards is minimized.

The State must ensure that compliance officers receive appropriate training. HIOSH management has not adequately complied with OSHA's training directive, *TED 01-00-018 Initial training Program for OSHA Compliance Personnel*, in that some of the required training courses based on the experience levels of the staff had not been completed.

To ensure that Hawaii is able to meet its 23(g) enforcement program operational requirements, the findings in this report must be sufficiently addressed and resolved.

HIOSH continued to handle complaints and referrals in a timely fashion. The Health Branch met the goal for percent of programmed health inspections with S/W/R violations. The average lapse

time from the receipt of contest to the first level decision continued to be significantly less than the national average. Injury and illness rates in construction and in the five general industry sectors targeted by HIOSH have decreased from 2005 to 2008. The 22.8 percent reduction in the TRC (total recorded rate) and the 20.4% reduction in the DART (days away, restricted or transferred) construction industry exceeded HIOSH's five-year goal of 15 percent.

The number of deaths from falls to a lower level (HIOSH Performance Goal 2) dropped to zero in FY 2009. Unfortunately, in the first two quarters of FY 2010, three fatalities from falls to a lower level occurred. HIOSH responded with a fall campaign that included targeted inspections, including follow-ups of serious citations issued for fall protection, and media outreach.

## **Section 2. Agency Background**

The State of Hawaii's Occupational Safety and Health Plan was approved on December 28, 1973 under the provisions of Section 18(b) of the Occupational Safety and Health Act (OSH Act). This plan was certified on April 26, 1978 as having completed all specified developmental steps. On April 30, 1984, the State was granted final approval, and concurrent Federal enforcement authority was relinquished under Section 18(e) of the Act. The State plan covers all private and public sector employment in Hawaii except maritime activities, Federal civilian employees, and land that is under exclusive Federal jurisdiction.

The designated agency for the administration of this program is the Department of Labor and Industrial Relations (DLIR). Within the DLIR, the Hawaii Occupational Safety and Health Division (HIOSH) is responsible for both enforcement and consultation programs. The program's headquarters office is located in the State capital of Honolulu. Besides the headquarters office, one Occupational Safety and Health Specialist (OSHCO) was located in Hilo, one in Kona and one on Kauai. In July 2009, the Kauai position was abolished. It does not appear in the FY 2010 grant.

The HIOSH staff listed on the grant consisted of an OSH Administrator, an Operations Manager, four Branch Chiefs (Health, Safety, Consultation, Administrative and Technical Services (vacant)), an OSH Business Safety Facilitator (vacant) Safety Supervisor, 18 Compliance Officers (6 vacancies), seven Consultants (2 vacancies), and 20 Support positions (3 vacancies). For the past four fiscal years, the designated OSH Administrator was assigned to other duties. During this period, the Operations Manager was detailed into the OSH Administrator's position.

The Health Branch Manager was in charge of the 11(c) program. HIOSH did not have staff solely devoted to discrimination. Rather, the manager and three environmental health specialists (EHS) were assigned to conduct discrimination investigations as a collateral duty. During 2009, two program specialists did the intake and screening of all complaints including those alleging discrimination. In the first quarter of FY 2010, these positions were eliminated and there are no plans to fill them in the foreseeable future.

Hawaii employers may appeal contested citations to the Hawaii Department of Labor and Industrial Relations, Hawaii Labor Relations Board (HLRB) and, subsequently, to the State courts within a 20 calendar day statutory contest period. Although employers, as well as employees, may request an informal conference with HIOSH, once a formal appeal has been filed with the HLRB, any decision, including settlement or withdrawal, must have Board approval. The HLRB held all hearings. HIOSH was represented by attorneys from the State's Attorney General's (AG) Office.

The program promoted safe and healthful workplaces through State programs which differed from the basic Federal requirements. The most notable of these programs included:

***Safe Workplace Assistance Program (SWAP)/Special Government Employees (SGE):*** In FY 2004, HIOSH submitted a SWAP/SGE plan change supplement (PCS) for OSHA's review and approval. This program utilized the services of private sector safety and health professionals to assist interested employers in qualifying for the Safety and Health Achievement Recognition Program (SHARP) and Voluntary Protection Program (VPP).

***De Minimis/Notice of Violations:*** In FY 2003, the program implemented a pilot program that used "Notice of Violation" (NOV) for other-than-serious violations that were abated within a two-week period. These notices, which did not carry a penalty, were issued on-site when the employer agreed to abate and not contest the citation. HIOSH continued to utilize the program in the first half of fiscal year 2009 despite the fact that the pilot had a sunset date of 2007. As of the third quarter, HIOSH stated that they had discontinued the program pending further study.

***Fall Protection Emphasis Program (FPEP):*** In FY 2005, in response to stakeholders' and HIOSH's concerns of an increasing trend of non-compliance with the regulations for fall-protection at construction sites, HIOSH initiated a statewide Fall Protection Initiative Program (FPI) to promote compliance assistance with the requirements of the fall protection standard in the industry. The Fall Protection Emphasis Program (FPEP) involved Occupational Safety and Health Compliance Officers (OSHCs) targeting construction sites where fall-related hazards were most likely to occur. During this evaluation period, HIOSH continued to promote the program through media campaigns, partnerships, and compliance inspections.

***Reduced Worker's Compensation Costs for SHARP Participants:*** Worker's compensation insurance carriers gave a five percent reduction in worker's compensation premiums for companies that were accepted as SHARP participants.

***Licensing for Hoist Operators:*** HIOSH requires all operators of hoists, including cranes, to be licensed by the state.

### **Section 3. Methodology**

A five person Federal OSHA team was assembled to accomplish this special study, opening the evaluation onsite at HIOSH in Honolulu, Hawaii, on February 10, 2010. The OSHA team's evaluation was conducted by using data from OSHA's Integrated Management Information System (IMIS), and consisted of case file reviews of 43 HIOSH inspection files, 10 complaint investigation files, and six discrimination investigation files. The evaluation also included a review of data processing and input into the IMIS system, and interviews of HIOSH management and staff, including compliance officers. Onsite monitoring and interviews occurred from February 10, 2010 to April 16, 2010. Throughout the entire process, the program staff was cooperative, shared information and ensured employees were available to discuss cases, policies and procedures.

As part of this process, several groups of stakeholders representing workers and employers were solicited for comment regarding their experiences with the operation of Hawaii's Occupational Safety and Health (HIOSH) Program.

Groups representing workers included union officials from the following organizations: Operating Engineers Local 3, Steel Workers Local 12-591, Bricklayers Local 1, Plasterers Local #630, Allied Craft Workers Local 1, Drywall Tapers and Finishers Local 1944, and the Building Trades Council. Unions expressed several concerns with the HIOSH enforcement program. These issues were also evaluated during the course of the review and addressed within the report findings.

Groups representing Hawaii businesses included safety and health professionals with current or past leadership positions representing the American Society of Safety Engineers (ASSE), the American Industrial Hygiene Association (AIHA), the Alliance of Hazardous Materials Professionals (AHMP), HIOSH Advisory Committee, State Board of Crane Operator's Licensing, and the Association of General Contractors. These safety and health professionals were board certified as Certified Industrial Hygienist (CIH), Certified Safety Professionals (CSP) and Certified Hazardous Materials Manager (CHMM). Any issues brought to our attention from these stakeholders were investigated and are addressed in the findings of this report.

#### **Section 4. Major Findings and Recommendations**

The Hawaii Division of Occupational Safety and Health (HIOSH) developed a Five-year Strategic Plan to cover FY 2005-2010. Standards were established for measuring the performance and effectiveness of their programs and services. Within the Strategic Plan, Annual Performance Goals were established to incrementally achieve the five-year goals. Evaluation of goal achievement or significant progress toward goal accomplishment has been reviewed, and the results are identified in this report. The mandated activities have also been reviewed, and the results are presented in this report. A comprehensive listing of all recommendations is included in Appendix A.

Only major findings and associated recommendations are included in the *Executive Summary*. Therefore, the following twenty findings are not numbered sequentially. Page numbers in brackets refer to the main discussion in the body of the report. The reference for each finding can also be found in the body of the report. See Appendix A for a complete list of findings and recommendations.

**Finding 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. [Page 10]

**Recommendation 1:** HIOSH must ensure that complainants are notified of inspection results in a timely manner.

**Finding 3:** The program did not respond to two out of nine complaints classified as imminent danger within a day of receiving the complaint. [Page 11]

**Recommendation 3:** Review the complaint processing system and ensure there is adequate staffing to respond to complaints classified as imminent danger in a timely fashion.

**Finding 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. [Page 12]

**Recommendation 5:** 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, *Fatality/Catastrophe Investigation Procedures*, OSHA strongly recommends adoption of similar procedures.

**Finding 7:** HIOSH completed only 426 inspections (51 percent) of its goal of 835 inspections in FY 2009. [Page 14]

**Recommendation 7:** HIOSH should evaluate its staffing and enforcement efforts in order to meet its inspection goals.

**Finding 8:** Enforcement inspection activities on the neighbor islands were not proportionate to the population of workers represented on each island, especially Maui. [Page 15]

**Recommendation 8:** HIOSH needs to evaluate resources or consider hiring additional personnel to ensure that proportionate inspection coverage is provided to the neighbor islands, especially Maui.

**Finding 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. [Page 19]

**Recommendation 15a:** HIOSH must ensure employee representatives are presented the opportunity to participate during each inspection in accordance with its FOM.

**Recommendation 15b:** HIOSH must follow its FOM with respect to providing copies of the citation to union representatives.

**Recommendation 15c:** HIOSH must follow its FOM regarding union notification of and participation in informal conferences.

**Finding 19:** Documentation that employer injury and illness records were reviewed and evaluated as part of the inspection process was missing from the case files. [Page 22]

**Recommendation 19:** HIOSH must instruct managers and compliance officers to comply with HIOSH's FOM Chapter III – *General Inspection Procedures*, which specifies that injury and illness records will be inspected, analyzed and documented in the case file.

**Finding 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. [Page 23]

**Recommendation 21:** HIOSH must improve its citation processing system to effectively decrease citation lapse time. HIOSH must ensure the managers run *Open Inspection* 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.

**Finding 23:** S/W/R violations were not always abated in a timely fashion, nor were follow-up inspections conducted in all instances when required. [Page 24]

**Recommendation 23:** HIOSH must ensure that abatement is achieved and entered in a timely fashion, and that follow-up inspections are scheduled and conducted when appropriate.

**Finding 24:** Case files did not contain documentation for the reasons why citations were changed during the informal conference. [Page 25]

**Recommendation 24:** 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.

**Finding 27:** Valid backups of the NCR and the Windows computer systems have not occurred since the former IT administrator was transferred to another department. [Page 26]

**Recommendation 27:** Valid and complete backups must be done for both the NCR and the Windows Server on a daily, weekly and monthly basis.

**Finding 28:** As of 2/17/10, there were 110 error rejects listed on the SOD report. [Page 26]

**Recommendation 28:** Correct errors listed on the SOD report on a daily basis.

**Finding 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. [Page 28]

**Recommendation 32:** HIOSH must ensure that the systems administrator, the backup systems administrator, and all enforcement branch personnel receive appropriate IMIS training.

**Finding 33:** HIOSH did not adopt federal OSHA standards within the six month requirement. [Page 29]

**Recommendation 33:** Develop and implement a tracking system for the adoption of new Federal Standards to ensure that the six month deadline is met.

**Finding 34:** HIOSH has not yet adopted the Training Directive and OSHA's revision to the Field Operations Manual. [Page 30]

**Recommendation 34:** 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.

**Finding 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. [Page 32]

**Recommendation 35:** HIOSH must ensure abatement of serious hazards as quickly as possible.

**Finding 36:** Only four of 14 (29%) of discrimination cases were completed within the 90 day statutory period. [Page 32]

**Recommendation 36:** HIOSH needs to ensure that adequate resources are available to complete discrimination investigations in a timely manner.

**Finding 42:** HIOSH lapsed \$144,095.37 at the end of FY 2009. [Page 36]

**Recommendation 42:** 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.

**Finding 43:** Ten disbursements totaling \$377,000 have been made since December 29, 2009 without approval. [Page 36]

**Recommendation 43:** 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.

**Finding 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. [Page 37]

**Recommendation 45:** HIOSH must ensure that expenditures and equipment purchases made with 23g funds are used for activities covered and authorized by the 23g Grant.

**Finding 46:** HIOSH staffing levels are below benchmarks. [Page 38]

**Recommendation 46:** HIOSH must develop a plan to address the critical vacancies for compliance and consultation personnel.

## **II. Summary of Recommendations and State Actions from the FY 2008 FAME**

This section discusses OSHA's recommendations for improvement from the previous evaluation of the State program.

- **The program must continue to focus its efforts in industries where injury/illness rates are the highest and where the most employees would be affected.**

HIOSH increased the average number of violations found per initial inspection and the percent of violations cited as serious as well as their overall number of violations cited from the previous evaluation, but they have not reached the activity level of FY 2007 and FY 2006, when they had more compliance personnel. This continues to be an outlier.

- **HIOSH should explore all options to address the challenge it faces in hiring and retaining experienced personnel.**

At the end of FY 2009, HIOSH had one less compliance officer than FY 2008, two less than FY 2007 and eight less than FY 2006. This continues to be an outlier.

- **HIOSH must notify complainants of inspection results in a timely fashion.**

This continues to be an outlier.

- **The program needs to improve its lapse time to complete discrimination investigations within 90 days.**

This continues to be an outlier.

OSHA evaluation of the State's program has noted the same concerns for FY 2009. Details are addressed in the body of this report.

The State did not submit a formal written response to OSHA's FY 2008 evaluation.

- While OSHA did not require a response in the past, henceforth the project needs to provide a formal response to annual evaluations.

### **III. Major New Issues**

Historically, HIOSH has had a problem with recruiting and retaining experienced staff. In FY 2009, the numbers of staff were below the benchmarks. The program started the fiscal year with a safety branch manager, a working supervisor, six OSHCOs, a health branch manager, six EHSs, a consultation branch manager, three safety consultants and two health consultants. At the end of the fiscal year, the remaining staff included a safety branch working supervisor, five OSHCOs, a health branch manager, four EHSs, an acting consultation branch manager, two safety consultants and one health consultant. Although additional layoffs due to the State budget shortfall did not take place until the first quarter of 2010, OSHA believes that the program will experience significant difficulties in maintaining an effective enforcement program with nine (9) compliance staff, one (1) consultant, and no staff to respond to OSHA's standards and program changes.

Funding issues have continued in the past year. In 2009, Hawaii lapsed \$144,095 in Federal funds. In Fiscal Year 2010, the State reduced its State plan grant award by \$148,400, declined a \$67,300 increase and deobligated \$600,000.

#### **FY 2010 Complaint About State Program Administration (CASPA's)**

Although there was only one CASPA filed against HIOSH in FY 2009, five new significant CASPA complaints were filed in early FY 2010. Each of these CASPA's alleged ineffective management of the State OSHA program. The allegations were that:

- HIOSH management and staff personnel did not have the minimum experience, knowledge or qualifications to effectively handle their jobs.
- Compliance officers have not received the required OSHA training.
- The enforcement branches were unwilling to pursue serious, repeat or willful violations because of their inexperience in legal and general OSHA procedures.
- Hazards observed by compliance officers on construction sites were not cited.
- Programmed inspections were not being scheduled on the Islands of Maui, Kauai, Molokai and Lanai. These Islands do not have resident Compliance Officers. Enforcement activities on these Islands stem primarily from complaints and fatality investigations.
- Compliance Officers were not involved or consulted in the final determination of citations.

- Enforcement staff does not have adequate administrative support to effectively do their jobs.
- 21(d) and 23(g) grant funds for equipment purchases and personnel expenses were misallocated by management.
- The Hawaii State Plan’s efforts to prevent and reduce fatalities have not been effective. This has been exacerbated by HIOSH staffing levels being below the minimum benchmark requirements. The recent reduction in staff has resulted in a decrease both in the number of inspections and in the number of serious violations identified.

The Region is actively conducting an investigation into each of the CASPA allegations, and the findings will be addressed separately from this report as part of OSHA’s CASPA process. However, some of the allegations are consistent with the findings in this report.

## IV. Assessment of State Performance

### A. Performance of Mandated and Other Related Activities

#### 1. Enforcement

##### Complaints

HIOSH’s policy for handling complaints is similar to OSHA’s. Complaints are evaluated to determine those that result in onsite inspections and those that result in investigations. The State adopted OSHA’s phone fax method of complaint response wherein non-serious and non-formal complaints could be investigated by letter or by using the telephone and fax machine. The program set a response time goal of 10 days to conduct on-site complaint inspections and averaged 4.24 days (SAMM 1). For investigations handled by the phone/fax procedure, the State averaged 0.72 days, well below their response time goal of five days (SAMM 2). HIOSH goals for response times also met OSHA’s goals as delineated in *CPL 02-00-140*, dated 6/23/06, *OSHA Complaint Policies and Procedures*, of five days to initiate an inspection and one day to respond by investigation. HIOSH adopted this directive on September 20, 2007.

Complaints (SAMM 1,2,3)						
	FY 2005	FY 2006	FY 2007	FY 2008	FY2009	Goal
Days to Initiate Inspection (SAMM 1)	4.06 days [313/77]	7.29 days [445/61]	5.37 days [333/62]	2.75 days [135/49]	4.24 days [382/90]	10 days
Days to Initiate Investigation (SAMM 2)	1.16 days [90/77]	.41 days [15/36]	.22 days [2/9]	.75 days [6/8]	.72 days [31/43]	5 days
Complainants Notified Timely (SAMM 3)	87.34% [69/79]	95% [57/60]	91.53% [54/59]	85.42% [41/48]	83.52% [76/91]	100%

In 83.52% of the complaints received, HIOSH notified complainants of inspection results within 20 workdays of citation issuance or 30 workdays of closing conference without citation (SAMM 3). The table above compares this year’s performance with that of previous fiscal years.

**Finding 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.**

**Recommendation 1: HIOSH must ensure that complainants are notified of inspection**

**results in a timely manner.**

**Reference 1: SAMM 3**

The Baseline Special Evaluation included a review of 23 complaint case files, including 13 complaint inspections which were randomly selected using *Scan* reports from the IMIS and 10 complaint investigations randomly selected from the *Complaint Log*. The complaints included allegations of both safety and health hazards.

HIOSH developed diary sheets which were used to track complaints. In all cases where the complaint was handled by investigation, alleged hazards were either nonexistent or timely and completely abated. In all cases, initial correspondence was signed by a program specialist.

None of the four complaint files that were reviewed and that were classified by HIOSH as formal had a signed OSHA 7. Two cases had no OSHA 7 in the complaint inspection file. Three cases did not have copies of correspondence with the complainant in the case file. In one case, there was a hazard mentioned in the letter to the complainant but the hazard was not cited. Two of the OSHA 7s were missing contact information, and one of these files did not have page two of the OSHA 7 in the case file.

OSHA 167Cs were not printed out and put in the complaint file. The information contained in the complaint files was not organized in a consistent order. Average time between receipt of complaint and letter to employer was 3.4 days in the investigation files reviewed. All complaint items were appropriately addressed in nine of the 13 complaint inspection files reviewed.

**Finding 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.**

**Recommendation 2: HIOSH must complete the OSHA 7 correctly, send the required correspondence to complaints, and include copies of these documents in the case files.**

**Reference 2: CPL 02-00-140, dated 6/23/06, OSHA Complaint Policies and Procedures.**

HIOSH received nine complaints or referrals that were classified as imminent danger and responded to seven of the nine within one day, missing the 100% reference level (SAMM 4). This is a measure HIOSH has never before failed to meet.

Complaints Classified As Imminent Danger (SAMM 4)						
	FY 2005	FY 2006	FY 2007	FY 2008	FY2009	Goal
<b>Imminent Danger Complaints (SAMM 4)</b>	<b>100%</b> [28/28]	<b>100%</b> [30/30]	<b>100%</b> [10/10]	<b>100%</b> [2/2]	<b>77.78%</b> [7/9]	100%

**Finding 3: The program did not respond to two out of nine complaints classified as imminent danger within a day of receiving the complaint.**

**Recommendation 3: Review the complaint processing system and ensure there is adequate staffing to respond to complaints classified as imminent danger in a timely fashion.**

**Reference 3:** HIOSH *Field Operations Manual*, (FOM) Chapter IX, Section A.6.

### Fatalities

Inspections classified as fatalities were well written and contained sufficient documentation to support the citations proposed. However, OSHA's review found the following deficiencies.

The OSHA 170 was missing from four of the five cases reviewed that involved actual deaths. The OSHA 170 information was recorded in the IMIS system. All five cases contained sufficient information to complete the OSHA 170 as required.

**Finding 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.

**Recommendation 4:** HIOSH must properly complete the OSHA 170 with sufficient details to describe the accident and include a copy in the case file.

**Reference 4:** ADM 1-1.31, *The IMIS Enforcement Data Processing Manual for use with the NCR Computer System*, CH3, 8/15/97, Chapter XXIX, Section B.1.

HIOSH sent the initial notification to next of kin letter in one of the five fatality cases. There were no letters to the next of kin informing them of the Findings of the inspections or forwarding them copies of the citations. Although it was not mandatory that states adopt OSHA Directive CPL 02-00-137, *Fatality/Catastrophe Investigation Procedures*, dated April 14, 2005, HIOSH's FOM, Ch. VIII, Section B.2.d, requires that "Family members of employees involved in fatal occupational accidents or illnesses shall be contacted at an early point in the investigation, . . . and provided timely and accurate information at all stages of the investigation."

**Finding 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.

**Recommendation 5:** 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, *Fatality/Catastrophe Investigation Procedures*, OSHA strongly recommends adoption of similar procedures.

**Reference 5:** HIOSH FOM, Chapter VIII, Section B.2.d.

### Targeting/Inspections

HIOSH had a local emphasis program (LEP) for fall protection to promote compliance with the requirements of the fall protection standard in the construction field. This LEP was coded FPEP. HIOSH conducted 66 inspections during FY 2009 that were coded with FPEP.

The program followed the OSHA national emphasis programs (NEP) for Amputations, Trenches, and Falls. The program did not use the following NEPs primarily because a different industrial mix, local conditions or local practices made such exposures uncommon: Combustible Dust,

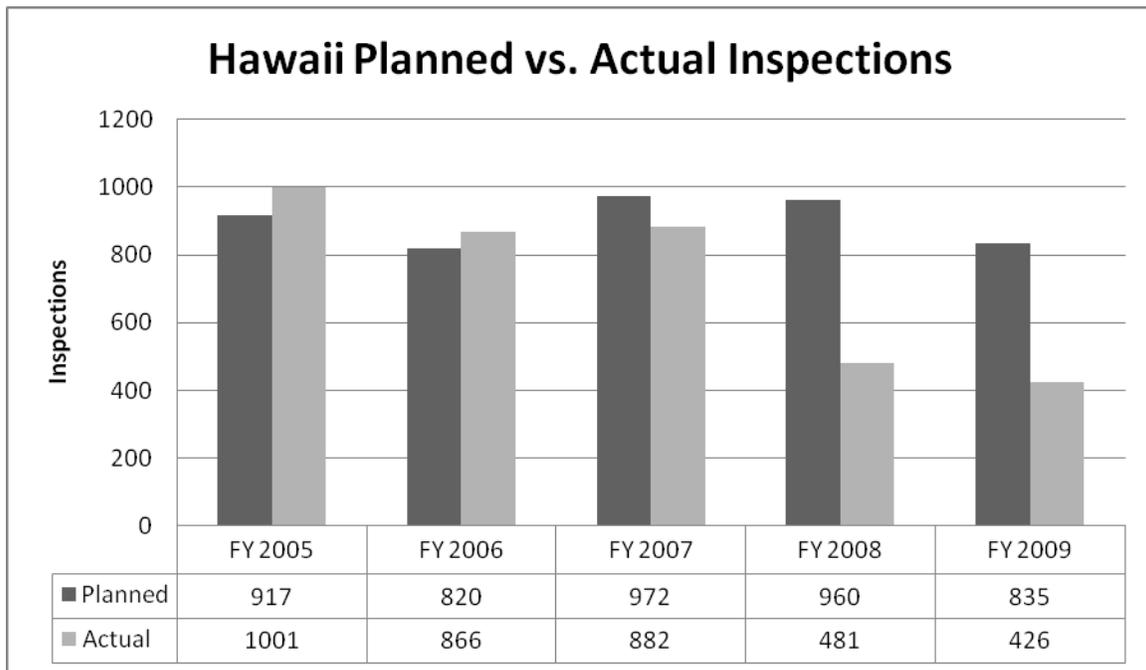
Flavorings, Lead, and Reflective Vests. The program did not conduct inspections under the Recordkeeping and Silica NEPs which were applicable to Hawaii’s industries.

Compliance staff conducted 4.7 safety and 4.3 health inspections per 100 hours compared to the Federal average of 5.5 and 1.6 respectively. (SIR C-6) Health inspectors were able to complete more inspections because they seldom sampled for health hazards. Out of the 121 inspections coded as health in FY 2009, sampling was conducted in five cases: one wipe for lead, three personal samples for gasoline, three personal samples for formaldehyde, two for nuisance dust, two personal samples for noise and one sound level meter reading. None of the samples were in excess of the permissible exposure limit. No screening samples were entered into IMIS.

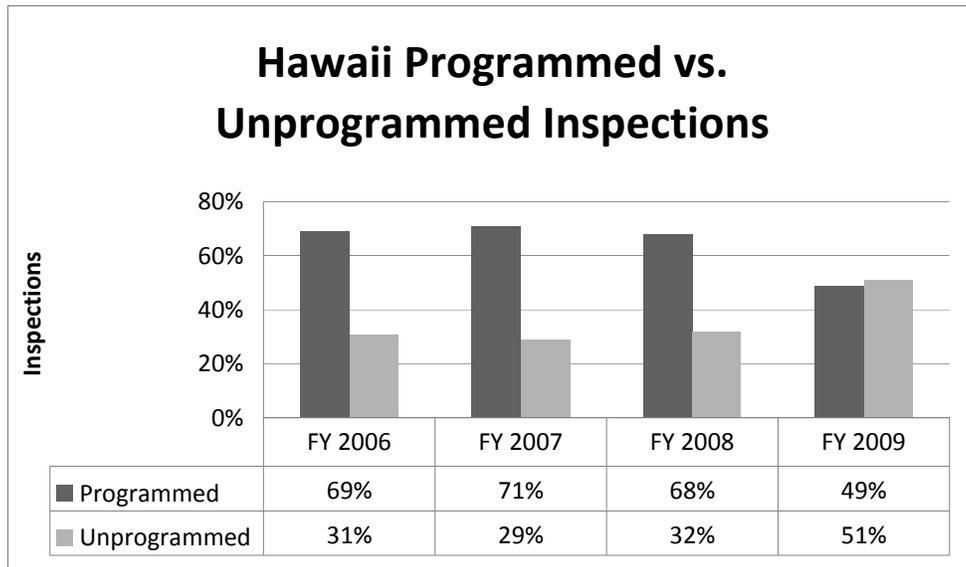
**Finding 6: HIOSH health inspectors conducted sampling in only five of 121 health inspections conducted in FY 2009.**

**Recommendation 6: HIOSH must ensure that the health inspectors are conducting appropriate sampling during inspections and properly entering the information into IMIS.**

**Reference 6:** HIOSH *FOM*, Chapter III, Section D.8.a(4).



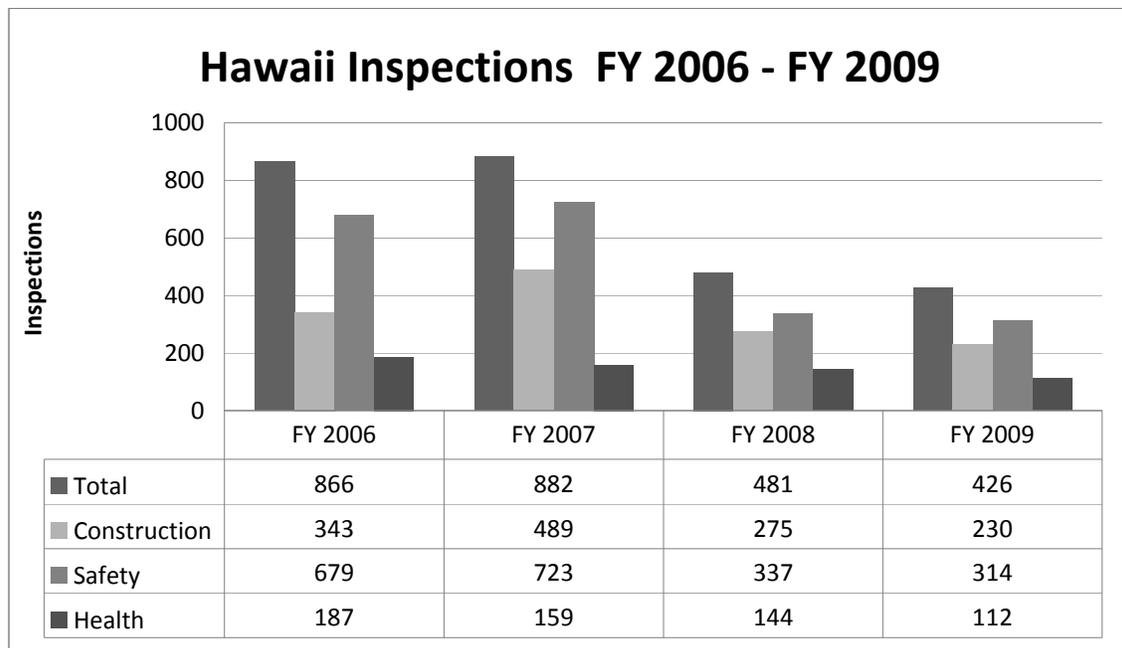
As shown in the chart above, in FY 2009 HIOSH missed its goal of conducting a total of 835 inspections. HIOSH ended the year with 426 inspections (51% of projected), 314 safety and 112 health. This was similar to their performance in FY 2008, when the program had six safety and five health inspectors who initiated 481 inspections. Results in both years were impacted by the State’s inability to retain staff and hiring freezes due to State budgetary shortfalls. In FY 2007, when the program had 11 safety and six health inspectors, they conducted 882 inspections. The decreased number of inspectors has also adversely affected HIOSH’s ability to conduct a higher percentage of programmed versus un-programmed inspections as seen in the chart below.



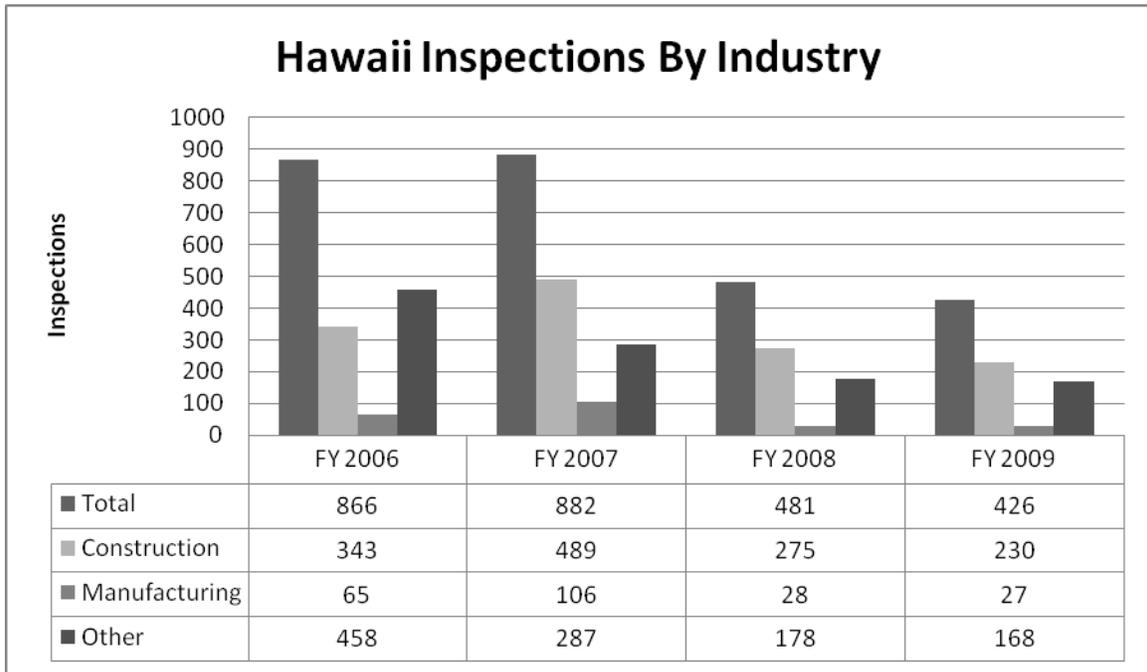
**Finding 7: HIOSH completed 426 inspections (51 percent) of its goal of 835 inspections in FY 2009.**

**Recommendation 7: HIOSH must evaluate their staffing and enforcement efforts to ensure that they meet their inspection goals.**

**Reference 7:** Grant Number OSHA-23G-2009-001, Appendix B, Exhibit Ic, pg. 1.



As shown in the chart above, fifty-four percent of the inspections were in the construction industry. This is consistent with the program's Performance Plan goals to allocate program resources in the construction industry which, at the beginning of this five-year strategic period, had the highest incidence rate of injuries and illnesses in the State. The following chart shows the number of HIOSH inspections by industry during the same time period. (IMIS report)



HIOSH did not adequately cover all islands. During FY 2009, there were no inspections on Lanai. One un-programmed inspection was conducted on Molokai. Maui had a total of 25 inspections, seven programmed and 18 un-programmed. Maui has roughly 16% of the population and should have been allocated an equivalent proportion of inspections. After the resident Compliance Officer on Kauai retired, programmed inspection activity on that island ceased. Hawaii (Big Island) has two resident Compliance Officers. The island received adequate coverage for safety. In FY 2009, seven health inspections were opened on the Big Island. Three were complaints, one was classified as un-programmed related, and three were programmed inspections of SIC 1629, heavy construction. There were no programmed health inspections in general industry establishments on the Big Island. HIOSH vacancies affected its ability to provide effective coverage.

**Finding 8: Enforcement inspection activities on the neighbor islands were not proportionate to the population of workers represented on each island, especially Maui.**

**Recommendation 8: HIOSH needs to evaluate resources or consider hiring additional personnel to ensure that proportionate inspection coverage is provided to the neighbor islands, especially Maui.**

**Reference 8:** Hawaii Revised Statutes, Chapter 396, Section 4.

HIOSH did not provide adequate coverage to military installations where contractors worked. In FY 2009, HIOSH conducted five un-programmed inspections, all related to a fatality or a formal employee complaint, at Schofield Barracks and Pearl Harbor. During the past five fiscal years, HIOSH has not conducted any type of inspections at 14 out of 23 known military bases. Eighteen out of 23 known military establishments did not receive any planned inspections. During the audit, HIOSH management and compliance officers stated that it was difficult to get on and off military installations with State identification.

In February 2010, Federal OSHA conducted an inspection of the Hawaii Army National Guard's

Army Aviation Support Facility # 1, located at Wheeler Army Air Field. During this inspection, a contractor was performing a modification work order on helicopters prior to deployment to the middle-east. This contractor was receiving directions and oversight review from the Hawaii Army National Guard. Federal OSHA was not able to adequately address the concerns of the contractor because of jurisdiction at a multi-employer worksite. OSHA compliance staff has federal enforcement credentials and may have security clearances which allow easier access to military installations and activities. In addition, some contractors working at these sites receive direct guidance from the Federal government on how to perform their work.

**Finding 9: Construction contractors working on military bases were seldom inspected by HIOSH.**

**Recommendation 9: HIOSH must conduct a proportionate number of inspections of contractors on military bases.**

**Reference 9:** Hawaii Revised Statutes, Chapter 396, Section 4; and State of Hawaii *Plan Narrative*, Section 2.

HIOSH did not have any denials where entry was not obtained during this evaluation period (SAMM 5).

**Recommendation: None.**

The identification of hazards in the workplace is evaluated from the percentage of programmed inspections with serious, willful and repeat violations, average number of serious, willful, and repeat violations per inspection and percentage of serious violations. The State’s performance is shown in the table below.

<b>% Programmed Inspections with S/W/R Violations (SAMM 8)</b>						
	<i>FY 2005</i>	<i>FY 2006</i>	<i>FY 2007</i>	<i>FY 2008</i>	<i>FY 2009</i>	<i>FY 2009 Nat. Data</i>
<b>Safety</b>	<b>19.11%</b> (90/471)	<b>19.65%</b> (89/453)	<b>25.8%</b> [146/566]	<b>32.86%</b> [70/213]	<b>53.7%</b> [87/162]	58.6
<b>Health</b>	<b>35.05%</b> (34/97)	<b>46.45%</b> (72/155)	<b>43.42%</b> [33/76]	<b>40%</b> [38/95]	<b>55.17%</b> [32/58]	51.2

In FY 2009, the percent of programmed inspections with S/W/R violations in safety increased to 53.7% from the previous year’s 32.86% and in health from 40% in FY 2008 to 55.17% during the current evaluation period. The Safety Branch’s performance is now close to the national average and the Health Branch’s performance exceeds the national average. (SAMM 8)

**Recommendation: None.**

While the majority of the 43 case files reviewed contained sufficient documentation to support the citations proposed, OSHA had the following suggestions.

With the exception of two labeled tabs, one for the OSHA 1 and one for the Citation, staff were allowed to organize their files in whatever manner they chose. HIOSH did not have any formal guidance to direct compliance officers where to place HIOSH developed forms, collected evidence, technical information and field notes.

**Finding 10: Case file documentation and required forms in HIOSH inspection files were**

**not organized and ordered consistently.**

**Recommendation 10: Ensure that all files contain documentation and forms in a consistent order.**

**Reference 10:** ADM 03-01-005, *OSHA Compliance Records*, Appendix C.

Diary sheets were not consistently used. HIOSH did not place a diary sheet in 10 out of 43 case files reviewed. HIOSH did not follow its FOM, Chapter 1, paragraph C.3.c which states, “. . . the Branch Managers will: “Ensure that an inspection case file is established and maintained for each inspection, containing all appropriate documents pertaining to the case, including an inspection case file activity diary (HIOSHL-40) comprising a chronological record of significant actions taken affecting the case.”

**Finding 11: In 10 of the 43 case files reviewed, there was no diary sheet in the case file.**

**Recommendation 11: 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.**

**Reference 11:** HIOSH FOM, Chapter I, Section C.3.c.

The OSHA 1 was not signed and dated in two cases. The OSHA 1A was not signed and dated in 17 of the 43 cases.

**Finding 12: The OSHA 1 and the OSHA 1A were not always signed and dated.**

**Recommendation 12: Ensure that all compliance officers sign and date the OSHA 1 and the OSHA 1A as required.**

**Reference 12:** ADM 1-1.31, *The IMIS Enforcement Data Processing Manual for use with the NCR Computer System*, Chapter VIII, Section B.47.

Although the majority of OSHA 1Bs reviewed had been completed in accordance with OSHA instructions, the following deficiencies were observed:

- 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.

**Finding 13: In four OSHA 1Bs, the employee's address and/or phone number were 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.**

**Recommendation 13: 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.**

**Reference 13:** ADM 1-1.31, *The IMIS Enforcement Data Processing Manual for use with the NCR Computer System*, Chapter X; HIOSH FOM, Chapter IV; and HIOSH FOM, Chapter V, Section C.

In 16% (7/43) of the cases reviewed, OSHA disagreed with the classification of the violations, believing that other violations could have been classified as serious. This is discussed in greater detail in the section of this report called *Citations and Penalties*.

HIOSH’s average number of violations per inspection for S/W/R violations increased to 1.76, which was less than the National average of 2.1. Other-than-serious violations decreased to 1.07 (SAMM 9) from 1.25 in FY 2008. This was below the National average of 1.2.

Violations/Inspection (SAMM 9)						
	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2009 Nat. Avg.
S/W/R	1.70 (703/413)	1.36 (627/458)	1.61 [573/354]	1.45 [309/212]	1.76 [520/301]	2.1
Other	.30 (127/413)	.55 (254/458)	.73 [261/354]	1.25 [265/212]	1.07 [325/301]	1.2

**Finding 14:** S/W/R violations were not found in the same proportion of HIOSH programmed inspections as in OSHA programmed inspections.

**Recommendation 14:** 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.

**Reference 14:** SAMM 9

The program’s in compliance rate was 42%, higher than the average in compliance rate for state plan programs, which was 38%. OSHA finds no violations in only 30% of its inspections. After OSHA interviewed HIOSH staff and looked at data from IMIS, it determined that one of the reasons that may be affecting the program’s in compliance rate was the fact that required safety and health programs were not evaluated on a regular basis. Another contributing factor could have been that record keeping also did not appear to have been evaluated and analyzed during every inspection. Specific discussion of this aspect of the program can be found in the Section *Citations and Penalties*.

Employee and Union Involvement

The program addresses employee and union involvement in their Hawaii Revised Statutes 12-5-8 and in Section D of Chapter III in the HIOSH FOM. Page 17 of Chapter III, Section D. 2, in the HIOSH FOM states, “Compliance officers shall ensure that employee representatives are afforded the opportunity to participate in all phases of the workplace inspection.” Page 12 of Chapter V, Section H.1.f, in the HIOSH FOM states, “Employee representatives shall be afforded the opportunity to participate in the informal conference and attendant negotiations. The employer has the option of having the informal conference conducted jointly or separately with employee representatives. Separate discussions shall also be conducted if the employee representative so requests”

During FY 2009, HIOSH noted that employees had union representation on 119 inspections. The OSHA 1A was marked to indicate that employee representatives accompanied the walk

around in only 44 of these 119 inspections of companies with a unionized workforce.

Of the nine cases reviewed that had union representation, five cases had documentation that a union representative accompanied the walk around, none of the cases had documentation that the representative had attended the closing conference, none of the cases had evidence that the union was sent a copy of the citation, nor was there indication that the unions were notified of the informal conference. Chapter V, paragraph H.1.f. of HIOSH's FOM states that, "Employee representatives shall be afforded the opportunity to participate in the informal conference and attendant negotiations. The employer has the option of having the informal conference conducted jointly or separately with employee representatives. Separate discussions shall also be conducted if the employee representative so requests."

However, the case files reviewed indicated that compliance staff documented employee interviews very well when they were conducted.

**Finding 15: Evidence was not always included 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.**

**Recommendation 15a: HIOSH must ensure employee representatives are presented the opportunity to participate during each inspection.**

**Reference 15a:** HIOSH FOM, Chapter III, Section D.2.

**Recommendation 15b: HIOSH must follow its FOM with respect to providing copies of the citation to union representatives.**

**Reference 15b:** HIOSH FOM, Chapter III, Section D.9.b(2)(c).

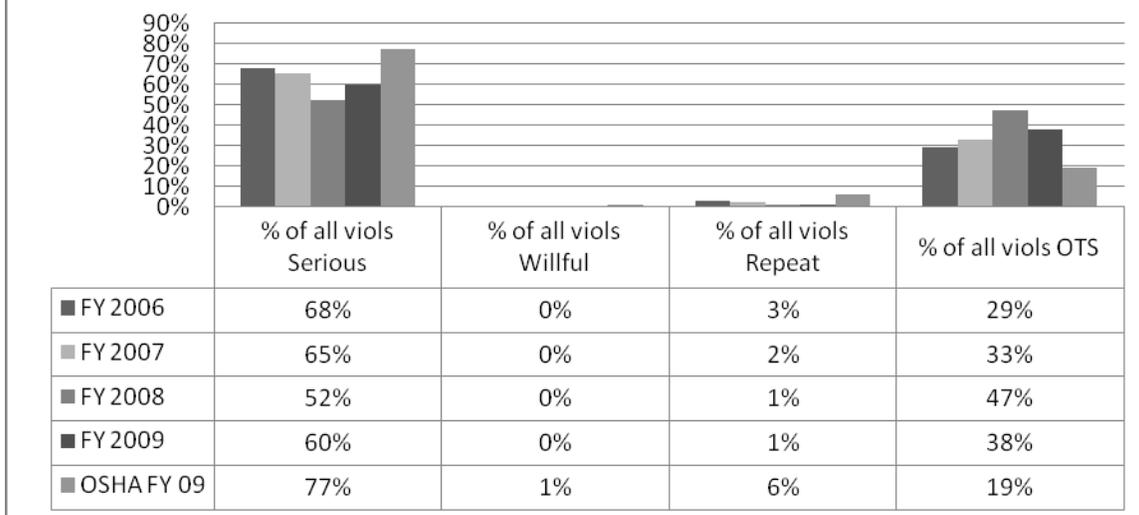
**Recommendation 15c: HIOSH must follow its FOM regarding union notification of and participation in informal conferences.**

**Reference 15c:** HIOSH FOM, Chapter III, Section D.9.b(5)(e); Section G.2; and Section G.2.a.

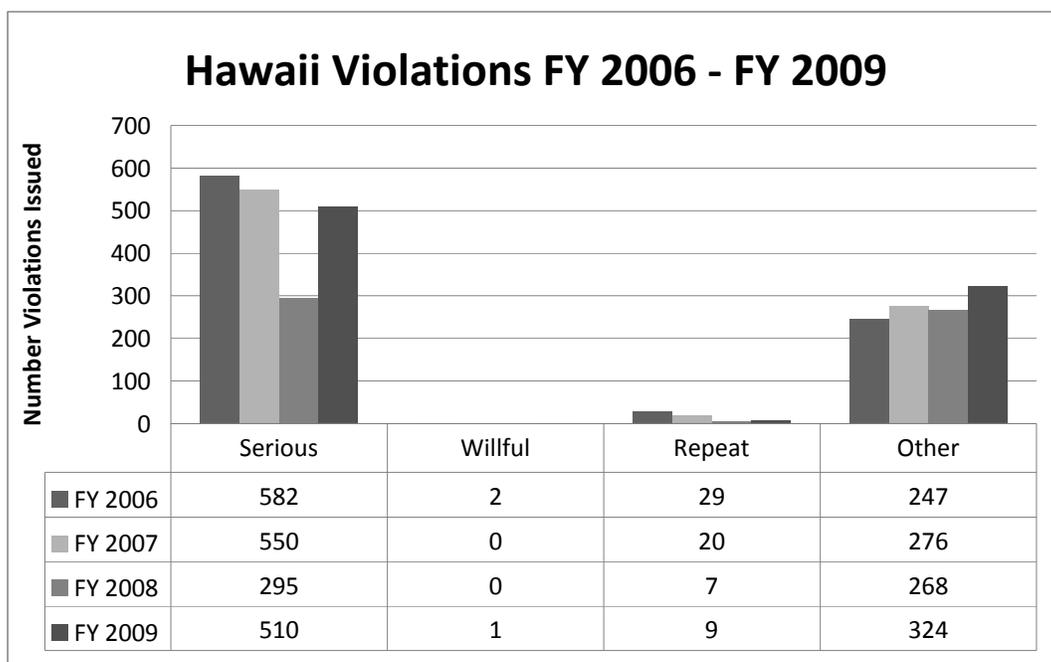
### Citation and Penalties

The following chart shows the percent of the different types of violations cited by HIOSH for the fiscal years 2006 through 2009 and compares them to OSHA's performance in FY 2009.

## % of Types of Violations in NIC Inspections Hawaii FY 06-09 and OSHA FY 09



The chart below shows the number of willful, repeated, serious and other violations cited by HIOSH in all inspections over the course of the past four evaluation periods.



Despite having less compliance staff, in FY 2009 HIOSH reversed a significant drop in the number of violations found that had occurred in FY 2008. Serious violations cited increased by about 73%. Other than serious violations increased by nearly 21%.

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.

**Finding 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.**

**Recommendation 16: 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.**

**Reference 16:** HIOSH FOM, Chapter III, Section D.

The program evaluation checklist in OSHA's narrative was missing from HIOSH 1As. HIOSH did not consistently document in the OSHA 1A narrative that the following programs were assessed: emergency action plans, fire prevention plans, process safety management, emergency response, personal protective equipment assessment, respiratory protection, confined space programs, energy control (LOTO) programs, medical services/first aid, fire protection/fire extinguisher training, hazardous material storage, industrial truck training, welding/cutting/brazing programs, electrical work practices, various programs relating to toxic and hazardous substances. However, when citations were issued for one of these areas there was sufficient documentation included in the OSHA 1B to support the citation.

**Finding 17: There was no documentation that all relevant safety and health programs required by the HIOSH standards were evaluated during programmed planned comprehensive inspections.**

**Recommendation 17: 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.**

**Reference 17:** HIOSH FOM, Chapter III, D.7.c(1).

HIOSH did not cite 29 CFR 1910.38, *Emergency Action Plans* (EAP), during FY 2009. In the 21 general industry case files reviewed, it could not be determined if HIOSH had evaluated this hazard. For example, there was no citation for any part of an EAP in one case where an employee was injured by a shock wave from the explosion of a neighboring plant.

**Finding 18: HIOSH did not cite any standard from 29 CFR 1910.38 during FY 2009.**

**Recommendation 18: 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.**

**Reference 18:** HIOSH FOM, Chapter III, D.8.b(3)(f).

In 33 of 43 case files reviewed for this evaluation, there was no evidence that HIOSH reviewed and analyzed occupational injury and illness information. HIOSH issued one recordkeeping violation during FY 2009. A report of employers that had 11 or more employees was run. This report had 230 employers, none of which had any OSHA 300 data recorded on the OSHA 1.

HIOSH does place a notice on their website to remind employers of the annual posting requirements.

**Finding 19: Documentation that employer injury illness records were reviewed and evaluated as part of the inspection process was missing from the case files.**

**Recommendation 19: HIOSH must instruct managers and compliance officers to ensure that every inspection of an employer required to keep injury and illness records will include an examination and analysis of those records which is documented in the case file.**

**Reference 19:** HIOSH FOM, Chapter III, Section D.7.a.

HIOSH has altered the OSHA 2, *Citation*, to print the compliance officer’s name on the first page. This implies that the citation was issued by the compliance officer rather than by the agency. Further, it may leave the compliance officer open to retaliation.

**Finding 20: HIOSH altered the OSHA 2 to print the compliance officer’s full name on the first page of the citation.**

**Recommendation 20: 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.**

**Reference 20:** ADM 1-1.32, *The Enforcement User Skills Manual for use with the NCR Computer System*, Chapter X.

The average number of calendar days it took the program to issue citations, from opening conference to issuance of citations, was 105.98 days for safety inspections, which is greater than the National average of 43.8 days. Health citations were issued in 90.02 days, which is greater than the National average of 57.4 days (SAMM 7). This is an increase from FY 2008, when safety citations took 51.1 days to issue and health citations were issued in 47.98 days. These are the longest lapse times in the past five years, as shown by the table immediately following.

<b>Avg. No. of Calendar Days From OC To Citation Issuance (SAMM 7)</b>						
	<i>FY 2005</i>	<i>FY 2006</i>	<i>FY 2007</i>	<i>FY 2008</i>	<i>FY 2009</i>	<i>FY 2009 Nat. Data</i>
<b>Safety</b>	<b>42.73</b> [14573/341]	<b>43.86</b> [14696/335]	<b>51.1</b> [14565/285]	<b>67.09</b> [10132/151]	<b>105.98</b> [23847/225]	43.8
<b>Health</b>	<b>52.57</b> [3838/73]	<b>41.5</b> [5105/123]	<b>47.98</b> [3311/69]	<b>61.71</b> [3888/63]	<b>90.02</b> [6482/72]	57.4

Formerly, HIOSH citations were signed by the branch managers and, occasionally, by the OSH administrator. For the past few years, the citations have been sent to the designee for signature,

which is two levels of review above the branch manager. This is contrary to HIOSH’s FOM, Ch. I, Section C.3.b., “. . . The following are some, but not necessarily all, of the compliance branch managers’ responsibilities: . . . Review inspection reports to ensure uniform and equitable application of the rules and standards and to approve citations and proposed penalties for the administrator . . . “ The practice of sending the citation to the designee appears to be increasing the length of time it takes for HIOSH to issue a citation.

**Finding 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.**

**Recommendation 21: HIOSH must improve its citation processing system to effectively decrease citation lapse time. HIOSH must ensure the managers run *Open Inspection* 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.**

**Reference 21: SAMM 7**

HIOSH’s average initial serious penalty fell to \$824.50 (Table 10) from \$906.60 in FY 2008 and remained substantially below the national average (SAMM 10).

Average Penalty (SAMM 10)						
	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2009 Nat. Avg.
<b>Serious</b>	\$794.26	\$786.46	\$851.06	\$906.16	\$824.50	\$1335.20

The majority of Hawaii’s businesses employed less than 100 employees, which may be affecting the penalty calculations. HIOSH offered penalty reductions based on several factors to employers at the informal conference in an effort to increase employers’ interest in compliance assistance. While the majority of the 43 cases reviewed had penalties which were calculated in accordance with the FOM, there were 17 violations in which the reviewers did not agree with the probability, the gravity or the adjustment factors used in the penalty calculations. In some cases, reviewers believed that the probability and severity were too high; in others, they appeared to be too low. There were no trends in the cases in which the reviewers would have calculated the penalties differently from HIOSH.

**Finding 22: Penalties were not always calculated in accordance with Ch.VI of its FOM.**

**Recommendation 22: 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.**

**Reference 22: HIOSH FOM, Chapter VI.**

Abatement

In the private sector, the percent (91.51%) of S/W/R violations verified as abated within the abatement due date, plus 30 calendar days, increased from FY 2008. Although HIOSH did not meet the goal of 100%, the trend of its performance is positive. The number of violations classified as S/W/R in the public sector significantly decreased from FY 2008. HIOSH was able to verify that abatement had occurred in 100% of violations cited in the public sector. Inspection

Reports indicated that there were only 8 follow-up inspections conducted in FY 2009, none of which resulted in a failure to abate citation. OSHA’s review of case files found only two cases where OSHA would have conducted a follow-up inspection where the State did not. These were a fatality and one related to the fatality. In such situations where there are high gravity serious violations cited, OSHA conducts a follow-up even if the employer sends in acceptable evidence of abatement.

Abatement periods were appropriate and there was adequate evidence of abatement in most of the 43 case files reviewed. There were six instances in which abatement periods might have been shortened and four instances in which abatement verification was incomplete.

<b>% S/W/R Violations Timely Verified Abated (SAMM 6)</b>						
	<i>FY 2005</i>	<i>FY 2006</i>	<i>FY 2007</i>	<i>FY 2008</i>	<i>FY 2009</i>	<i>Goal</i>
<b>Private Sector</b>	<b>85.83%</b> (521/607)	<b>76.81%</b> (414/539)	<b>83.01%</b> [381/459]	<b>85.55%</b> [219/256]	<b>91.51%</b> [334/365]	100%
<b>Public Sector</b>	<b>93.33%</b> (28/30)	<b>100%</b> (8/8)	<b>85.51%</b> [59/69]	<b>88.46</b> [23/26]	<b>100%</b> [6/6]	100%

**Finding 23: S/W/R violations were not always abated in a timely fashion, nor were follow-up inspections conducted in all instances when required.**

**Recommendation 23: HIOSH must ensure that abatement is achieved in a timely fashion, and that follow-up inspections are scheduled and conducted when appropriate.**

**Reference 23:** SAMM 6

Review Procedures

The informal conference process allows hazards to be expeditiously corrected by avoiding delays caused by litigation of citations. In approximately 30% (74/248) of inspections where citations were issued, employers requested an informal conference. OSHA held informal conferences in 48% of such cases. As in the past, HIOSH did an excellent job of preserving citations, classification and penalties during informal conferences. HIOSH vacated only 1.5% (13/840) of violations under dispute; OSHA vacated 5.1%. HIOSH reclassified only 0.4% (3/840) of its violations; OSHA reclassified 4.8%. HIOSH retained 80.3% (\$204,551/\$254,575) of its assessed penalties. OSHA retained 63.2%. (SIR C7-C9).

In the case files reviewed, only penalties were adjusted during the informal conferences, and the penalty reductions appeared to be in accordance with OSHA procedures.

However, HIOSH did not document its rationale for changing citations during the informal conferences, nor did it include any details of the proceedings other than the names of the parties who attended. HIOSH’s FOM, Ch. III, Section G.2.b.(2) says, “The branch manager shall ensure that notes are made indicating the basis for any decisions taken at or as a result of the informal conference.” Ch. III, Section G.2.c.(2)(b) reads, “Relevant notes of the discussion shall be made and placed in the case file.”

**Finding 24: Case files did not contain documentation for the reasons why citations were changed during the informal conference.**

**Recommendation 24: HIOSH must ensure that management includes pertinent**

**documentation of the informal conference in the case file, including the rationale for changing citations and related penalties.**

**Reference 24:** HIOSH FOM, Chapter III, Section G.2(c)(3).

Contest data indicated most citations were upheld. In FY 2009, HIOSH continued to successfully sustain a high percentage of both violations and penalties during contests. Only 10.5% (2/19) of violations were vacated, none were reclassified, and 89.7% (\$18754/\$20900) of the penalties were retained. This compared favorably with Federal data of 23.4%, 15.1% and 58.5% respectively (SIR E1-E3).

In FY 2009, the program's average lapse time from the date of contest to a first level decision was 99.42 days as compared to the national average of 246.1 days (SAMM 12). The program did very well in this area and should be commended for its excellent performance.

OSHA reviewers could not find any evidence of the outcomes of contests in the case files. Nor could they determine if HIOSH concurred with the decisions and/or outcomes of the contest. However, the results of the decision or formal settlement agreement (FSA) appeared to be updated in the IMIS.

**Finding 25: There was no evidence of the final outcomes of contested cases (i.e. copy of the Formal Settlement Agreement) in the contested case files reviewed.**

**Recommendation 25: 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.**

**Reference 25:** ADM 03-01-005, *OSHA Compliance Records*, Appendix C.

Public Employee Coverage

Penalties are assessed in the public sector as they are in the private sector. Given that the public sector has a high injury and illness rate and that it is one of HIOSH's targeted industries, OSHA believes that HIOSH needs to increase its activity in the public sector from the 22 public sector inspections (5.21% of all inspections conducted) it opened in FY 2009. During FY 2008, 6.33% of HIOSH's inspections were conducted in the public sector (SAMM 11). This result was below their three-year average of 7.7%.

Percent Inspections in the Public Sector [SAMM 11]					
FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	3-yr State Avg.
9.99%	9.00%	9.86%	6.33	5.21	7.7%
(100/1001)	(79/878)	[86/872]	[30/474]	[22/422]	

**Finding 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 to an increase in the public sector injury and illness rates.**

**Recommendation 26: HIOSH should increase its inspections in the public sector.**

**Reference 26:** HIOSH FY 2009 *Annual Performance Plan*, Annual Performance Goal 1.3.

## Information Management

A review was conducted of the Integrated Management Information System (IMIS) in Honolulu, including reports available through IMIS, to determine the effectiveness of HIOSH's information management programs.

HIOSH's Informational Technology (IT) Administrator is responsible for the daily transmissions to the host computer. This includes the Start of Day (SOD) and End of Day (EOD) processing, system backups, and running of various IMIS reports (e.g. Standard and Micro-to-Host). To secure data in case of a system or electrical failure, system backups are performed according to the prescribed schedule. In December 2009, the IT Administrator's job was abolished and the responsibilities were transferred to another employee who has never had any training on systems administration for the OSHA computer system. Although this took place in FY 2010, OSHA's IMIS audit did not occur until February 2010, and there were indications that valid backups have not occurred since the former IT Administrator was transferred to another department.

**Finding 27: Valid backups of the NCR and the Windows computer systems have not occurred since the former IT Administrator was transferred to another department.**

**Recommendation 27: Valid and complete backups must be done for both the NCR and the Windows Server on a daily, weekly and monthly basis.**

**Reference 27:** ADM 1-1.30, CH 2, July 1996, *IMIS System Administration Manual*, Chapter V, Section B, and Appendix C, Tables C-1 and C-2.

Reports providing information on rejected information from the SOD and EOD have not been addressed. As of 2/17/10, there were 110 error rejects listed in the SOD report. This affects the data in the host reports.

**Finding 28: As of 2/17/10, there were 110 error rejects listed on the SOD report.**

**Recommendation 28: Correct errors listed on the SOD report on a daily basis.**

**Reference 28:** ADM 1-1.30, CH 2, July 1996, *IMIS System Administration Manual*, Chapter XIX, Section F.

There are 16 Standard Reports available in the IMIS system. The IMIS reviewer used the time period from 01/01/1980 (beginning of the database system) through 02/18/2010, with the exception of the *Area Office Complaint Log – Auditing Report*. For this report the period evaluated was 10/01/08 through 09/30/09.

The table below lists the name of the Standard Reports and the number of unresolved actions listed in each of the reports.

<b>Standard Report</b>	<b>Unresolved Actions</b>
Complaint Response Due	28 responses past due
Complaint Inquiry	7 entries either had no letter or incorrect letters.
Complaint Inspection	40 entries with responses pending

Unsatisfied Activity	50 activities with responses pending
Citations Pending	3 OSHA-1s in draft 6 inspections open beyond 180 days
Violation Abatement	29 instances of abatement pending
Debt Collection	28 citations with outstanding penalties

Reports which were run and which did not show any past due cases were *Complaint, OSHA 7 for Signature* and *Open Inspection Report*. The rest of the Standard Reports were not evaluated.

**Finding 29: HIOSH was not running and using the Desired State Reports.**

**Recommendation 29: 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.**

**Reference 29:** ADM 1-1.21, CH 3, 12/5/95, *Enforcement Standard Reports Manual*, Chapter I.

As of 2/18/10, there were 220 draft forms in HIOSH’s NCR which were not 1B’s within the six-month statutory period. These included OSHA-1s, OSHA-1Bs, OSHA-170s, OSHA-36s, OSHA-7s, OSHA-90s, OSHA-31s, OSHA-300s, OSHA-91s, OSHA-92s, OSHA-93s, and OSHA-98. Some of the draft forms, such as OSHA-7s, OSHA-90s, and OSHA-36s, will cause other forms to reject if they are not finalized prior to attempting to enter linked forms. This contributes to the amount of rejects listed in the SOD report and to the inaccuracy of the IMIS database, since draft forms are not counted in the host.

**Finding 30: As of 2/18/10, there were 220 draft forms in HIOSH’s NCR.**

**Recommendation 30: HIOSH needs to convert draft forms into a final format or delete them as appropriate.**

**Reference 30:** ADM 1-1.31, *IMIS Enforcement Data Processing Manual*, Chapter XVIII, Section A.

HIOSH’s IT Administrator does not have a backup and has never had training on the NCR or the LAN. OSHA ADM 1-1.30, Page II-1, paragraph B, states both a system administrator and a backup system administrator should be designated to manage the IMIS.

**Finding 31: As of February 2010 HIOSH had not designated a backup administrator.**

**Recommendation 31: HIOSH should designate a backup system administrator.**

**Reference 31:** ADM1-1.30, *IMIS System Administration Manual*, Chapter II, Section B.

The enforcement branch personnel all need training on IMIS. Training should include two days for all enforcement personnel, system administrator, administrative support staff and managers; one day for managers, system administrator and support staff on management reports; and two days for the system administrator to receive one-on-one training for data cleanup of draft forms and error rejects.

**Finding 32: The current person designated as the system administrator, the backup**

systems 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.

**Recommendation 32: HIOSH must ensure that the systems administrator, the backup systems administrator and all enforcement branch personnel receive appropriate IMIS training.**

**Reference 32:** ADM1-1.30, CH 2, July 1996, *IMIS System Administration Manual*, Chapter I, Sections A and B.

*BLS Rates (Illness, Injury and Fatality)*

Occupational injury and illness rates for Hawaii have declined steadily over the last five years. While the trend for fatalities was similar, when transportation fatalities were removed, the number of fatalities was static over the course of the five most recent years for which BLS data was available. During FY 2009, the State conducted five fatality investigations. Two were in the construction industry and three were in general industry.

<b>Hawaii BLS Data Chart</b>						
		<b>2004</b>	<b>2005</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>
TRC <sup>1, 3</sup>	National	4.8	4.6	4.4	4.2	3.9
	Hawaii	4.9	4.9	4.8	4.6	4.3
DART <sup>2, 3</sup>	National	2.5	2.4	2.3	2.1	2.0
	Hawaii	3.0	3.1	3.0	3.0	2.6
Fatality Counts <sup>4</sup>	Hawaii	25/11	15/11	30/9	23/12	18/11

<sup>1</sup> Total Recordable Case (TRC).

<sup>2</sup> Days Away Restricted or Transferred (DART).

<sup>3</sup> Rate for Private industry as defined by the Department of Labor – Bureau of Labor Statistics

<sup>4</sup> State fatality rates unavailable. Counts include fatalities outside of Hawaii OSHA’s jurisdiction. The first number is the total fatalities including transportation, and the second number does not include transportation related fatalities. For example, in 2008 Hawaii experienced 18 fatalities that included transportation related and 11 fatalities that did not involve transportation. Hawaii averages approximately 10.8 non-transportation related fatalities each year.

Hawaii rates were consistently higher than the National rates. Hawaii experienced a decline in both the TRC and DART rates in each year leading up to 2008, similar to the National trend. Hawaii’s TRC rate declined less than was seen nationally from 4.9 to 4.3, or 12.6%. Nationally, the TRC rate declined from 4.8 to 3.9, or 19%, over the same five year period.

Hawaii’s DART rate did not decline as much as the National DART rate. From 2004 to 2008, Hawaii’s DART rate saw a decline from 3.0 to 2.6, or 13%. Nationally, the DART rate dropped from 2.5 to 2.0, or 20%.

The agency does not utilize the Site Specific Targeting System (SST) for General Industry, nor do they use the UTENN for Construction. They use workers’ compensation data to identify private sector employers with the highest injury and illness rates for general industry. For construction, they use local building permits to identify job sites. The program’s method of identifying both general industry and construction sites appears to more effective than OSHA’s SST and UTENN systems for programmed planning purposes.

**Recommendation: None.**

## 2. Standards and Plan Changes

### Standards Adoption

Standards are adopted in Hawaii through the following process: Prior to holding a public hearing, standards are reviewed and edited by HIOSH management, the Designee, the Attorney General's Office, the Department of Department of Business, Economic Development and Tourism, and Budget and Finance, who must all give their approval. Once everyone has approved the standard, a notice is published in the newspaper 30 days in advance of the public hearing. Testimony from the hearing is summarized and added to a letter to the governor requesting permission to adopt the standard. After the governor grants permission, the documents are sent to the lieutenant governor's office for filing. A standard becomes final 10 days after filing.

States are required, by 29 CFR 1953.5, to adopt Federal standards actions or a more stringent amendment within six months of the date of promulgation of a new Federal standard. In FY 2009, OSHA published three Federal Registers that required States to adopt an equivalent standard. The program was timely in notification response of intent and was untimely in adoption of all three standards. The status of these standards are: *Final Rule on Updating OSHA Standards Based on National Consensus* (not yet adopted); *Personal Protective Equipment and Clarification of Employer Duty To Provide Personal Protective Equipment and Train Each Employee* (adopted 7/16/2009); and *Final Rule on Longshoring and Marine Terminals; Vertical Tandem Lifts* (adopted 7/16/09).

Federal Standard Adopted in FY 2009					
Federal Standard	Intent to Adopt	Adopt Identical	Date Promulgated	Effective Date	Timely
Longshoring and Marine Terminals; Vertical Tandem Lifts	YES	YES	07/16/2009	07/27/2009	NO
Clarification of Employer Duty to Provide PPE and Train Employees	YES	YES	07/16/2009	07/27/2009	NO
Updating OSHA Standards Based on National Consensus Standards; PPE	YES	NO	Not yet adopted		NO

**Finding 33: HIOSH did not adopt federal OSHA standards within the six month requirement.**

**Recommendation 33: Develop and implement a tracking system for the adoption of new Federal Standards to ensure that the six month deadline is met.**

**Reference 33:** 29 CFR 1953.4(b)(1) and (b)(3).

### Federal Program Changes/State Initiated Changes

There were six Federal Program Changes published in FY 2009. The program adopted two within the required time interval, [CPL-03-00-010 2009, NEP Petroleum Refineries - Extension of Time](#) and [CPL-02\(09-06\) 2009, NEP - PSM Covered Chemical Facilities](#); chose not to adopt one, [CPL-2\(09-05\) 2009, Site Specific Targeting](#); was untimely for one (which has not yet been adopted), [CPL-02-00-148 2009, Field Operations Manual](#); and is still within the adoption period

for two, *CPL-02-01-046 2010, Rescission of OSHA's de minimis Policies Relating To Floors/Nets And Shear Connectors* and *CPL-02-09-08 2010, Injury and Illness Recordkeeping National Emphasis Program*. Additionally, there was a change on August 6, 2008 to the *Initial Training Program for OSHA Compliance Personnel, TED 01-00-018* that they have failed to adopt during this review period and it is included in the table below.

<b>Federal Program Changes FY 2009</b>					
<b>Directive Number</b>	<b>Adoption Required</b>	<b>Intent Required</b>	<b>Intent to Adopt</b>	<b>Adopt Identical</b>	<b>Timely</b>
Field Operations Manual, CPL-02-00-148 2009	YES	YES	YES	NO	NO
Initial Training Program for OSHA Compliance Personnel, TED 01-00-018	YES	YES	YES	NO	NO
Site-Specific Targeting 2009 (SST-09), CPL-2(09-05) 2009	NO	YES	NO	N/A	N/A
NEP - PSM Covered Chemical Facilities, CPL-02(09-06) 2009	NO	YES	YES	YES	YES
NEP Petroleum Refineries - Extension of Time, CPL-03-00-010 2009	NO	YES	YES	YES	YES
Rescission of OSHA's de minimis policies relating to floors/nets and shear connectors, CPL-02-01-046 2010	NO	YES	YES	NO	
Injury and Illness Recordkeeping National Emphasis Program, CPL-02-09-08 2010	NO	YES	YES	YES	

During this evaluation period there were no state initiated plan change supplements submitted for review.

**Finding 34: HIOSH has not yet adopted the Training Directive and OSHA's revision to the Field Operations Manual.**

**Recommendation 34: 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.**

**Reference 34:** 29 CFR 1953.4(b)(1) and (b)(3).

### **3. Variances**

There were no variances requested or granted during FY 2009, nor were any granted in the past four evaluation periods.

**Recommendation:** None.

### **4. Consultation Activities**

HIOSH provides consultation services to both public and private sector employers through its

Consultation, Education and Training Section. The private sector consultation program receives 90% Federal funding under Section 21(d) of the Occupational Safety and Health (OSH) Act and is evaluated separately. The following section covers consultation services provided solely to public sector employers that are funded under Section 23(g) of the OSH Act.

In FY 2009, HIOSH conducted six public sector consultation visits, falling short of their projected goal of 14 consultation visits. This was a decrease from the last evaluation, when the total was 30 visits.

HIOSH exceeded the 90% goal for visits in high hazard establishments. Due to the small size of the universe and the type of industry (government), this is not considered significant. (MARC 1)

<b>Visits in High Hazard Establishments (MARC 1)</b>						
	<i>FY 2005</i>	<i>FY 2006</i>	<i>FY 2007</i>	<i>FY 2008</i>	<i>FY 2009</i>	<i>Goal</i>
	<b>50%</b> (5/10)	<b>66.67%</b> (2/3)	<b>47.83%</b> [11/23]	<b>60%</b> [18/30]	<b>100%</b> [4/4]	Not less than 90%

**Recommendation: None.**

The program consistently directs resources to smaller agencies. During this evaluation period, 4 out of 4 public sector sites visited had less than 250 employees. The goal is 90% or greater. (MARC 2)

**Recommendation: None.**

In FY 2009, as usual, HIOSH consultants conferred with employees during 100% of both initial and follow-up visits (MARC 3).

**Recommendation: None.**

Serious hazards are required to be corrected and verified within 14 days from the latest correction date. In FY 2009, HIOSH obtained evidence of abatement within the 14-day period for 42.86% of hazards classified as serious (MARC 4A), did not obtain evidence of abatement within the 14-day period for four out of seven hazards classified as serious (MARC 4B), did not refer any hazards to enforcement and, in 42.86% of the serious hazards identified, verified that the hazard was corrected onsite or within the originally assigned abatement period.

<b>Verification of Serious Hazards (MARC 4)</b>						
	<i>FY 2005</i>	<i>FY 2006</i>	<i>FY 2007</i>	<i>FY 2008</i>	<i>FY 2009</i>	<i>Goal</i>
% Verified corrected within 14 days of correction date (MARC 4A)	<b>86.57%</b> (58/67)	<b>66.67%</b> (6/9)	<b>97.73%</b> [43/44]	<b>100%</b> [25/25]	<b>42.86%</b> [3/7]	100%
% Not Verified Corrected within 14 days of correction date (MARC 4B)	<b>13.43%</b> (9/67)	<b>33.33%</b> (3/9)	<b>2.27%</b> [1/43]	<b>0%</b> [0/25]	<b>57.14%</b> [4/7]	0%
% Referred to enforcement (MARC 4C)	<b>0%</b> (0/67)	<b>0%</b> (0/9)	<b>0%</b> [0/44]	<b>0%</b> [0/25]	<b>0%</b> [0/7]	-
% Serious hazards verified corrected in original time or onsite (MARC 4D)	<b>N/A<sup>1</sup></b>	<b>N/A<sup>1</sup></b>	<b>N/A<sup>1</sup></b>	<b>100%</b> [7/7]	<b>42.86%</b> [3/7]	65%

<sup>1</sup>This measure did not exist until FY 2008.

**Finding 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.

**Recommendation 35: HIOSH must ensure abatement of serious hazards as quickly as possible.**

**Reference 35:** MARC 4D

In this evaluation period, HIOSH did not have any uncorrected hazards for more than 90 days past due (MARC 5). HIOSH has maintained their goal of zero uncorrected hazards over 90-days in the public sector since FY 2003.

**Recommendation: None.**

## 5. Discrimination

HIOSH does not have a separate discrimination branch. The Health Branch Manager was in charge of the 11(c) program, and he and three environmental health specialists (EHS) were assigned to conduct discrimination investigations as a collateral duty. During 2009, two program specialists did the intake and screening of all complaints, including those alleging discrimination. In the first quarter of FY 2010, these positions were eliminated and there are no plans to fill them in the foreseeable future.

There were 14 discrimination complaint investigations opened this year. Four (28.6%) were closed within the 90 day statutory period. The goal is 100 percent. Two were meritorious (14.3%) and of these two, both were settled (100%). National data was 20.8% meritorious and 86.2% settled, respectively. The data for HIOSH activity in SAMM 13, 14 & 15 was inaccurate. Information was obtained by interviewing State personnel.

<b>Discrimination (SAMM 13, 14, 15)</b>						
	<b>FY 2005</b>	<b>FY 2006</b>	<b>FY 2007</b>	<b>FY 2008</b>	<b>FY2009</b>	<b>FY 09 Nat. Data</b>
% Completed Within 90 Days (SAMM 13)	<b>0%</b> [0/2]	<b>0%</b> [0/1]	<b>75%</b> [3/4]	<b>0%</b> [0/7]	<b>28.6%</b> [4/14]	100%
% Merit Cases (SAMM 14)	<b>0%</b> [0/2]	<b>0%</b> [0/1]	<b>0%</b> [0/7]	<b>28%</b> [2/7]	<b>14.3%</b> [2/14]	20.8%
% Merit Cases Settled (SAMM 15)	N/A	N/A	N/A	<b>100%</b> [2/2]	<b>100%</b> [2/2]	86.2%

**Finding 36: Only four of 14 (29%) of discrimination cases were completed within the 90 day statutory period.**

**Recommendation 36: HIOSH needs to ensure that adequate resources are available to complete discrimination investigations in a timely manner.**

**Reference 36:** Hawaii Revised Statutes, Chapter 396, Section 8(e)(7).

Because the IMIS data is incorrect, discrimination data is tracked internally by the Health Branch Supervisor. Discrimination investigations were screened by two program analysts in the former Administration and Technical Services Branch. Once they were docketed, the complaints were

assigned to the Health Branch for investigation. In the first three quarters of FY 2009, HIOSH was unable to enter data into the IMIS system because they had not designated personnel to act in the various functions to OMDS. Data entry began in the third quarter of FY 2009.

Although two of the Health Branch Environmental Health Specialists (EHS), the supervisor and the program analyst, attended discrimination training taught by the Region IX RSI, not all of the EHS's assigned to investigate discrimination cases have had formal training.

**Finding 37: All HIOSH staff assigned to conduct discrimination investigations had not received formal training.**

**Recommendation 37: Ensure that all of HIOSH's discrimination investigators receive appropriate formal discrimination training.**

**Reference 37:** Memorandum for Regional Administrators from Richard E. Fairfax, 1/15/2008, *The Development of Training for Whistleblower Investigators*.

OSHA Region IX reviewed a random sample of six of the twelve discrimination cases that HIOSH closed in the Fiscal Year 2009. This random sample was chosen as follows: (1) at least one case by each investigator who investigated discrimination cases during the Fiscal Year 2009 was chosen; (2) at least one of each of the three types of cases closed by HIOSH (dismissals, withdrawals, and settled) was included in the sample; and (3) cases that were open for different amounts of time were chosen. This random sample of six cases included cases that were categorized as follows: two settled cases, three dismissals and one withdrawn case.

Procedural Findings: During OSHA's review of HIOSH's discrimination cases, the following procedural issues were noted:

- *Positive Practices:* Files are well-organized and well-documented.
- *Administratively Closed or Referred Complaints:* Administratively closed and referred complaints were reviewed and found to be appropriately handled.
- *Substantive Findings:* No negative substantive issues were found in the six cases reviewed by OSHA. OSHA would likely have reached the same determination as HIOSH in all of these cases.
- *Oral Complaints:* HIOSH does not accept or docket oral complaints unless they are later memorialized in writing per HIOSH's instruction.

**Finding 38: HIOSH does not accept verbal discrimination complaints.**

**Recommendation 38: HIOSH should accept and docket orally filed complaints in IMIS upon receipt and not require a Complainant to submit a complaint in writing.**

**Reference 38:** DIS 0-0.9, Chapter II, Section II and Chapter VII, Section V(A).

- *Filing Dates:* If an oral complaint is submitted and a written complaint is later submitted, HIOSH considers the filing date to be the date upon which the written complaint is received.

- *Unilateral Settlements:* HIOSH policy regarding unilateral settlements appears to be vague and/or inconsistently enforced. Although one investigator believed that HIOSH did not have such a provision in one of the cases reviewed for audit, HIOSH obtained a unilateral settlement with the employer.

**Finding 39: Not all of HIOSH staff knew that they could use unilateral settlements.**

**Recommendation 39: HIOSH should develop and enforce a consistent policy regarding unilateral settlements.**

**Reference 39:** DIS 0.09, Ch. 6, Section (IV)(B)(3).

## **6. Complaint About State Program Administration (CASPA)**

In FY 2009, one CASPA was filed alleging that the State had failed to cite the general duty clause for air quality exposures. The complainant also alleged that HIOSH was untimely in their response for a request for records associated with a previous CASPA.

HIOSH conducted five inspections of the site between 2006 and 2008 and cited the employer for recordkeeping violations. In these inspections, HIOSH did not record any exposures above the permissible exposure limits (PEL).

Region IX reviewed two reports prepared by the National Institute for Occupational Safety and Health (NIOSH) in 2007 and in 2009. The NIOSH investigations were unable to identify a cause for the symptoms reported by the employees. The NIOSH reports included recommendations for improving the air quality but did not note any apparent occupational safety and health violations. The employer implemented National Institute of Occupational Safety and Health's (NIOSH) recommendations.

The Regional CASPA investigation found that HIOSH air monitoring and results were acceptable. The general duty clause could not be cited since standards exist that address these exposures. It was determined that HIOSH had explained and provided the requested records in a timely manner. The Region recommended that HIOSH conduct a new inspection, including air monitoring. This was done and no exposures above the Permissible Exposure Limits (PEL) were found. The issues of indoor air quality are generally addressed by local health departments and Federal and State environmental agencies.

The complainant sent an appeal for further consideration to the Regional Administrator on July 13, 2009. The Regional Administrator informed the complainant that he concurred with the original findings in a letter dated September 28, 2009. The complainant requested a further review from the OSHA National Office. The OSHA Directorate of Cooperative and State Programs (DCSP) sent a letter to the complainant concurring with the original recommendations. The Region also sent a referral to HIOSH to conduct a new inspection and conduct additional air monitoring to determine if any new exposures had surfaced. The complainant requested a further review through Senator Daniel Akaka's office. The OSHA National Office concurred with the original Regional findings in a letter dated March 23, 2010, which was sent to Senator Akaka.

**Recommendation: None.**

## 7. Voluntary Compliance Program

The program's Voluntary Protection Program (VPP), also known as Hana Po'okela, was similar to OSHA's STAR exemption program. A STAR site is one in which all VPP program requirements have been met and have been operational for at least one year. This program was designed to recognize employers who had implemented model safety and health programs and who had injury and illness rates at or below those for their industry.

In FY 2009, there were four employers designated as VPP sites. HIOSH did not certify any new companies as VPP sites. There were no VPP renewals in FY 2009.

One of the VPP employers was first recognized as a VPP site in 2002. In 2005, this company was recertified as a VPP site by an onsite team which included an expert from the State of California. The recertification expired in January 2009. A re-evaluation has not been conducted. According to HIOSH, the employer has not been evaluated because HIOSH has no PSM trained engineer. Furthermore, the site has not sent in their *Annual Submissions from VPP Participants* since FY 2005. The *Voluntary Protection Program Policies and Procedures Manual* specifies that the reevaluation must take place between 30-36 months.

**Finding 40: One site has not been timely re-evaluated and has not been removed as a VPP participant.**

**Recommendation 40: 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.**

**Reference 40:** CSP 03-01-003, *Voluntary Protection Programs (VPP): Policies and Procedures Manual*, Chapter VII, Section VIII.

The administration of the Voluntary Protection Program was assigned to the Consultation and Training Branch. The funding was charged to the 21(d) grant as 90/10 funds. According to OSHA Instruction 08-02 (CSP-02) for *Integrated 23(g) State Plan Grants and 21(d) On-site Consultation Cooperative Agreements*, this program can be administered by either enforcement or consultation. However, HIOSH can only be reimbursed for the time they spend in this activity under 23(g) grant funds at 50/50.

**Finding 41: HIOSH charged its VPP activities to the 21(d) grant.**

**Recommendation 41: Time spent on VPP activities must be charged to the 23(g) grant funds as 50/50.**

**Reference 41:** 08-02 (CSP-02) for *Integrated 23(g) State Plan Grants and 21(d) On-site Consultation Cooperative Agreements*, Appendix B-Exhibit 1b, Page 1.

## 8. Program Administration

### Budget

In FY 2009, the program operated with a budget of \$3,047,800, of which 50% of the funds (\$1,523,900) was federally funded through a Section 23(g) grant and were matched by State funds (\$1,523,900). The program lapsed \$144,095.37 this fiscal year.

The State of Hawaii was faced with a budget deficit. To deal with this, the State abolished employee positions, instituted a state-wide hiring freeze, consolidated or reduced services, banned (with rare exceptions) out of state travel, and required that any large expenditures have the governor's approval. It is expected that the State's situation will worsen in FY 2010 as the furlough policy and other expense reduction measures are implemented.

OSHA conducted an onsite audit of the financial aspects of the 23(g) grant from February 17-18, 2010. Details are in a separate report. A summary of major findings of the report are discussed in this section. In general, HIOSH and the Finance Division for Hawaii's Department of Labor & Industrial Relations were found to be managing and expending grant funds in accordance with federal and agency guidelines. However, the following deficiencies need correction.

HIOSH failed to appropriately manage 23(g) grant funding. HIOSH failed to de-obligate \$144,095.37 that became lapsed funding. This is after HIOSH made a request for and received an amendment in the amount of \$162,500.

**Finding 42: HIOSH lapsed \$144,095.37 at the end of FY 2009.**

**Recommendation 42: 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.**

**Reference 42:** 2 CFR Part 225, *Cost Principles for State, Local, and Indian Tribal Governments* (OMB Circular A-87).

At the end of the Federal Fiscal Year (FY), the State had a 90 day liquidation period for expenditures made during the fiscal year unless a grant adjustment notice extending the liquidation period was approved. There have been ten disbursements for an amount of \$377,000.00 since December 29, 2009 without approval.

**Finding 43: Ten disbursements totaling \$377,000 have been made since December 29, 2009 without approval.**

**Recommendation 43: 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.**

**Reference 43:** 2 CFR Part 225, *Cost Principles for State, Local, and Indian Tribal Governments* (OMB Circular A-87).

The drawdown of funding by HIOSH was not uniform during FY 2009. At the end of the 1<sup>st</sup> quarter of FY 2009, HIOSH had withdrawn 19.8% of the available funds rather than the expected 25%. This practice appears to be continuing in FY 2010. At the end of the first quarter of Federal FY 2010, HIOSH had not withdrawn any funds from their 23(g) or 21(d) grants. Without intervention, the mismanagement of grant funds experienced in FY 2009 will be repeated in FY 2010.

**Finding 44: Drawdown of grant funds was not uniform during the fiscal year.**

**Recommendation 44: HIOSH needs to closely monitor drawdown of funding from the grants on a monthly basis to ensure grant funds are properly managed.**

**Reference A44:** 2 CFR Part 225, *Cost Principles for State, Local, and Indian Tribal Governments* (OMB Circular A-87).

HIOSH paid an individual as a Business Facilitator when the person was actually conducting a special project that had nothing to do with the Business Facilitator’s duties. HIOSH did not receive written approval from the Regional Administrator to expend these funds for a temporary service. The Director’s Office for the Department of Labor and Industrial Relations obtained a Xerox copier by using 23(g) grant funding. This is an unallowable expenditure of grant funds.

**Finding 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.**

**Recommendation 45: HIOSH must ensure that expenditures and equipment purchases made with 23g funds are used for activities covered and authorized by the 23g Grant.**

**Reference 45:** 29 CFR 97.30(d)(3) and 29 CFR 97.22(a)(1).

Based on the breakout chart below, the program exceeded budget expenses for supplies, contractual, and other and was below for personnel, fringe benefits, travel, direct and indirect charges. Despite OSHA’s follow-up discussions during this evaluation period, HIOSH under spent its 23(g) grant by \$144,095.37.

<b>FY 2009 23(g) Grant</b>			
<b>Budget Categories</b>	<b>Budget</b>	<b>Actual Expenditures</b>	<b>Difference</b>
Personnel	\$1,756,312.00	\$1,686,112.03	\$70,199.97
Fringe Benefits	\$736,049.00	\$669,875.25	\$66,173.75
Travel	\$38,491.00	\$34,931.39	\$3,559.61
Equipment	\$0.00	\$0.00	\$0.00
Supplies	\$5,000	\$21,345.97	(\$16,345.97)
Contractual	\$154,706.00	\$167,111.86	(\$12,405.86)
Construction	\$0.00	\$0.00	\$0.00
Other	\$59,000.00	\$111,152.30	(\$52,152.30)
<b>Total Direct Charge</b>	<b>\$2,749,558.00</b>	<b>\$2,690,528.80</b>	<b>\$59,029.20</b>
Indirect Charge	\$298,242.00	\$200,598.64	\$97,643.36

Non-Capital Property	\$0.00	\$12,577.18	(\$12,577.18)
<b>Total</b>	<b>\$3,047,800.00</b>	<b>\$2,903,704.63</b>	<b>\$144,095.37</b>

Staffing

Hawaii’s compliance program staffing benchmarks, pursuant to the U.S. Court of Appeals decision in AFL-CIO v. Marshall (C.A. No. 74-406), were approved by OSHA in 1984 at nine safety and nine health inspector positions.

HIOSH’s authorized staffing level was 51 positions, of which ten were safety and nine were health enforcement positions, and four were safety consultants and three were health consultant positions. The remaining 25 positions listed in the grant were supervisory, technical support and administrative.

As of September 30, 2009, there were five OSHCOs and four EHSs in the enforcement branches. The consultation branch had two safety consultants and one health consultant. HIOSH did not meet its benchmark numbers.

The governor froze hiring to fill vacancies and told agencies to cut their operating costs by 20 percent due to declining tax revenues. There was a \$75 million shortfall in the 2009 State budget. The deficit is projected to exceed \$315 million in 2010. In the first quarter of FY 2010, HIOSH laid off 11 of its personnel, leaving 19 employees in the Division of which five were safety and four were health compliance officers and two were consultants. In the second quarter of FY 2010, one of the two remaining consultants retired. The State has not committed to filling any of these vacancies in the near future.

In prior years, before the State’s current budget crises, HIOSH had difficulty finding applicants who met the qualifications for the positions. The scarcity of qualified applicants was aggravated by Hawaii’s low unemployment rate and the salary level that the State offered. The salary structure is not competitive with the private sector, and there are relatively few promotional opportunities. This was confirmed through interviews with HIOSH management. Employees typically take entry level jobs to gain experience. As soon as they have a few years of experience and have gone through the OSHA training classes, they leave HIOSH for employers offering higher salaries. The program’s entry level salary for a safety specialist I is \$33,756, and it is \$38,988 for an environmental health specialist II. The maximum salary is at \$64,920 for a compliance officer IV and \$67,488 for an environmental health specialist IV.

**Finding 46: HIOSH staffing levels are below benchmarks.**

**Recommendation 46: HIOSH must develop a plan to address the critical vacancies for compliance and consultation personnel.**

**Reference 46:** 29 CFR 1902.3(h); U.S. Court of Appeals decision in AFL-CIO v. Marshall (C.A. No. 74-406); and 08-02 (CSP-02) for Integrated 23(g) State Plan Grants and 21(d) On-site Consultation Cooperative Agreements, Section IX.B.2.b.

The person designated as the HIOSH Administrator in the 23g Grant was not assigned to the duties of the Administrator as described by the HIOSH FOM. Instead, the majority of those

duties were performed by the individual designated as the Operations Manager in the 23g Grant, a position which did not exist in the HIOSH FOM nor in any of the other HIOSH directives related to occupational safety and health.

**Finding 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.**

**Recommendation 47: 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.**

**Reference 47:** HIOSH FOM, Chapter I, Section B and Grant No. OSHA-23G-2009-01.

### Training Program

In August 2008, Federal OSHA's Directive, *TED 01-00-018 Initial training Program for OSHA Compliance Personnel*, required States to adopt an equivalent program for their Compliance personnel and submit a Plan Change Supplement (PCS) documenting their program, identifying policies and procedures which were different from Federal OSHA, and explaining how their training program would result in adequately trained personnel who could conduct effective inspections. HIOSH responded that it will adopt the directive with changes. HIOSH has indicated that it intends to develop a training matrix for compliance personnel from a disk which contains course outlines and lesson plans for classes given by OTI. As of this date, a PCS with the State's version of the training directive has not been submitted to OSHA for review.

Until FY 2008, HIOSH was sending some staff to OTI for basic and specialized courses, although not all compliance personnel were given identical training. HIOSH also used OSHA training center courses both in and out of state, classes given by professional organizations such as ASSE and AIHA, and OSHA Webinars. In FY 2008, one health specialist attended *3320, Combustible Dust Hazards and Controls* at OTI, and the offsite *1020, Accident Investigation Report Writing* was held in Honolulu. All personnel attended *1020*.

In FY 2009, no one attended courses at OTI, and OTI did not present offsite training in Hawaii, although HIOSH requested electrical training. Training for FY 2009 consisted of OSHA Webinars; a four hour session sponsored by the Workplace Safety Awareness Council, called *2009 OSHA Update Workshop*, attended by four members of the safety branch; a two hour lecture sponsored by the local AIHA, entitled *Hazard Recognition: Essential Techniques for the Field Employee*, that four environmental health specialists attended; and an eight hour annual recertification for HAZWOPER that the health branch attended.

The majority of the training classes attended were listed on an Excel spreadsheet with more recent records on loose sheets. A review of HIOSH's training records indicates that they were not in compliance with Federal OSHA's Directive TED 01-00-018.

Below is a table outlining required initial training and the number of current employees who have not received the required training. HIOSH has five safety compliance officers, one safety supervisor who conducts some inspections, one health branch manager and four environmental health specialists.

Course Number and Title	No. of staff who have not taken the course
#1000 Initial Compliance	6
#1050 Introduction to Safety Standards for Safety or #1250 Introduction to Health Standards for IH or #2000 Construction Standards	6
#1310 Investigative Interviewing Techniques (No one has attended OTI 1310. 10 HIOSH personnel attended a four hour course titled, <i>Interview and Interrogation 101</i> on 11/9/07.)	11
#1410 Inspection Techniques and Legal Aspects	8
#2450 Evaluation of Safety and Health Management Systems	7
#1230 Accident Investigation	0
Multi-Disciplinary Courses	0
#8200 Incident Command System I-200	6

#1000 *Initial Compliance*: As recently as FY 2007, HIOSH sent some staff to OTI to attend this course. Three safety, the health branch manager, and two environmental health specialists (EHS) have not been sent to this course. This course must be completed within the first year of a compliance officer's career. Of the enforcement staff who have not received the required training, one was hired in 1986, one in 1993, two in 1997, one in 2000, and one in 2004.

#1050 *Introduction to Safety Standards for Safety* or #1250 *Introduction to Health Standards for IH* or #2000 *Construction Standards*: As recently as FY 2007, some HIOSH personnel attended these courses either at OTI or offsite. One EHS went to a 40 hour introduction to industrial hygiene sponsored by the AIHA. One safety and one EHS have never attended any of these courses. The health branch manager and two EHS have been to the 1050 and/or the 2000 but have not attended the 1250. This course must be completed within the first year of a compliance officer's career. Of the enforcement staff that have not received the required training, one was hired in 1993, one in 1997, one in 2000, one in 2004, and two in 2006.

#1310 *Investigative Interviewing Techniques*: HIOSH has worked with their Legal Department and a contractor to offer an interviewing techniques class locally. In November 2007, ten HIOSH staff attended a four hour training session entitled *Interview and Interrogation 101*, taught by a former police officer. However, that course was not considered equivalent to 1310.

#1410 *Inspection Techniques and Legal Aspects*: Four compliance staff attended this course, either at OTI or at an off-site presentation. This course must be completed within the first three years of a compliance officer's career. The personnel that have not received training were hired in 1986, 1987, 1993, 2000, 2004 and 2006, and two in 1997.

#2450 *Evaluation of Safety and Health Management Systems*: Four enforcement staff attended this class at OTI. Of the seven who have not matriculated, one was hired in 1997, one in 2000, one in 2004, one in 2005, and three in 2006.

#1230 *Accident Investigation* or #1020 *Basic Accident Investigation*: All enforcement staff have been to this class either at the OTI or at an offsite version, some of them multiple times.

Multi-Disciplinary Courses: HIOSH staff have attended a variety of multi-disciplinary and

advanced safety and health courses in the past, although no one attended this type of class in FY 2009.

#8200 *Incident Command System I-200*: HIOSH sent its health branch to this training and recertifies them annually. None of the safety branch has gone to 8200 training. This course must be taken during the initial three years of employment. Safety Branch staff were hired in 1986, 1987, 2004 and 2006, and two in 1997.

**Finding 48: None of the employees in the enforcement branch had completed all of the required classes listed in OSHA's training directive, *TED 01-00-018 Initial training Program for OSHA Compliance Personnel*.**

**Recommendation 48: HIOSH needs to ensure that all compliance staff receive at least the basic required OSHA courses. HIOSH must develop a training plan and allocate the necessary funds to do so.**

**Reference 48:** TED 01-00-018, *Initial training Program for OSHA Compliance Personnel*, Section X.A

## **B. Achievement of Annual Performance Goals**

Consistent with the Federal Government Performance and Results Act (GPRA), HIOSH developed a Five Year Strategic Plan (2006-2010) that commits not only to the effective and efficient performance of the agency's activities, but also to certain levels of reduction in Hawaii's industries with high injury and illness rates as reported by the Bureau of Labor and Statistics (BLS).

The goals of the Five Year Strategic Plan are to be incrementally achieved through the implementation of Annual Performance Plans. This is the program's fourth year in working toward its Strategic Goals.

**Five-Year (2005-2010) Strategic Goal 1:** By 2010, reduce the rate of workplace injuries and illnesses in construction, general industry, and local government by 15%.

*FY 09 Performance Goal 1.1:* Reduce the rate of workplace injuries and illnesses in Construction (NAICS 23) by 3%.

HIOSH did not meet their inspection activity goal for construction. In FY 2009, HIOSH conducted 220 of their 300 planned inspections. This resulted in the identification of 136 hazards.

HIOSH selected this industry as one of the focused areas due to the high injury and illness rate of 10.1 in Calendar Year (CY) 2003. The baseline and measurement of this goal is the reduction of injuries and illnesses in the construction industry using CY 2003 BLS injury and illness rate data for the State of Hawaii.

	TRCR Baseline CY 2003	CY 2005	CY 2006	CY 2007	CY 2008	Percent Change (CY2007-CY 2008)
Total Recordable Case Rate	10.1	7.9	6.8	6.0	6.1	+1%
No. Inspections	-	651	343	489	275	FY 2009 – 235

Sources: BLS Data, SOAR, IMIS report

The latest BLS data shows that Hawaii’s Total Recordable Case Rate (TRCR) for construction increased slightly during this evaluation period, from six percent to 6.1 percent (10%). Because the rates tracked lag behind HIOSH’s activity by a year, it is difficult to correlate the reported year’s performance with the TRCRs. When compared to the baseline of 10.1, however, HIOSH exceeded the five-year goal, as the 2008 rate of 6.1 is 40 percent less.

**Recommendation: None.**

FY 09 Performance Goal 1.2: Reduce the rate of workplace injuries and illnesses in General Industry by 3%.

The program did not meet their projection of 237 general industry inspections. HIOSH conducted 98 inspections finding 85 violations, down from the previous year’s 145 inspections

The latest available illness and injury rate data (CY 2008) from the Bureau of Labor Statistics showed a decrease in all industries.

Performance Goal 1.2				
	TRCR Baseline	2007 TRCR	2008 TRCR	% Change (2007 – 2008)
Manufacturing (NAICS 31-33)	7.1	5.9	4.9	-17%
Transportation & Warehousing (NAICS 48-49)	10.5	9.1	7.9	-13%
Utilities (NAICS 22)	6.2	6.5	4.4	-32%
Arts, Entertainment, & Recreation (NAICS 71)	7.0	6.4	6.2	-3%
Accommodations & Food Service (NAICS 72)	6.6	6.7	6.2	-6%

Source: BLS Data

Because the rates tracked lag behind HIOSH’s activity by a year, it is difficult to correlate the reported year’s performance with the TRCRs. TRCR rates fell in all targeted general industry NAICS in CY 2008. OSHA commends HIOSH for meeting their TRCR reduction rates for both long term and annual goals for the emphasis industries in general industry.

**Recommendation: None.**

FY 09 Performance Goal 1.3: Reduce the rate of workplace injuries and illnesses in local government by 3%.

The program set a goal of 15 for the number of local government inspections and completed 11 (73%) inspections. It conducted six consultation visits in the public sector, while its goal was 14. The latest available illness and injury rate data (CY 2008) from the Bureau of Labor Statistics showed a decrease of 11% in local government. While there has been a decrease in the TRCR from CY 2007 to CY 2008, the rate exceeds the CY 2005 benchmark by 10%.

	CY2005 (Baseline)	CY 2006	CY 2007	CY 2008	Percent Change (CY 2007-CY 2008)
Total Recordable Case Rate	5.2	4.3	6.4	5.7	-11%

Source: BLS Data

**Finding 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.**

**Recommendation 49: HIOSH needs to re-evaluate its efforts to more effectively address reducing injury and illness in the public sector.**

**Reference 49:** HIOSH FY 2009 *Annual Performance Plan*, Annual Performance Goal 1.3.

**Five-Year (2005-2010) Strategic Goal 2:** By 2010, reduce the number of fatalities from falls from three (3) in 2003 to zero (0).

FY 09 Performance Goal 2.1: Reduce the number of fatalities from falls by one (1).

HIOSH exceeded their projection of 36 inspections under their Fall LEP (local emphasis program). They conducted 66 inspections or 183% of their goal. The table following this paragraph shows the number of fatalities from falls in Hawaii for a five-year period.

Performance Goal 2					
	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
<b>Fall Fatalities</b>	1	1	3	2	0

Source: IMIS

HIOSH's progress towards decreasing the number of fatalities from falls appears to be effective for FY 2009. However, as of the second quarter of FY 2010 there have been three fall-related fatalities in Hawaii. OSHA believes that increased enforcement action must occur to counteract this trend.

**Finding 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.**

**Recommendation 50: Develop and implement a combined enforcement and outreach initiative to address the increase in fall-related fatalities.**

**Reference 50:** HIOSH FY 2009 *Annual Performance Plan*, Strategic Goal 2.

**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.

**Appendix B**  
**Hawaii State Plan (HIOSH)**  
**FY 2009 Enforcement Activity**

	Hawaii	State Plan Total	Federal OSHA
<b>Total Inspections</b>	<b>426</b>	<b>61,016</b>	<b>39,004</b>
Safety	314	48,002	33,221
% Safety	74%	79%	85%
Health	112	13,014	5,783
% Health	26%	21%	15%
Construction	230	26,103	23,935
% Construction	54%	43%	61%
Public Sector	23	7,749	N/A
% Public Sector	5%	13%	N/A
Programmed	213	39,538	24,316
% Programmed	50%	65%	62%
Complaint	93	8,573	6,661
% Complaint	22%	14%	17%
Accident	14	3,098	836
Insp w/ Viols Cited	248	37,978	27,165
% Insp w/ Viols Cited (NIC)	58%	62%	70%
% NIC w/ Serious Violations	82%	62%	87%
<b>Total Violations</b>	<b>844</b>	<b>129,363</b>	<b>87,663</b>
Serious	510	55,309	67,668
% Serious	60%	43%	77%
Willful	1	171	401
Repeat	9	2,040	2,762
Serious/Willful/Repeat	520	57,520	70,831
% S/W/R	63%	44%	81%
Failure to Abate	-	494	207
Other than Serious	324	71,336	16,615
% Other	38%	55%	19%
Avg # Violations/ Initial Inspection	2.9	3.3	3.1
<b>Total Penalties</b>	<b>\$ 431,186</b>	<b>\$ 60,556,670</b>	<b>\$ 96,254,766</b>
Avg Current Penalty / Serious Violation	\$ 689.60	\$ 800.40	\$ 970.20
Avg Current Penalty / Serious Viol- Private Sector Only	\$ 670.90	\$ 934.70	\$ 977.50
% Penalty Reduced	31.9%	51.9%	43.7%
<b>% Insp w/ Contested Viols</b>	<b>12.8%</b>	<b>13.0%</b>	<b>7.0%</b>
Avg Case Hrs/Insp- Safety	21.5	15.7	17.7
Avg Case Hrs/Insp- Health	26.4	26.6	33.1
Lapse Days Insp to Citation Issued- Safety	76.4	31.6	34.3
Lapse Days Insp to Citation Issued- Health	65.1	40.3	46.7
Open, Non-Contested Cases w/ Incomplete Abatement >60 days	15	2,010	2,234

Source:

*DOL-OSHA. State Plan INSP & ENFC Reports, 11-19-2009. Federal INSP & ENFC Reports, 11-9-2009. Private Sector ENFC- State Plans 12.4.09 & Federal 12.14.09*

## APPENDIX C

### List of Acronyms

ADM	OSHA Instruction – Administrative
AG	State of Hawaii Attorney General
AIHA	American Industrial Hygiene Association
ASSE	American Society of Safety Engineers
BLS	Bureau of Labor Statistics
CAPR	Consultation Annual Project Report
CASPA	Complaint About State Program Administration
CPL	OSHA Instruction – Compliance
CSHO	Compliance Safety and Health Officer
CY	Calendar Year
DLIR	Hawaii State Department of Labor and Industrial Relations
EAP	Emergency Action Plan
EHS	Environmental Health Specialist
EOD	End of Day Report
FAME	Federal Annual Monitoring Evaluation
FAT/CAT	Fatality and/or Catastrophe (Three or more employees hospitalized)
FOM	Field Operations Manual
FPC	Federal Program Change
FPEP	Fall Protection Emphasis Program
FSA	Formal Settlement Agreement
FY	Federal Fiscal Year
GPRA	Federal Government Performance and Results Act
HIOSH	Hawaii Occupational Safety and Health Division

HLRB	Hawaii Labor Relations Board
IH	Industrial Hygienist
IMIS	Integrated Management Information System
ISA	Informal Settlement Agreement
IT	Information Technology
LOTO	Lock Out/Tag Out Program
MARC	Mandated Activities Report for Consultation
NAICS	North American Industrial Classification System
NCR	OSHA's data collection computer system
NEP	National Emphasis Program
NIC	Not In Compliance
NIOSH	National Institute for Occupational Safety and Health
NOV	Notice of Violation
OSHA	Occupational Safety and Health Administration
OSHCO	Occupational Safety and Health Officer
OTI	OSHA Training Institute
PCS	Plan Change Supplement
PSM	Process Safety Management
RSI	Regional Supervisory Investigator for Discrimination
SAMM	State Activity Mandated Measures
SHARP	Safety and Health Achievement Recognition Program
SGE	Special Government Employee
SIC	Standard Industrial Classification Code
SIR	State Indicator Report
SOAR	State OSHA Annual Report

SOD	Start of Day Report
SWAP	Safety Workplace Assistance Program
S/W/R	Serious/Willful/Repeat
TED	OSHA Instruction - Training
TRCT	Total Recordable Case Rate
VPP	Voluntary Protection Program

**List of OSHA Forms**

OSHA 1	Inspection Form
OSHA 1A	Narrative
OSHA 1B	Violation Worksheet
OSHA-7	Complaint Form
OSHA 36	Accident Form
OSHA 167C	Complaint Update Form
OSHA 170	Accident Investigation Summary

## **Appendix D**

### **HAWAII STATE OSHA ANNUAL REPORT (SOAR) FY 2009**

**(available separately/upon request)**

# Appendix E

## State Activity Mandated Measures (SAMM)

U. S. DEPARTMENT OF LABOR  
 OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION  
 STATE ACTIVITY MANDATED MEASURES (SAMMs)

OCT 23, 2009  
 PAGE 1 OF 2

State: HAWAII

RID: 0951500

MEASURE	From: 10/01/2008		CURRENT		REFERENCE/STANDARD
	To: 09/30/2009		FY-TO-DATE		
1. Average number of days to initiate Complaint Inspections	382		0		Negotiated fixed number for each State
	4.24				
	90		0		
2. Average number of days to initiate Complaint Investigations	31		2		Negotiated fixed number for each State
	.72		1.00		
	43		2		
3. Percent of Complaints where Complainants were notified on time	76		0	100%	
	83.52				
	91		0		
4. Percent of Complaints and Referrals responded to within 1 day -ImmDanger	7		0	100%	
	77.78				
	9		0		
5. Number of Denials where entry not obtained	0		0	0	
6. Percent of S/W/R Violations verified					
	334		6		
Private	91.51		50.00	100%	
	365		12		
	6		0		
Public	100.00			100%	
	6		0		
7. Average number of calendar days from Opening Conference to Citation Issue					
	23847		1477	2489573	
Safety	105.98		134.27	43.8	National Data (1 year)
	225		11	56880	
	6482		123	692926	
Health	90.02		123.00	57.4	National Data (1 year)
	72		1	12071	

\*FY09HI

\*\*PRELIMINARY DATA SUBJECT TO ANALYSIS AND REVISION

U. S. D E P A R T M E N T O F L A B O R  
 OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION  
 STATE ACTIVITY MANDATED MEASURES (SAMMs)

OCT 23, 2009  
 PAGE 2 OF 2

State: HAWAII

RID: 0951500

MEASURE	From: 10/01/2008	CURRENT		REFERENCE/STANDARD
	To: 09/30/2009	FY-TO-DATE		
8. Percent of Programmed Inspections with S/W/R Violations				
	87	2	92328	
Safety	53.70	50.00	58.6	National Data (3 years)
	162	4	157566	
	32	0	11007	
Health	55.17		51.2	National Data (3 years)
	58	0	21510	
9. Average Violations per Inspection with Violations				
	530	21	420601	
S/W/R	1.76	1.75	2.1	National Data (3 years)
	301	12	201241	
	325	21	243346	
Other	1.07	1.75	1.2	National Data (3 years)
	301	12	201241	
10. Average Initial Penalty per Serious Violation (Private Sector Only)	417200	18500	492362261	
	824.50	880.95	1335.2	National Data (3 years)
	506	21	368756	
11. Percent of Total Inspections in Public Sector	22	0	138	
	5.21	.00	7.7	Data for this State (3 years)
	422	2	1785	
12. Average lapse time from receipt of Contest to first level decision	696	0	4382038	
	99.42		246.1	National Data (3 years)
	7	0	17807	
13. Percent of 11c Investigations Completed within 90 days	5	0	100%	
	41.67			
	12	0		
14. Percent of 11c Complaints that are Meritorious	4	0	1466	
	33.33		20.8	National Data (3 years)
	12	0	7052	
15. Percent of Meritorious 11c Complaints that are Settled	4	0	1263	
	100.00		86.2	National Data (3 years)
	4	0	1466	

\*FY09HI

\*\*PRELIMINARY DATA SUBJECT TO ANALYSIS AND REVISION

# Appendix F

## Mandated Activities Report for Public Sector Consultation (MARC)

OSHA MARC REPORT @0991500@  
 REPORT ENDING DATE: SEP 2009  
 QUARTER: 4 FY: 2009

U. S. D E P A R T M E N T O F L A B O R  
 OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION  
 MANDATED ACTIVITIES REPORT FOR CONSULTATION (MARC)

DEC 09, 2009  
 PAGE 1 OF 2

PROJECT NAME: Hawaii

PUBLIC SECTOR

MEASURE	QUARTER	FY-TO-DATE	REFERENCE/STANDARD
TOTAL VISITS	1	6	
1. Percent of Initial Visits in High Hazard Establishments			Not Less than 90%
Number High Hazard Visits	0	4	
Percent		100.00	
Number of Initial Visits	0	4	
2. Percent of Initial Visits to Smaller Businesses			Not Less than 90%
Initial Visits	0	4	
Visits <= 250 Employees in Estab	0	4	
Percent		100.00	
Visits <= 500 Employees CB by Empr	0	1	
Percent		25.00	
3. Percent of Visits where Consultant Conferred with Employees			100%
Initial			
Number with Empe Conferences	0	4	
Percent		100.00	
Number of Initial Visits	0	4	
Follow-Up	1	1	
Number with Empe Conferences	100.00	100.00	
Percent	1	1	
Number of Follow-Up Visits			
Training & Assistance Visits with Compliance Assistance ONLY			
Number with Empe Conferences	0	0	
Percent			
Number of T&A Visits	0	0	

\*\*PRELIMINARY DATA SUBJECT TO ANALYSIS AND REVISION

PROJECT NAME: Hawaii PUBLIC SECTOR

MEASURE	QUARTER	FY--TO--DATE	REFERENCE/STANDARD
4A Thru 4D based on Closed Cases ONLY			
4A. Percent of Serious Hazards Verified Corrected in a Timely Manner (<=14 Days of Latest Correction Due Date)			100%
Number Verified Timely	0	3	
Percent	.00	42.86	
Total Serious Hazards	4	7	
Number of Serious Hazards Verified Corrected:	0	3	
On-Site	0	0	
Within Original Time Frame	0	3	
Within Extension Time Frame	0	0	
Within 14 Days of Latest Correction Due Date	0	0	
4B. Percent of Serious Hazards NOT Verified Corrected in a Timely Manner (> 14 days after Latest Correction Due Date)			
Number NOT Verified Timely	4	4	
Percent	100.00	57.14	
Total Serious Hazards	4	7	
4C. Percent of Serious Hazards Referred to Enforcement			
Number Referred to Enforcement	0	0	
Percent	.00	.00	
Total Serious Hazards	4	7	
4D. PERCENT OF SERIOUS HAZARDS VERIFIED CORRECTED (IN ORIGINAL TIME OR ONSITE)			65%
NUMBER VERIFIED	0	3	
Percent	.00	42.86	
Total Serious Hazards	4	7	
Number of Serious Hazards Verified CORRECTED (IN ORIGINAL TIME OR ONSITE)	0	3	
On-Site	0	0	
Within Original Time Frame	0	3	
5. Number of Uncorrected Serious Hazards with Correction Date > 90 Days Past Due (Open Cases for last 3 Years, excluding Current Quarter)			0

\*\*PRELIMINARY DATA SUBJECT TO ANALYSIS AND REVISION

# Appendix G

## State Indicator Report (SIR)

091029

U. S. D E P A R T M E N T O F L A B O R

PAGE 1

### OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

CURRENT MONTH = SEPTEMBER 2009

INTERIM STATE INDICATOR REPORT (SIR)

STATE = HAWAII

PERFORMANCE MEASURE	----- 3 MONTHS-----		----- 6 MONTHS-----		-----12 MONTHS-----		-----24 MONTHS-----	
	FED	STATE	FED	STATE	FED	STATE	FED	STATE
C. ENFORCEMENT (PRIVATE SECTOR)								
1. PROGRAMMED INSPECTIONS (%)								
A. SAFETY	6212	22	11892	55	21855	158	42572	380
	67.3	62.9	67.5	56.1	66.8	51.8	65.2	60.2
	9230	35	17617	98	32713	305	65304	631
B. HEALTH	508	8	1004	19	1963	52	3678	135
	34.5	61.5	34.1	45.2	35.3	54.2	34.0	61.1
	1471	13	2946	42	5559	96	10829	221
2. PROGRAMMED INSPECTIONS WITH VIOLATIONS (%)								
A. SAFETY	4645	23	8997	50	16745	105	32019	195
	67.7	88.5	65.9	78.1	65.8	64.4	65.9	52.3
	6860	26	13654	64	25453	163	48603	373
B. HEALTH	368	11	746	27	1486	43	2884	83
	52.2	78.6	50.8	79.4	51.7	70.5	55.6	55.3
	705	14	1468	34	2873	61	5187	150
3. SERIOUS VIOLATIONS (%)								
A. SAFETY	15510	52	29490	198	56535	384	111717	574
	81.8	46.4	81.1	59.3	80.0	65.0	79.4	61.1
	18952	112	36371	334	70692	591	140747	939
B. HEALTH	2802	28	5343	68	10035	109	19393	192
	70.1	52.8	69.9	54.0	69.7	52.9	67.7	51.3
	4000	53	7645	126	14395	206	28659	374
4. ABATEMENT PERIOD FOR VIOLS								
A. SAFETY PERCENT >30 DAYS	2938	13	5782	37	12109	57	25516	97
	15.9	18.1	16.2	14.8	17.6	11.7	18.7	12.9
	18492	72	35597	250	68607	488	136812	752
B. HEALTH PERCENT >60 DAYS	256	0	577	0	1452	0	3111	0
	6.3	.0	7.5	.0	10.0	.0	10.9	.0
	4078	39	7720	95	14561	146	28488	264

## OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

PERFORMANCE MEASURE	INTERIM STATE INDICATOR REPORT (SIR)							
	CURRENT MONTH = SEPTEMBER 2009				STATE = HAWAII			
	----- 3 MONTHS-----		----- 6 MONTHS-----		-----12 MONTHS-----		-----24 MONTHS-----	
	FED	STATE	FED	STATE	FED	STATE	FED	STATE
C. ENFORCEMENT (PRIVATE SECTOR)								
5. AVERAGE PENALTY								
A. SAFETY								
	280876	0	628826	6000	1303857	7000	2663433	8000
OTHER-THAN-SERIOUS	923.9	.0	998.1	3000.0	1030.7	2333.3	1049.4	2000.0
	304	0	630	2	1265	3	2538	4
B. HEALTH								
	83100	0	142950	1000	294225	2650	654830	3250
OTHER-THAN-SERIOUS	799.0	.0	803.1	1000.0	855.3	662.5	867.3	650.0
	104	0	178	1	344	4	755	5
6. INSPECTIONS PER 100 HOURS								
A. SAFETY								
	10459	36	19991	102	37160	318	73338	662
	6.1	2.4	5.7	3.3	5.5	4.7	5.3	5.4
	1722	15	3533	31	6727	67	13759	122
B. HEALTH								
	1764	14	3581	49	6701	116	12705	265
	1.8	2.8	1.7	3.8	1.6	4.3	1.5	4.2
	994	5	2112	13	4125	27	8503	63
7. VIOLATIONS VACATED %								
	1278	2	2561	4	5139	13	10097	13
	4.9	1.0	5.0	.9	5.1	1.5	5.0	.9
	26336	198	51387	456	100187	840	201495	1471
8. VIOLATIONS RECLASSIFIED %								
	1130	0	2440	1	4798	3	9539	3
	4.3	.0	4.7	.2	4.8	.4	4.7	.2
	26336	198	51387	456	100187	840	201495	1471
9. PENALTY RETENTION %								
	13523966	34570	27149245	98629	54889469	204551	111585445	423610
	63.4	73.6	62.9	75.5	63.2	80.3	62.9	82.7
	21315664	47000	43130384	130650	86796382	254575	177346966	512000

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

CURRENT MONTH = SEPTEMBER 2009

INTERIM STATE INDICATOR REPORT

STATE = HAWAII

PERFORMANCE MEASURE	----- 3 MONTHS-----		----- 6 MONTHS-----		----- 12 MONTHS-----		----- 24 MONTHS-----	
	PRIVATE	PUBLIC	PRIVATE	PUBLIC	PRIVATE	PUBLIC	PRIVATE	PUBLIC
D. ENFORCEMENT (PUBLIC SECTOR)								
1. PROGRAMMED INSPECTIONS %								
A. SAFETY	22	0	55	0	158	3	380	11
	62.9	.0	56.1	.0	51.8	37.5	60.2	57.9
	35	1	98	2	305	8	631	19
B. HEALTH	8	0	19	0	52	1	135	13
	61.5	.0	45.2	.0	54.2	7.1	61.1	39.4
	13	1	42	6	96	14	221	33
2. SERIOUS VIOLATIONS (%)								
A. SAFETY	52	0	198	1	384	2	574	14
	46.4	.0	59.3	25.0	65.0	12.5	61.1	33.3
	112	0	334	4	591	16	939	42
B. HEALTH	28	5	68	5	109	12	192	22
	52.8	27.8	54.0	26.3	52.9	42.9	51.3	39.3
	53	18	126	19	206	28	374	56

## OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

CURRENT MONTH = SEPTEMBER 2009

COMPUTERIZED STATE PLAN ACTIVITY MEASURES

STATE = HAWAII

PERFORMANCE MEASURE	----- 3 MONTHS-----		----- 6 MONTHS-----		----- 12 MONTHS-----		----- 24 MONTHS-----	
	FED	STATE	FED	STATE	FED	STATE	FED	STATE
E. REVIEW PROCEDURES								
1. VIOLATIONS VACATED %	446	0	875	0	1756	2	3749	4
	22.8	.0	24.2	.0	23.4	10.5	24.1	7.0
	1956	6	3609	9	7506	19	15528	57
2. VIOLATIONS RECLASSIFIED %	282	0	563	0	1133	0	2274	0
	14.4	.0	15.6	.0	15.1	.0	14.6	.0
	1956	6	3609	9	7506	19	15528	57
3. PENALTY RETENTION %	2319074	1818	4080249	12954	10792902	18754	20045599	51889
	54.1	60.1	51.5	86.2	58.5	89.7	55.9	76.6
	4286744	3025	7922126	15025	18457526	20900	35865959	67725