

FY 2019 Comprehensive Federal Annual Monitoring Evaluation (FAME) Report

Hawaii Department of Labor and Industrial Relations
Occupational Safety and Health Division
(HIOSH)



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I. Executive Summary

The purpose of this report is to assess the Hawaii Occupational Safety and Health (HIOSH) program for Fiscal Year (FY) 2019. The criteria used to measure performance included those mandated by the Occupational Safety and Health Administration (OSHA), progress toward resolving FY 2018 Federal Annual Monitoring Evaluation (FAME) findings, and achievement of the annual performance plan and five-year strategic goals. As part of this comprehensive evaluation, OSHA conducted an on-site program review including workplace retaliation, enforcement, and state and local agency consultation case files.

The average number of serious, willful, repeat and unclassified (SWRU) violations cited per inspection increased, the average number of other-than-serious violations decreased, and the lapse time from the inspection to the issuance of citations decreased from the previous year. A total of 701 inspections were conducted, short of the projected 750 inspections. The decrease in inspections conducted may be related to the difficulties in hiring and retaining compliance staff. However, all of the training provided for the staff over the past several years resulted in a strong nucleus of senior compliance officers that helped minimize the impact of vacancies and staff turnover in other program areas this year. The in-compliance rate of health inspections decreased from 41.67% in the previous year to 22.34% in FY 2019. The average lapse time for the issuance of citations for health inspections was 42.90 days, which was below the FRL range of 45.78 to 86.68 days.

A total of five findings and one observation were identified. Four findings were new and one was continued from the previous FAME. The new findings are related to communicating with the families of fatality victims, good faith penalty reductions, informal conference documentation, and whistleblower complainants' that were not being informed of their administrative appeal rights. The one finding carried over was related to documenting a high hazard targeting process. The State Plan made progress to complete four of the five findings from last year's Follow-up FAME and all three observations. Appendix A describes the new and continued findings and recommendations. Appendix B describes observations subject to continued monitoring and the related federal monitoring plan. Appendix C describes the status of previous findings with associated completed corrective actions.

II. State Plan Background

A. Background

The Hawaii State Plan is administered by HIOSH under the Department of Labor and Industrial Relations (DLIR). Scott T. Murakami, Director of DLIR, is the State Plan Designee, and Norman Ahu is the HIOSH Program Administrator. Mr. Murakami was appointed as the Director on January 8, 2019, replacing Mr. Leonard Hoshijo.

HIOSH is comprised of two major sections: The Occupational Safety and Health (OSH) division administers the Hawaii Occupational Safety and Health Program, and the Boiler and Elevator Safety division administers the Hawaii Boiler and Elevator Safety Laws. The Boiler and Elevator Safety division was not part of the OSHA grant. The OSH division is comprised of the

Administration and Technical Support, Occupational Safety, Occupational Health, and Consultation and Training Branches.

The initial base award to fund the program was \$1,514,000 in federal funds. The state matched the federal funds bringing the initial base award to \$3,028,000. An amendment increased the federal share of the grant by \$70,700 with the state matching the increase bringing the final grant to \$3,169,400. The grant provided funding for full-time staff comprised of four managers, nine occupational safety and health compliance officers, nine environmental health specialists, one compliance assistance specialist, one part time state and local government agency safety and health consultant, four clerical staff members, and one program specialist.

State and local government agency consultation is provided under the 23(g) grant and private sector consultation is provided under the 21(d) cooperative agreement. The private sector consultation performance results are covered in the FY 2019 Regional Annual Consultation Evaluation Report (RACER).

B. New Issues

None.

III. Assessment of State Plan Progress and Performance

A. Data and Methodology

The Occupational Safety and Health Administration (OSHA) established a two-year cycle for the FAME process. The FY 2019 report is a comprehensive year report where OSHA conducted an on-site evaluation and case file review. A five-person OSHA team, which included a whistleblower investigator, was assembled to conduct a full on-site case file review. The case file review was conducted at the HIOSH office during the timeframe of December 2-6, 2019. A total of 108 safety, health, whistleblower, and state and local government agency consultation files were reviewed. The safety and health inspection files were randomly selected from closed inspections conducted during the evaluation period (Oct 1, 2018 through September 30, 2019). The selected population included:

- Two (2) fatality case files
- Forty-four (44) programed case files
- Sixteen (16) un-programed case files
- Three (3) state and local government agency consultation visit files

A total of nine whistleblower investigations were completed; one withdrawn, seven dismissed and one merit. Thirty-six (36) complaints were administratively closed in FY 2019. The whistleblower case file reviews were conducted from December 2-5, 2019, by one federal retaliation investigator. The following case files were reviewed during the on-site visit.

- One (1) withdrawn
- One (1) dismissed

- Zero (0) settled
- Zero (0) settled other
- Thirty-six (36) administratively closed

The analyses and conclusions described in this report are based on information obtained from a variety of monitoring sources, including the:

- State Activity Mandated Measures Report (SAMM, Appendix D dated 11/12/19)
- State Information Report (SIR, dated 11/12/19)
- Mandated Activities Report for Consultation (MARC, dated 11/12/19)
- State OSHA Annual Report (SOAR, Appendix E)
- State Plan Annual Performance Plan
- State Plan Grant Application
- Quarterly monitoring meetings between OSHA and the State Plan
- Web Integrated Management Information System (WebIMIS)
- Full on-site case file review

Each SAMM has an agreed-upon Further Review Level (FRL) which can be either a single number, or a range of numbers above and below the national average. State Plan SAMM data that falls outside the FRL triggers a closer look at the underlying performance of the mandatory activity. Appendix D presents the State Plan's FY 2019 State Activity Mandated Measures Report and includes the FRL for each measure.

B. Review of State Plan Performance

This section is an assessment of Hawaii's progress in meeting mandated activities and program elements. The assessment of Hawaii's progress in achieving their annual performance plan goals is addressed in their FY 2019 SOAR (Appendix E).

1. PROGRAM ADMINISTRATION

a) Training

HIOSH developed and implemented a training directive for compliance staff based on the OSHA training requirements. The Mandatory Training Program for OSHA Whistleblower Investigators with an adoption due date of April 2016, is going through the adoption process and the previous version is still in effect. Two people attended the OSHA1420 Whistleblower Investigation Fundamentals course, and all staff received at least one formal professional development course in FY 2019. The OSHA 2070 Fire Protection and Life Safety, OSHA 3010 Excavation, Trenching & Soil Mechanics, and Arc Flash Awareness/NFPA 70E 2018 Control of Hazardous Energy courses were held in Hawaii so all available staff could be trained while saving on travel costs.

b) OSHA Information System (OIS)

There was no significant data errors or trends identified in the enforcement and whistleblower reports reviewed during the on-site evaluation. Managers were trained on the variety of OIS reports available. Utilizing the reports enabled them to

proactively manage work assignments; resulting in a decrease in the time required to issue inspection citations.

c) State Internal Evaluation Program (SIEP) Report

A written, three-phase, on-the-job evaluation checklist was used as an internal evaluation tool. The first phase covers entry procedures, opening conference, and review of documentation. Phase two covers worker interviews, note taking, hazard identification, photo evidence, and use of test/measuring equipment. Phase three covers the closing conference and recommendations to the employer. Managers conducted at least one documented on-the-job evaluation for each Occupational Safety and Health Compliance Officer (OSHCO) to ensure the quality and consistency of the work was maintained. Additionally, senior compliance officers and/or managers also conducted up to three additional on-the-job evaluations of OSHCO trainees. As a result of this program, the on-site review noted case files were well documented with all apparent violations cited.

d) Staffing

With unemployment rates running at an all-time low, attracting and retaining a full workforce continued to be a challenge. During the year, HIOSH lost three health compliance inspectors, a secretary for enforcement, and an office assistant. In FY 2019, hiring included a secretary for enforcement, a program specialist, three safety and three health compliance inspectors. Four were from a local community college providing them an opportunity to learn what HIOSH compliance officers do and hopefully peak their interest and attract qualified candidates.

2. ENFORCEMENT

A total of 701 of the projected 750 inspections were conducted; 400 safety and 301 health (SAMM 7). The 400 safety inspections were within the acceptable FRL range of 399 to 441 inspections, but the 301 health inspections were 12.5 below the acceptable range of 313.50 to 346.50 inspections. The low number of inspections is attributed to high staff turnover and a low number of experienced staff. HIOSH was within the negotiated range for the previous FAME, and OSHA will continue to review inspection data during quarterly meetings.

a) Complaints

A slight improvement in the complaint response time was noted with 38 complaint inspections initiated within an average of 7.4 days (SAMM 1A). The complaint inspection average of 7.4 days slightly exceed the FRL of seven days, but decreased from the FY 2018 average of eight days. **Observation FY 2018-OB-02** was closed as the State Plan was within less than one day of the FRL. Complaint investigations were initiated on an average of 1.3 days (SAMM 2A). The complaint investigations were initiated below the negotiated FRL of two days, which means that the State Plan responded more promptly than their goal and exceeded it. There were no denials of entry experienced (SAMM 4). All imminent danger complaints and referrals were responded to within one workday (SAMM 3).

b) Fatalities

All three reported fatality inspections were opened within one day (SAMM 10). The two fatality inspections that were closed in FY 2019 were reviewed during the on-site evaluation. Both case files contained thorough documentation of the investigations and violations. However, in both case files, there was no evidence that the family of the victims were contacted at any stage of the investigation as required by the HIOSH Field Operations Manual (FOM) to keep families of the victims updated on the status of the investigation.

Finding FY 2019-01: In FY 2019, there was no evidence in the two fatality investigation files reviewed that the family of victims were contacted at any stage of the fatality investigation.

Recommendation FY 2019-01: HIOSH should ensure established procedures are followed and that contact with families of victims are documented in case file.

c) Targeting and Programmed Inspections

Percent of enforcement presence (SAMM 17) describes the number of safety and health inspections conducted compared to the number of employer establishments in the state. The State Plan had a percent enforcement presence of 2.64%, which was significantly higher than the FRL range of 0.92% to 1.54%. The high enforcement presence indicates that the State Plan is reaching more employers with enforcement activity than the national average.

Of the 701 inspections conducted, 68% (476) were programmed inspections. Worker Compensation data was used to select the industries with the highest number of injury and illnesses for programed inspections. Local and National Emphasis Programs were not used.

The method for effectively targeting high hazard industries has still not been documented, making it difficult to evaluate the success of the program toward reaching high hazard industries. Workers compensation data is only one type of indicator that can be used, but is not always indicative of hazardousness. Targeting should include identifying high hazard industries (such as machine shops, warehousing, or healthcare facilities), high hazard occupations (such as roofers, landscapers, or electricians), or hazardous exposures (such as silica, lead, or hexavalent chromium) and developing emphasis programs. It is also important to have a documented program in the event entry is challenged by employers and to ensure resources are prioritized to protect workers in high risk industries. Consequently, **Finding FY 2018-01** was carried over in FY 2019.

Finding FY 2019-02 (FY 2018-01): Policies and procedures for targeting high hazard industries for inspections were not documented.

Recommendation FY 2019-02 (FY 2018-01): HIOSH should document a high hazard targeting process, as describe in the grant.

The in-compliance rate of health inspections decreased from 41.67% in the previous year to 22.34% (SAMM 9) in FY 2019 and should be commended. The rate is significantly below the further review level of 28.90% to 43.35% for health inspections based on the three-year national average of 36.12%. The in-compliance rate of safety inspections was 24.74% (SAMM 9) and within the further review level of 24.24% to 36.36%.

The average number of serious, willful, repeat and unclassified (SWRU) violations cited per inspection increased from 1.39 in FY 2018 to 1.73 in FY 2019, and average number of other-than-serious violations decreased from 1.32 to 0.90 (SAMM 5). The average number of violations per inspection are within the acceptable range of 1.43 to 2.15 for SWRU and from 0.78 to 1.16 for other-than-serious. Therefore, **Observation FY 2018-OB-03** was closed.

d) Citations and Penalties

Case files reviewed during the on-site evaluation were well organized and the documentation adequately supported the violations cited.

The average current penalty per serious violation in private sector was \$3,982.73, and exceeded the upper end of the FRL range of \$3,589.95. Table 1 shows the average current penalty per serious violation based on the number of workers controlled by an establishment (SAMM 8). This is a positive indication that HIOSH is developing inspection files that support penalty retention.

Table 1
Average Current Serious Penalty in Private Sector (SAMM 8)

Number of Workers	HIOSH FY 2019	3 Year National Average	FRL
1-250+	\$3,982.73	\$2,871.96	\$2,153.97 to \$3,589.95
1-25	\$2,633.28	\$1,915.86	\$1,436.89 to \$2,394.82
26-100	\$4,685.28	\$3,390.30	\$2,542.73 to \$4,237.88
101-250	\$6,089.24	\$4,803.09	\$3,602.31 to \$6,003.86
250+	\$6,994.78	\$5,938.59	\$4,453.94 to \$7,423.23

Good faith was not applied and/or not adequately justified in 46.4% of (13 of the 28) case files reviewed eligible for good faith penalty reductions. Chapter six of the HIOSH FOM outlines when employers qualify for good faith penalty reductions for serious violations. However, when asked about the process for applying a good faith penalty reduction, one of the managers stated that he does not give good faith reductions for any serious violations. This also could have some impact on the average current penalty per serious violation amounts being above the FRL.

Finding FY 2019-03: In FY 2019, good faith penalty reductions were not applied and adequately justified in 46% (13 of the 28) of case files reviewed eligible for good faith penalty reductions.

Recommendation FY 2019-03: HIOSH should ensure established procedures are followed and justifications are accurately documented in case files.

The probability justifications for penalty calculations significantly improved from the previous case file review. Over 91% (41 out of 45) of the case files had sufficient documentation to support the probability justifications. Only four case files lacked the documentation with all four from the same OSHCO. Therefore, **Observation FY 2018-OB-01** was closed.

The average lapse time from the inspection to the issuance of citations (SAMM 11) for safety inspections was 38.37 days, which was inside the FRL range of 38.08 to 57.13 days. The average lapse time of 42.90 days for health inspections was below the FRL range of 45.78 days and the staff's efforts should be commended.

e) Abatement

Of the 62 inspection case files reviewed, 55 (89%) had citations. All 55 files contained corrective action documentation to show that the employer corrected the hazards. There was also an emphasis placed on having OSHCO's working with employers to get the abatement during the inspection.

Follow-up inspections for abatement comprised 18 (3%) of the 701 inspections conducted, and Failure-to-Abate citations were issued for not correcting hazards in two of the follow-up inspections.

f) Worker and Union Involvement

The case file review showed that worker interviews were well documented and copies were maintained in the case files for 60 of 62 (97%) inspection files reviewed. The two inspections without documented interviews had vague notes that could be from interviews and both were in-compliance programed inspections. The number of workers interviewed during the inspections was appropriate for the complexity of the inspection. A worker interview sheet, included in the majority of case files, listed all the workers contacted during the inspection. This provided management a means of easily identifying workers interviewed and involved in the inspection. OIS data indicated that the percent of initial inspections with worker walk around representation or worker interview (SAMM 13) was 100%, which matched the FRL.

Of the 19 case files of unionized facilities reviewed, only three did not contain adequate evidence that union or other labor representatives were contacted to participate in the opening and closing conferences or walk around inspection. Copies of the citations were sent to the unions for all inspections with violations, and a notice was provided to the union when the employer requested an informal conference.

3. REVIEW PROCEDURES

a) Informal Conferences

Informal settlement provisions provided employers the right of review, and workers or their representatives the opportunity to participate in the proceedings. The penalty retention rate was 70.55% of the assessed penalties, which is within the FRL range of 56.42% to 76.33% (Samm 12). Informal conferences were requested and held for 21 of 55 (38%) case files reviewed with citations. Of the 21 case files reviewed with informal conferences, 38% (eight) were not documented to provide the rationale for modifications made to the citations.

Finding FY 2019-04: In FY 2019, in eight of 21 (38%) of case files reviewed with citations the rationale for modifications made to citations during informal conferences was not adequately documented.

Recommendation FY 2019-04: HIOSH should ensure established procedures are followed and rationales are accurately documented in case files.

b) Formal Review of Citations

Once a notice of contest is filed, the case is transferred to the State Attorney General's Office. Every attempt to settle the case by the Attorney General, such as working with the Program Administrator and the employer, is made before the case is heard by the Hawaii Labor Relations Board. The Board consists of three individuals appointed by the Governor. Of the 62 inspection case files reviewed, three (4.8%) were contested and all were formally settled by the State Attorney General's Office. All of the formal settlements were documented and none of the changes were excessive or unreasonable.

For FY 2019, 9.4% of violations were vacated after a contest was filed, below the national average of 13.9% (SIR 5B), and 11.3% of violations were reclassified after the contest, below the national average of 12.2% (SIR 6B). The penalty retention rate following a contest was 76.9% versus the national average of 62.5% (SIR 7B).

4. STANDARDS AND FEDERAL PROGRAM CHANGE (FPC) ADOPTION

a) Standards Adoption

Prior to holding a public hearing, standards are reviewed and edited by HIOSH management; the Designee; the Attorney General's Office; and the Department of Business, Economic Development & Tourism. 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 approves the request, the documents are sent to the Lieutenant Governor's office for filing. The standard becomes final 10 days after filing.

Although significant improvement has been made in the standards adoption process, the promulgation and effective dates continued to lag past the six months allowed for adoption of standards (Table 2). HIOSH has written the two outstanding standards and

have started the procedure to go through the Proposed Changes to Hawaii Administrative Rules process for adoption.

Table 2
Status of FY 2019 Federal Standards Adoption
(May include any outstanding standards from earlier fiscal years)

Standard:	Response Due Date:	State Plan Response Date:	Intent to Adopt:	Adopt Identical:	Adoption Due Date:	State Plan Adoption Date:
Final Rule on the Standards Improvement Project - Phase IV 1904,1910,1915,1926 (5/14/2019)	7/13/2019	7/15/2019	Yes	Yes	11/14/2019	Not yet adopted
Final Rule on the Implementation of the 2019 Annual Adjustment to Civil Penalties for Inflation 29 CFR 1902,1903 (1/23/2019)	3/23/2019	1/29/2019	Yes	Yes	7/23/2019	1/29/2019
Final Rule on Crane Operator Certification Requirements 29 CFR Part 1926 (11/9/2018)	1/9/2019	2/15/2019	Yes	Yes	5/9/2019	Not yet adopted

b) Federal Program Change (FPC) Adoption

HIOSH hired an additional program specialist to help process the responses to federal changes and has made significant improvements in timely responses for intent to adopt and formal adoption. The Mandatory Training for Whistleblower Investigators Manual, with an adoption date of April 8, 2016, is going through the final review process, and HIOSH is working on the plan change supplements. The Site-Specific Targeting program change is at the Hawaii Attorney General's Office for review (Table 3). Consequently, **Finding FY 2018-02** regarding Federal Program Changes that were not responded to and/or adopted in a timely manner was closed.

Table 3
Status of FY 2019 Federal Program Change (FPC) Adoption
(May include any outstanding FPCs from earlier fiscal years)

FPC Directive/Subject:	Response Due Date:	State Plan Response Date:	Intent to Adopt:	Adopt Identical:	Adoption Due Date:	State Plan Adoption Date:
<i>Adoption Required</i>						
National Emphasis Program on Trenching and Excavation CPL 02-00-161 (10/1/2018)	11/30/2018	4/3/2018	Yes	Yes	4/1/2019	5/29/2019
<i>Equivalency Required</i>						
Confined and Enclosed Spaces and Other Dangerous Atmospheres in Shipyard Employment CPL 02-01-061 (5/22/2019)	7/21/2019	6/5/2019	Yes	Yes	11/22/2019	6/5/2019
Shipyard Employment "Tool Bag" Directive CPL 02-00-162 (5/22/2019)	7/21/2019	6/5/2019	Yes	Yes	11/22/2019	6/5/2019
Enforcement Guidance for Personal Protective Equipment (PPE) in Shipyard Employment CPL 02-01-060 (5/22/2019)	7/21/2019	6/5/2019	Yes	Yes	11/22/2019	6/5/2019
Site-Specific Targeting 2016 (SST-16) CPL 02-18-01 (10/16/2018)	12/15/2018	10/14/2019	Yes	No	4/16/2019	Not yet adopted.
CPL 02-03-007 Whistleblower Investigations Manual (1/28/2016)	4/27/2016	8/30/2016	Yes	No	7/28/2016	12/1/2018

TED 01-00-020 Mandatory Training Program for OSHA Whistleblower Investigators (10/8/2015)	12/8/2015	9/26/2016	Yes	No	4/8/2016	Not yet adopted. Awaiting Plan Change Supplement
<i>Adoption Encouraged</i>						
Alternative Dispute Resolution (ADR) Processes for Whistleblower Protection Programs CPL 02-03-008 (2/4/2019)	4/5/2019	1/17/2020	No	N/A	N/A	N/A

5. VARIANCES

There were no permanent and/or temporary variances granted during this evaluation period.

6. STATE AND LOCAL GOVERNMENT WORKER PROGRAM

Approximately 14% of Hawaii employees work in state and local government agencies according to Bureau of Labor Statistics. HIOSH projected in the grant to conduct 40 state and local government agency inspections accounting for 5.3% of their projected inspections. According to the end of year SAMM data, they conducted 32 of their 701 inspections in state and local government agency establishments or 4.56% (SAMM 6). Serious violations were discovered in 66.7% of the state and local government agency inspections conducted, and a total of 61 serious and 18 other-than-serious violations were identified and corrected with initial penalties totaling \$388,783.

7. WHISTLEBLOWER PROGRAM

Claims of workplace retaliation for reporting occupational safety and health issues are investigated by the Hawaii Occupational Safety and Health Administration (HIOSH). During FY2019, the retaliation program was staffed by one supervisor and two investigators that perform compliance duties in addition to retaliation duties. The retaliation program was also training two additional HIOSH staff members and these staff members completed training specific to whistleblower retaliation complaints. Eight cases led to an investigation in FY2019; seven were dismissed and one was found to be meritorious. In addition, a case HIOSH found was meritorious in a previous FY was upheld during FY2019 by the Hawaii Labor Relations Board demonstrating a quality investigation was done by HIOSH. The percent of 11(c) complaints that were meritorious was 11% (SAMM 15), which was below the FRL range of 18.40% to 27.60% and well below the State Plan's FY 2018 merit rate of 35%. Due to the small number of total cases (nine), this result does not rise to the level of an observation.

HIOSH did not complete any of the retaliation investigations within 90 days (SAMM 14). However, the national average for retaliation investigations completed within 90 days was only 34%. HIOSH's average number of calendar days to complete a retaliation investigation was 380 days (SAMM 16), and the national average to complete a retaliation investigation was 284 days. This increased from 345 days in FY 2018, and will continue to be discussed at quarterly meetings.

Based on a case file review, it appeared HIOSH generally followed their policies and procedures in the Discrimination Investigation Manual (DIM) when conducting whistleblower retaliation investigations.

The on-site review of case files determined that information was accurately entered into WebIMIS in 36 of 38 (94.7%) of cases and; therefore, **Finding FY 2018-03** was closed. One dismissed case file was reviewed and it was determined that a Respondent position statement was obtained. Consequently, **Finding FY 2018-04** was closed. The on-site review of administratively closed case files determined that supervisory reviews and approvals occurred in 31 of 36 (86%) of cases. This is a significant improvement from the FY 2018 Follow-up FAME report, when there was only evidence of supervisory review in 67% of cases. Therefore, **Finding FY 2018-05** was closed.

For a retaliation complaint to be administratively closed, the DIM requires that complainants accept the administrative closure outcome. If not, the case must be docketed and a Determination Notice and Order (DNO) with information about the right to appeal must be issued. During the case file review, there was no evidence that complainants accepted the administrative closure outcomes nor that they were advised of their appeal rights.

Finding FY 2019-05: In 56% (20 of 36) of administratively closed retaliation cases reviewed, there was no documentation from complainants concurring with the administrative closing of their retaliation complaint nor documentation indicating complaints were aware of their appeal rights.

Recommendation FY 2019-05: HIOSH should ensure there is documentation indicating complainants accepted the administrative closure and issue a DNO with appeal rights if complainants do not accept administrative closure.

When a retaliation complaint is administratively closed, the DIM also requires administrative closure letters be sent to complainants. During the case file review, evidence documenting that administrative closure letters were sent was not found in six retaliation cases.

Observation FY 2019-OB-01: In 17% (6 of 36) of administratively closed retaliation cases reviewed, there was no evidence that administrative closure letters were sent to complainants.

Federal Monitoring Plan FY 2019-OB-01: OSHA will monitor progress quarterly to ensure administrative closure letters are sent to complainants.

8. COMPLAINT ABOUT STATE PROGRAM ADMINISTRATION (CASPA)

There were no CASPAs during the evaluation period.

9. VOLUNTARY COMPLIANCE PROGRAM

The State Plan qualified a Voluntary Protection Program (VPP) team leader during a VPP site reevaluation, working as a team leader in training with a qualified OSHA team leader. Following the reevaluation, the site was reapproved and will continue in the Hawaii VPP program with a two-year rate reduction plan condition.

Although no new VPP sites were added, HIOSH partnered with the Voluntary Protection Program Participant Association (VPPPA) Region IX board, held an information booth and conducted an application information session at the 15th Biennial Pacific Rim Safety & Health Conference in October 2019.

10. STATE AND LOCAL GOVERNMENT 23(g) ON-SITE CONSULTATION PROGRAM

Consultation services are provided to state and local government employers through the Consultation, Education, and Training Section. Consultation for the private sector is funded under Section 21(d) of the Occupational Safety and Health (OSH) Act and is evaluated separately. This section covers consultation services provided solely to state or local government agencies that are funded under Section 23(g) of the OSH Act. Of the three files reviewed during the on-site, only one had hazards identified and the list of hazards was not sent to the employee representative. Due to the small sample size of state and local government on-site consultation visits, this will be looked at during the next on-site of the consultation program under the 21(d) cooperative agreement.

A marketing strategy to target state and local government employers was developed and letters highlighting the benefits of requesting consultation was sent out to all state and local government agencies. In FY 2019, five of the projected six (83.3%) initial consultation visits were conducted in the state and local government workplaces. Of these, five (100%) were in high hazard industries, exceeding the goal of 90% (MARC 1). Smaller businesses with fewer than 250 employees received five (100%) visits (MARC 2A), and businesses with fewer than 500 employees received three (60%) visits (MARC 2B). The consultant conferred with employees 100% of the time (MARC 3).

During this evaluation period, 17 serious hazards were identified, and all (94.1%) were corrected in a timely manner. There were zero hazards corrected on-site, seven within the original time, and three within the extension time frame. Of these, 41.2% (7/17) were corrected within the original timeframe or on-site and exceeded the goal of 65%.

Appendix A – New and Continued Findings and Recommendations

FY 2019 HIOSH Comprehensive FAME Report

FY 2019-#	Finding	Recommendation	FY 2018-# or FY 2019-OB-#
FY 2019-01	In FY 2019, there was no evidence in the two fatality investigation files reviewed that the family of victims were contacted at any stage of the fatality investigation.	HIOSH should ensure established procedures are followed and that contact with families of victims are documented in case files.	
FY 2019-02	Policies and procedures for targeting high hazard industries for inspections were not documented.	HIOSH should document a high hazard targeting process, as describe in the grant.	FY 2018-01
FY 2019-03	In FY 2019, good faith penalty reductions were not applied and adequately justified in 46% (13 of the 28) of case files reviewed eligible for good faith penalty reductions.	HIOSH should ensure established procedures are followed and justifications are accurately documented in case files.	
FY 2019-04	In FY 2019, in eight of 21 (38%) of case files reviewed with citations the rationale for modifications made to citations during informal conferences was not adequately documented.	HIOSH should ensure established procedures are followed and rationales are accurately documented in case files.	
FY 2019-05	In 56% (20 of 36) of administratively closed retaliation cases reviewed, there was no documentation from complainants concurring with the administrative closing of their retaliation complaint nor documentation indicating complaints were aware of their appeal rights.	HIOSH should ensure there is documentation indicating complainants accepted the administrative closure and issue a DNO with appeal rights if complainants do not accept administrative closure.	

Appendix B – Observations Subject to New and Continued Monitoring

FY 2019 HIOSH Comprehensive FAME Report

Observation # FY 2019-OB-#	Observation# FY 2018-OB-# or FY 2018-#	Observation	Federal Monitoring Plan	Current Status
FY 2019-OB-01		In 17% (6 of 36) of administratively closed retaliation cases reviewed, there was no evidence that administrative closure letters were sent to complainants.	OSHA will monitor progress quarterly to ensure administrative closure letters are sent to complainants.	New
	FY 2018-OB-01	In FY 2017, in 12 of 65 (18.5%) of case files with violations, the probability justifications for penalty calculations were not documented.		Closed
	FY 2018-OB-02	In FY 2018, the average number of work days to initiate complaint inspections (SAMM 1a) was eight days, which was above the further review level of seven days.		Closed
	FY 2018-OB-03	In FY 2018, the average number of serious, willful, repeat and unclassified (SWRU) violations per inspection (1.82), and average number of other-than-serious violations (1.32) were outside the further review level (SAMM 5).		Closed

Appendix C – Status of FY 2018 Findings and Recommendations

FY 2019 HIOSH Comprehensive FAME Report

FY 2018-#	Finding	Recommendation	State Plan Corrective Action	Completion Date (if Applicable)	Current Status (and Date if Item is Not Completed)
FY 2018-01	Policies and procedures for targeting high hazard industries for inspections were not documented.	HIOSH should document a high-hazard targeting process, as describe in the Grant.	Previously, direction was slightly explained in the FOM and, now, HIOSH is working on creating a separate directive to mirror the federal policy of inspection targeting.	Not Applicable	Continued 1/27/2020
FY 2018-02	Federal Program Changes were not responded to and/or adopted in a timely manner.	HIOSH should ensure Federal Program Changes are responded to and/or adopted within the required timeframes.	HIOSH is currently working on catching up with the backlog of required Federal Program Changes and hired another program specialist to help with the responses to federal changes.	09/30/2019	Completed
FY 2018-03	In FY 2017, information was not accurately entered in WebIMIS for whistleblower retaliation investigations, including the filing date, adverse action date, the date the ROI was submitted to the supervisor, and the date the supervisor approved the ROI.	HIOSH should follow procedures to ensure whistleblower retaliation investigation information is accurately entered into IMIS.	Whistleblower investigators were retrained on April 19, 2018, to ensure that data is entered correctly in WebIMIS. On a monthly basis, the supervising investigator will double check to verify that data is entered correctly. Additionally, the supervising investigator will sign and approve all ROI's, as well as enter the approval into WebIMIS.	7/16/2018	Completed

Appendix C – Status of FY 2018 Findings and Recommendations

FY 2019 HIOSH Comprehensive FAME Report

FY 2018-04	In FY 2017, in 10 of 11 (91%) retaliation investigation cases, which were dismissed on the merits, there was no evidence found that a copy of the respondent's position statement was provided to the complainant for review.	HIOSH should ensure the complainant is provided a copy of the respondent's position statement.	A checklist has been created to ensure that all required documentation is sent to different parties, including a copy of the respondent's position statement to the complainant. This includes how the documents are sent and that they are sent through a trackable method to ensure delivery and receipt, which is included in the case file.	7/16/2018	Completed
FY 2018-05	In FY 2017, in 4 of 6 (67%) retaliation complaints administratively closed, there was no evidence that a supervisor reviewed and approved the administrative closure.	HIOSH should ensure that a supervisor review and approve the decision to administratively close a complaint.	A checklist has been created to document that the supervising investigator signs off on all cases that are administratively close. The checklist is included in the case file.	7/16/2018	Completed

Appendix D - FY 2019 State Activity Mandated Measures (SAMM) Report

FY 2019 HIOSH Comprehensive FAME Report

U.S. Department of Labor				
Occupational Safety and Health Administration State Plan Activity Mandated Measures (SAMMs)				
State Plan: Hawaii – HIOSH			FY 2019	
SAMM Number	SAMM Name	State Plan Data	Further Review Level	Notes
1a	Average number of work days to initiate complaint inspections (state formula)	7.37	7	The further review level is negotiated by OSHA and the State Plan.
1b	Average number of work days to initiate complaint inspections (federal formula)	2.82	N/A	This measure is for informational purposes only and is not a mandated measure.
2a	Average number of work days to initiate complaint investigations (state formula)	1.32	2	The further review level is negotiated by OSHA and the State Plan.
2b	Average number of work days to initiate complaint investigations (federal formula)	0.67	N/A	This measure is for informational purposes only and is not a mandated measure.
3	Percent of complaints and referrals responded to within one workday (imminent danger)	100%	100%	The further review level is fixed for all State Plans.
4	Number of denials where entry not obtained	0	0	The further review level is fixed for all State Plans.

Appendix D - FY 2019 State Activity Mandated Measures (SAMM) Report

FY 2019 HIOSH Comprehensive FAME Report

5	Average number of violations per inspection with violations by violation type	SWRU: 1.73	+/- 20% of SWRU: 1.79	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 1.43 to 2.15 for SWRU and from 0.78 to 1.16 for OTS.
		Other: 0.90	+/- 20% of Other: 0.97	
6	Percent of total inspections in state and local government workplaces	4.56%	+/- 5% of 5.33%	The further review level is based on a number negotiated by OSHA and the State Plan through the grant application. The range of acceptable data not requiring further review is from 5.07% to 5.60%.
7	Planned v. actual inspections – safety/health	S: 400	+/- 5% of S: 420	The further review level is based on a number negotiated by OSHA and the State Plan through the grant application. The range of acceptable data not requiring further review is from 399 to 441 for safety and from 313.50 to 346.50 for health.
		H: 301	+/- 5% of H: 330	
8	Average current serious penalty in private sector - total (1 to greater than 250 workers)	\$3,982.73	+/- 25% of \$2,871.96	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from \$2,153.97 to \$3,589.95.
	a. Average current serious penalty in private sector (1-25 workers)	\$2,633.28	+/- 25% of \$1,915.86	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from \$1,436.89 to \$2,394.82.
	b. Average current serious penalty in private sector (26-100 workers)	\$4,685.28	+/- 25% of \$3,390.30	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from \$2,542.73 to \$4,237.88.
	c. Average current serious penalty in private sector (101-250 workers)	\$6,089.24	+/- 25% of \$4,803.09	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from \$3,602.31 to \$6,003.86.

Appendix D - FY 2019 State Activity Mandated Measures (SAMM) Report

FY 2019 HIOSH Comprehensive FAME Report

	d. Average current serious penalty in private sector (greater than 250 workers)	\$6,994.78	+/- 25% of \$5,938.59	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from \$4,453.94 to \$7,423.23.
9	Percent in compliance	S: 24.74%	+/- 20% of S: 30.30%	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 24.24% to 36.36% for safety and from 28.90% to 43.35% for health.
		H: 22.34%	+/- 20% of H: 36.12%	
10	Percent of work-related fatalities responded to in one workday	100%	100%	The further review level is fixed for all State Plans.
11	Average lapse time	S: 38.37	+/- 20% of S: 47.61	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 38.08 to 57.13 for safety and from 45.78 to 68.68 for health.
		H: 42.90	+/- 20% of H: 57.23	
12	Percent penalty retained	70.55%	+/- 15% of 66.38%	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 56.42% to 76.33%.
13	Percent of initial inspections with worker walk around representation or worker interview	100%	100%	The further review level is fixed for all State Plans.
14	Percent of 11(c) investigations completed within 90 days	0%	100%	The further review level is fixed for all State Plans.
15	Percent of 11(c) complaints that are meritorious	11%	+/- 20% of 23%	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 18.40% to 27.60%.
16	Average number of calendar days to complete an 11(c) investigation	380	90	The further review level is fixed for all State Plans.

Appendix D - FY 2019 State Activity Mandated Measures (SAMM) Report

FY 2019 HIOSH Comprehensive FAME Report

17	Percent of enforcement presence	2.64%	+/- 25% of 1.23%	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 0.92% to 1.54%.
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NOTE: The national averages in this report are three-year rolling averages. Unless otherwise noted, the data contained in this Appendix D is pulled from the State Activity Mandated Measures (SAMM) Report in OIS and the State Plan WebIMIS report run on November 12, 2019, as part of OSHA's official end-of-year data run.



FY 2019

HAWAII OCCUPATIONAL SAFETY AND HEALTH PROGRAM

Scott T Murakami
DLIR Director

Anne Eustaquio
DLIR Deputy Director

Norman Ahu
HIOSH Administrator



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Appendix E - FY 2019 State OSHA Annual Report (SOAR)

Fiscal Year (FY) 2019 Executive Summary

Hawaii's State Plan Program is administered through the Hawaii Occupational Safety and Health Division (HIOSH), a division of the State's Department of Labor and Industrial Relations (DLIR). HIOSH has jurisdiction over a substantial percent of employment in the State in both the public and private sectors. Exceptions to State jurisdiction is private sector maritime, long-shoring, ship building activities, federal agencies, military, and all employment contained within the national parks and secured military bases (as of October 11, 2011). Activities mandated under the OSH Act are considered core elements of HIOSH and provide an essential safety net for workers exposed to hazards with the potential to cause death or serious physical harm.

HIOSH's mission as stated by the Hawaii Occupational Safety and Health Law, Chapter 396, Hawaii Revised Statutes, is to "Assure so far as possible, every working man and woman in the State safe and healthful working conditions." HIOSH's goal is to work in partnership with Hawaii's businesses to save lives and prevent injuries in the workplace.

HIOSH's role is to promote voluntary compliance first and foremost through a mix of incentives — HIOSH recognition and achievement programs such as the Hana Po'okela (Hawaii Voluntary Protection Program), HI-SHARP (SHARP), other partnership programs (Alliances), and on-site consultation and training assistance. HIOSH works in partnership with businesses that share the same principles and goals and uses enforcement as a tool for compliance for those companies that choose to disregard their obligations under the law.

HIOSH's Five-Year Strategic Plan which covers Fiscal Year (FY) 2016-2020, is based on the following two strategic goals. These two, main strategic goals are supported by the Annual Performance Goals FY 2019 listed as performance indicators and baselines.

1. Improve workplace safety and health for all workers, as evidence by fewer hazards, reduced exposures, and fewer injuries, illnesses and fatalities.

Goal 1.1 Workplace Safety & Health Hazards

- Reduce the injury and illness rate by approximately 5% from the present average of 4.5 to 4.3 in the construction industry. (Based on 2013 data, the most recent available. At the end of 2020, the latest BLS data will be for 2018).

Indicators:

-Conduct 2,115 inspections in the construction industry with at least 3,175 violations identified in the five-year period.

Indicators (Continued...):

-HIOSH will conduct at least 25 inspections where there is monitoring conducted for health hazards such as particulate, mist, vapor, gas, and noise hazards. This includes personnel monitoring, direct readings, bulk and wipe samples.

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Goal 1.2 Fatalities

- Reduce the fatality rate by approximately 5% averaged over a rolling five-year period through scheduled inspections and visits at workplaces in targeted industries.

Indicators:

- Construction NAICS 23: Conduct 2,115 Inspections.
- Transportation & Warehousing NAICS 42-, 48-49-: Conduct 250 Inspections
- Landscaping and other building services NAICS 56-: Conduct 100 Inspections

Goal 1.3 Cooperative Agreements

- Develop the VPP program and increase the number of new VPP establishments from 3 (FY 2018) to 4.

Indicators:

- Number of new VPP Participants.
- Name a VPP Team Lead (Includes Satisfying the Requirements)
- Promote VPP
- Increase the number of VPP applicants.

2. Strengthen public confidence through continued excellence.

Goal 2.1 Response to Fatalities and Catastrophes

- Initiate 95% percent of fatalities and catastrophes inspections within one working day of notification.

Indicators:

- Percentage of fatal case investigations initiated within one working day of notification.

Goal 2.2 Response to Referrals Alleging Serious Hazards

- Conduct inspections of formal complaints alleging serious hazards within 7 working days 95% of the time.

Indicators:

- Average number of days to initiate complaint inspections.

Goal 2.3 Staff Development

- Eighty percent of safety and health staff will receive professional development through a variety of methods.

Indicators:

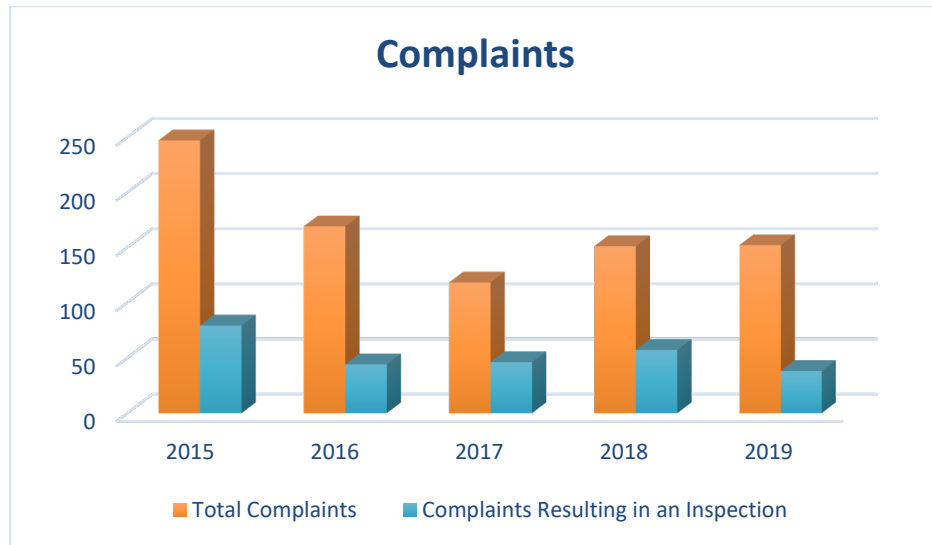
- Percent of compliance safety and health staff receiving professional development.
- Percent of consultation safety and health staff receiving professional development.

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Annual Performance Results & Response

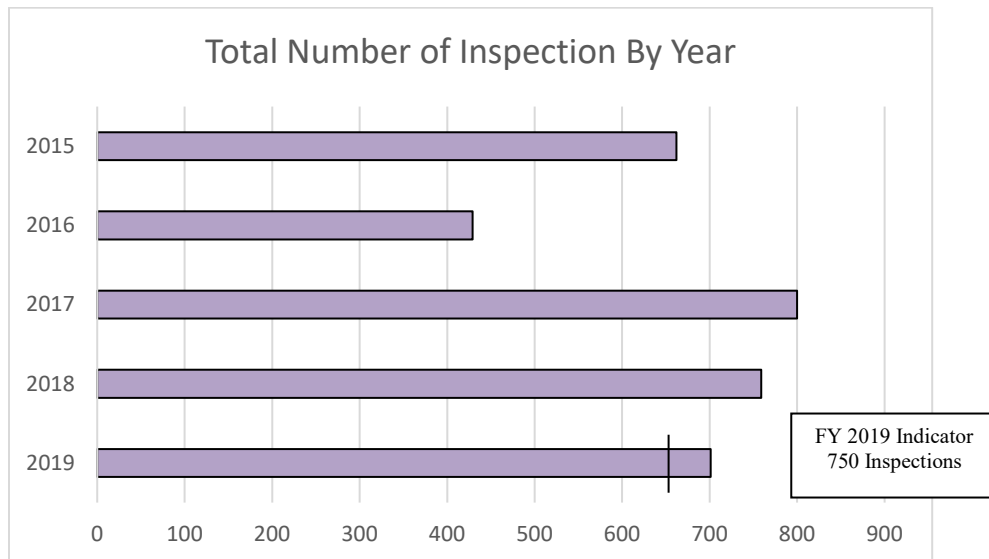
Complaints

For FY 2019, HIOSH responded to a total of 152 occupational safety and health complaints. Out of the total 152, 38 resulted in a completed safety and health inspection.



Total Inspections

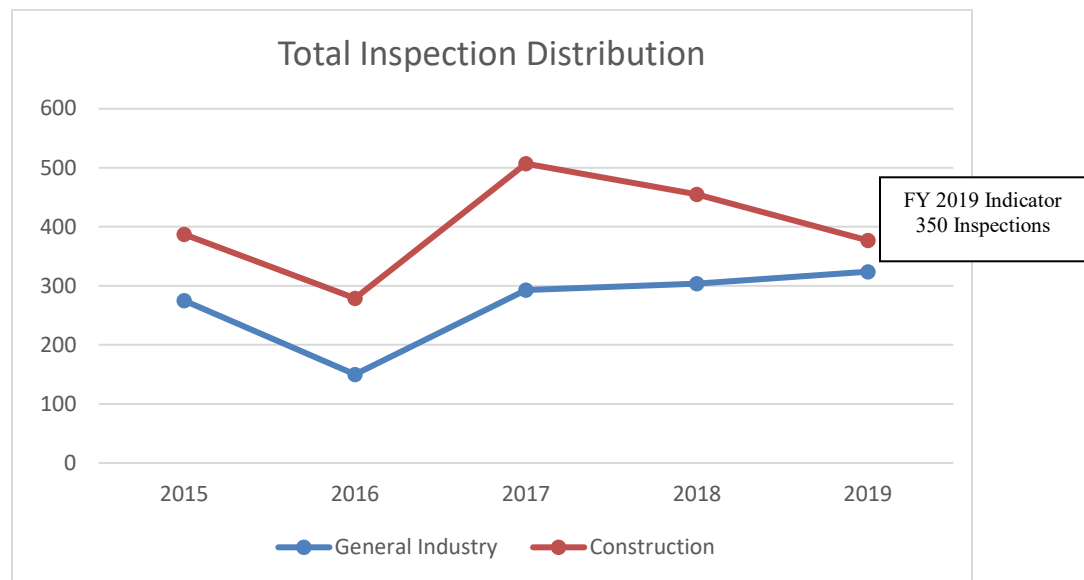
For FY 2019, HIOSH conducted a total of 701 occupational safety and health inspections. HIOSH did not achieve their goal of conducting 750 inspections due to staff retention rates and minimum training requirements.



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1.1 INDICATORS

- Reduce the injury and illness rate by approximately 1% from the present average of 4.5 to 4.45 in the construction industry.
 - The State of Hawaii Incidence Rate for Construction, NAICS 23-, for 2018 (based on BLS data <https://www.bls.gov/iif/oshstate.htm#HI>) was 3.7. HIOSH achieved their goal to decrease the Construction injury and illness rate by at least 1% from the previous 4.5 to 4.45 rate.
 - Response: Although HIOSH achieved their goal of decreasing the incidence rate for NAICS 23- by at least 1%, the injury and illness rate here is based on BLS data for 2018. These incidences have already occurred before the fiscal year of this evaluation and, therefore, does not give an adequate representation of the result of HIOSH's efforts to lower the overall injury and illness rates for the construction industry in FY 2019. For the next 5 Year Strategic Plan, HIOSH will be reevaluating how the Strategic Goals are written to better see HIOSH's impact within the state.
 - Conduct 350 inspections in the construction industry with at least 2.5 serious violations per inspection identified. HIOSH partially achieved their goal. A total of 377 construction industry inspections were completed in FY 2019. 333 serious violations were issued to construction industry inspections, for an average of 0.95 serious violations per inspection identified.
 - Response: In regard to citation identification, inspectors continued training in hazard identification and citation classifications but, this goal is not controllable since the number of hazards and their classifications are based individually on each inspection site. For the next 5 Year Strategic Plan, HIOSH will be reevaluating how the Strategic Goals are written to better see HIOSH's impact within the state.

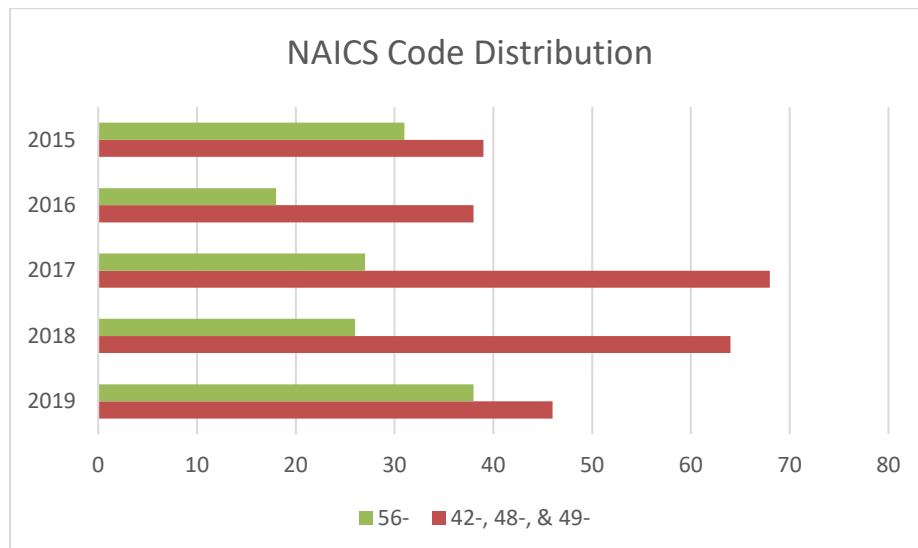


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- Conduct at least 30 inspections where there is monitoring conducted for health hazards such as particulate, mist, vapor, gas, and noise hazards. This includes personnel monitoring, direct readings, bulk and wipe samples.
 - After the expansion of the goal from FY 2017, HIOSH achieved 33 monitoring inspections for FY 2019. Protecting employees from health hazards beyond toxic dust including monitoring for particulates, mists, vapors, gas and noise hazards. This includes personnel monitoring, direct readings, bulk and wipe sampling.

1.2 INDICATORS

- Reduce the fatality rate by approximately 1% through scheduled inspections and visits at workplaces in targets industries.
 - BLS Data <https://www.bls.gov/iif/oshstate.htm#HI> for 2018, used as the indicator for 1.2, was not available for comparison at the time of this report. No fatality report for 2018 is available currently.
 - Conduct 350 Construction inspections.
 - See indicator graph under 1.1: HIOSH Conducted 377 Construction NAICS inspections in FY 2019. HIOSH achieved this goal for FY 2019. (See state response in 1.1)
 - Transportation & Warehousing NAICS 42-, 48-49-: Conduct 51 Inspections.
 - HIOSH conducted a total of 46 inspections of NAICS code 42-, 48- & 49- industries, not achieving the goal of 51 inspection for FY 2019. For FY 2020, HIOSH will redirect priority of program planned inspections to these NAICS. (See NAICS Code Distribution Graph)
 - Landscaping and other building services NAICS 56-: Conduct 20 Inspections.
 - HIOSH achieved this goal and conducted a total of 38 inspections of NAICS code 56- industries. (See NAICS Code Distribution Graph)



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1.3 INDICATORS

- Develop the VPP program and increase the number of new VPP establishments from 3 (FY 2018) to 5.
 - Increase the number of VPP participants and the promotion of VPP.
 - For FY 2019, HIOSH did not obtain any new VPP participants. Instead, HIOSH focused on rebuilding the marketing and outreach of the Po`okela program. HIOSH finalized training and now has one qualified team lead.
 - HIOSH partnered with the VPPPA Region IX board to hold an information booth and to conduct a presentation on VPP to Hawaii employers at the 15th Biennial Pacific Rim Safety & Health Conference. After the event, HIOSH and the VPPPA Region IX representatives held an application information session that was attended by Hawaii employers both from general industry and construction.

2.1 INDICATORS

- Initiate 98% percent of fatalities and catastrophes inspections within one working day of notification.
 - For FY 2019, HIOSH accomplished this goal and had a 100% response rate within one working day to three fatality inspections.
- Conduct inspections of formal complaints alleging serious hazards within 7 working days 95% of the time.
 - Overall, HIOSH initiated 100% of the 38 complaint inspections resulting from formal complaints alleging serious hazards within an average of 7.37 days.
 - 114 of the complaint investigations (phone/fax investigations) were initiated within 1.32 days.
 - For FY 2019, HIOSH responded to 100% of the 33 imminent danger complaints and referrals within 1 day.

2.2 INDICATORS

- 100% of safety and health staff will receive professional development annually through a variety of methods.

Throughout FY 2019, 100% of HIOSH staff received professional development both through the State of Hawaii and the Occupational Safety and Health Administration. Three courses occurred at HIOSH throughout FY 2019, with a 95-100% attendance rate. HIOSH employees also partook in state provided training for limited English proficiency resources and portable fire extinguisher use. HIOSH will continue to bring courses here and send enforcement and consultation employees to professional development throughout FY 2020.

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SPECIAL OUTREACH INITIATIVES

- **Occupational Safety & Health 1-day Conference**

- On May 14, 2019, HIOSH conducted an update for the public as well as an introduction to drone use for our program at the OSHA Hawaii Workshop 2019 hosted by the American Society of Safety Professionals (ASSP) Hawaii Chapter. The presentation was given by Tin Shing Chao, OH Manager, and the HIOSH Drone Team. The team consists of Tak Ming Randal Tiu, Edmar Castillo, Kevin Won, and Bradley Shields. The update presentation is available here: <http://labor.hawaii.gov/hiosh/main/osha-1-day-workshop-hiosh-update-fy2018/>.



AMERICAN SOCIETY OF
SAFETY PROFESSIONALS
Hawaii Chapter

PERFORMANCE OF MANDATED ACTIVITIES

- Activities mandated under the OSH Act are core elements of Hawaii's occupational safety and health program and provide an essential safety net for workers exposed to hazards with the potential to cause death or serious physical harm. For FY 2019, HIOSH continued to perform all mandated activities in those industries and employment activities where it retains jurisdiction including:
 - First Instance Sanctions
 - Legal procedures for compulsory process and right of entry.
 - Ensuring abatement of potentially harmful or fatal conditions.
 - Prompt and effective standards setting and allocation of resources.
 - Safeguards to protect an employer's trade secrets.
 - Counteraction of imminent dangers.
 - Response to complaints.
 - Fatality/Catastrophe Investigations
 - Ensuring Employees:
 - ✓ Protection against, and investigation of, alleged discrimination
 - ✓ Access to hazard and exposure information
 - ✓ Apprised of employee protection and rights via postings
 - ✓ Right to have an employee representative participate in the walk-around
 - ✓ Right to have an employee review a decision not to inspection (following a complaint).
 - Public employee coverage under the Law.
 - Employer recordkeeping and reporting.
 - Voluntary compliance activities.

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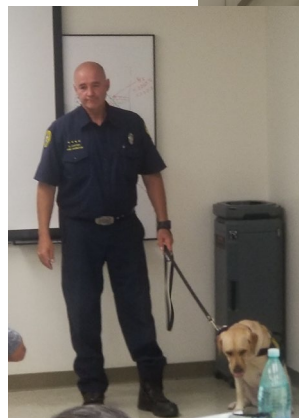
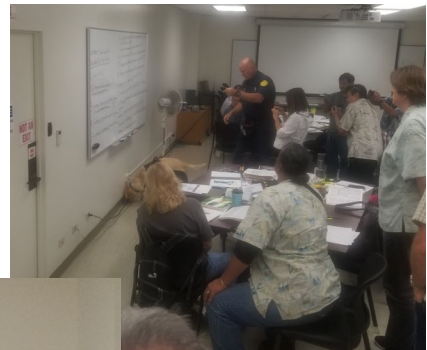
- HIOSH continued to integrate the above mandated elements through activities and goals within the 5-year and FY 2019 Annual Performance measures. In FY 2019, HIOSH modified old and integrated new activities to increase awareness and the importance of these mandated activities. Activities included:
 - Reintegration and improvement of an abatement reminder letter and a new review system that increased prompt abatement of harmful and/or fatal conditions.
 - Retraining compliance employees to ensure continued emphasis on the importance of protecting employer's trade secrets, inviting employee representatives to be involved in the inspection, and emphasizing employee rights and protections.
 - Increasing awareness of voluntary compliance activities and programs using platforms of safety conferences within the state of Hawaii and Region IX.
 - Continuous updates and use of the HIOSH website and advisory board to ensure communication within industries of recordkeeping and reporting requirements, as well as changes to safety and health standards for those establishment and employment activities under HIOSH jurisdiction.

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Continuing Initiatives

PROFESSIONAL TRAINING & CERTIFICATION

For FY 2019, HIOSH Enforcement and Consultation continued their collaboration efforts for specified training in following subjects: Fire Protection and Life Safety (2070), Excavation, Trenching & Soil Mechanics (3010), Arc Flash Awareness/NFPA 70E 2018 and Control of Hazardous Energy 1910.147/NFPA 70E 2018 – LOTO. Additional training classes included Portable Fire Extinguisher and Arson Animal Program given by the Hawaii Fire Department. Enforcement staff and supervisors continued their ongoing training requirements by Federal OSHA. For training in Excavation, Trenching & Soil Mechanics (3010), HIOSH partnered with our current Hawaii VPP establishment, Monsanto Company, to host hands-on training at their Oahu facility.



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LIMITED ENGLISH PROFICIENCY (LEP)

HIOSH continued its response to trends of limited English speakers in Hawaii's workforce by ensuring employees were annually trained on available resources and translating services. HIOSH evaluated the need and translated more employer and employee forms into common languages found in Hawaii. HIOSH continues to evaluate access to translators to ensure workplaces are being thoroughly inspected and that both employer and employee rights are communicated during the entire inspection process.

STAFFING

In FY 2019, HIOSH continued without a Compliance Assistant Specialist (CAS). HIOSH plans to increase the attractiveness of the position and increase the outreach potential of the position by reclassifying the position to a higher level.

HIOSH lost three health compliance inspectors, a secretary for enforcement, and an office assistant during the FY 2019 year. Within FY 2019, HIOSH gained a new secretary for enforcement, a program specialist, three safety and three health compliance inspectors and experienced similar turnover as compared to past years.

HIOSH continued the summer intern program, reinitiated in FY 2018. For the summer of FY 2019, HIOSH hired one intern from the local community college. This opportunity allowed them to work with sections of HIOSH to further their interest in occupational safety and health and helped to satisfy academic requirements to further their career goals.

HAWAII VOLUNTARY PROTECTION PROGRAM (PO`OKELA)

Hawaii VPP participants currently include:

- Monsanto Kihei
- Monsanto Molokai
- Covanta Honolulu Resource and Recovery Venture (Oahu)



In FY 2019, HIOSH conducted the reevaluation for the Covanta Honolulu Resource and Recovery Venture – Oahu. The site was reinstated to active and will continue in the Hawaii VPP program after they were approved. The site was approved with a 2-year rate reduction plan condition, in order to provide the site more time to reduce its average rates to below the national and state average.

HIOSH initiated an increase in dedication of time and resources into the Po'okela program with presence at the Voluntary Protection Program Participant Association (VPPA) Region IX Conference held in Tucson, Arizona. This resulted in an increase of communication with employers interested in Po'okela, as well as with state programs managing their own VPP programs.

Also, in FY 2019, HIOSH partnered with the VPPA Region IX board to hold an information booth and to conduct a presentation on VPP to Hawaii employers at the 15th Biennial Pacific Rim Safety & Health Conference. After the event, HIOSH and the VPPA Region IX

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representatives held an application information session that was attended by Hawaii employers both from general industry and construction. (Hawaii Voluntary Protection Program continued...) The HIOSH team plans to continue to work with the VPPPA to coordinate events in FY 2020 for interested employers about Hawaii VPP, its requirements and the application process.



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2019 Regulations & Legislation

HAWAII ADMINISTRATIVE RULES

There were no updates to the HIOSH Hawaii Administrative Rules in FY 2019.

On February 1, 2019, HIOSH began enforcing the FY18 adopted updates to the Hawaii Administrative Rules: Title 12, Subtitle 8, Part 1, Chapter 50, General Provisions and Definitions, Chapter 52.1, Recording and Reporting Occupational Injuries and Illnesses, Chapter 56, Program Fees and Library Policies, Chapter 60, General Industry Standards, Chapter 110, Construction Standards, Chapter 170, Shipyards, Chapter 180, Marine Terminals, Chapter 190, Longshoring, and Chapter 208 Other Safety and Health Standards. The new changes incorporate the 1904, 1910, 1915, 1917, 1926 and 1928 Code of Federal Regulations, 2017 Edition published as of July 1, 2017. These new rules were signed and stamped in by the Governor on October 17, 2018 with an effective date of October 27, 2018.

Information on the standards can be found here: <http://labor.hawaii.gov/hiosh/main/new-hiosh-rule-amendments-enforceable-february-1-2019/>.

HAWAII LEGISLATION

For FY 2019, there were no legislative updates passed through the State of Hawaii that directly affect the HIOSH program.

In January 2018, HIOSH increased the penalty amounts for citations issued per the legislative update from FY17. Specific information on HIOSH penalty updates for FY 2019 can be found here: <http://labor.hawaii.gov/hiosh/main/hiosh-penalties-to-increase-in-2019/>.

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Contact Information

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