

**FY 2020**  
**Follow-up Federal Annual Monitoring Evaluation (FAME) Report**

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



**Evaluation Period: October 1, 2019 – September 30, 2020**

**Initial Approval Date: January 4, 1974**  
**Program Certification Date: May 9, 1978**  
**Final Approval Date: May 4, 1984 (voluntarily withdrawn September 21, 2012)**

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## **I. Executive Summary**

The primary purpose of this report is to assess the Hawaii Occupational Safety and Health (HIOSH) activities mandated by the Occupational Safety and Health Administration (OSHA) for Fiscal Year (FY) 2020, and its progress in resolving outstanding findings from the previous FY 2019 Comprehensive Federal Annual Monitoring Evaluation (FAME) Report. The HIOSH division is part of the Department of Labor and Industrial Relations (DLIR), and is the agency responsible for protecting workers from health and safety hazards on the job in Hawaii's workplaces.

The COVID-19 pandemic had a detrimental effect on the activities conducted by HIOSH in FY 2020. To help reduce the transmission of SARS-CoV-2, the HIOSH office was closed for two weeks; in fact, many establishments were closed or had limited operations, and quarantine requirements limited travel to neighboring islands. Additionally nine compliance staff were reassigned, for six months, to help the overwhelmed Unemployment Insurance Division (UI) reduce an unemployment payment backlog. Although the COVID-19 pandemic was the primary reason for the overall decrease in activities, difficulties in hiring and retaining compliance staff also played a part.

HIOSH made progress to address five findings and one observation previously noted in the FY 2019 Comprehensive FAME Report. There were no new findings or observations identified and corrective actions implemented for four of the five findings along with the observation are now waiting for on-site verification as part of the FY 2021 comprehensive FAME. The corrective action for Finding FY2020-02 is in progress.

## **II. State Plan Background**

HIOSH, under the Department of Labor and Industrial Relations (DLIR), administers the Hawaii State Plan. Ms. Anne E. Perreira-Eustaquio, Director of DLIR, was the State Plan Designee and Norman Ahu was the HIOSH Program Administrator. Ms. Perreira-Eustaquio replaced Mr. Scott Murakami as the Director on September 16, 2020.

HIOSH is comprised of two major sections: the Occupational Safety and Health (OSH) division administered the Hawaii Occupational Safety and Health Program, and the Boiler and Elevator Safety division administered 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 program was funded under Section 23(g) of the OSH Act. The initial FY 2020 base award to fund the program was \$1,584,700 in federal funds. The state matched the federal funds to bring the total award to \$3,169,400. An amendment increased the federal share of the grant by \$119,200; however, the state was not able to match the increase. Due to COVID-19 and state budget shortfalls, \$275,000 in federal and \$275,000 in state matched funds were deobligated, bringing the final award to \$2,619,400. The grant provided funding for full-time staff comprised of four managers, nine safety compliance officers, nine health compliance officers, four clerical

staff members, one program specialist, one compliance assistance specialist, and one part-time state and local government agency safety and health consultant.

State and local government agency consultation was provided under the 23(g) grant and private sector consultation was provided under the 21(d) Cooperative Agreement. The private sector consultation performance results will be covered in the FY 2020 Regional Annual Consultation Evaluation Report (RACER).

### **New Issues**

Due to COVID-19 and state budget shortfalls, the state was unable to match an FY 2020 amendment increase, and \$275,000 in federal and \$275,000 in state matched funds were deobligated. In FY 2021, the state was unable to reclaim the \$119,200 of FY 2020 unmatched funds or match the \$28,000 FY 2021 base award increase.

## **III. Assessment of State Plan Progress and Performance**

### **A. Data and Methodology**

OSHA established a two-year cycle for the FAME process. This was a follow-up year, and as such, OSHA did not perform an on-site case file review associated with a comprehensive FAME. This strategy allowed the State Plan to focus on correcting deficiencies identified in the most recent comprehensive FAME. The analyses and conclusions described in this report were based on information obtained from a variety of monitoring sources, including:

- State Activity Mandated Measures Report (SAMM, Appendix D, dated 12/04/2020)
- State Information Report (SIR, dated 11/09/2020)
- Mandated Activities Report for Consultation (MARC, dated 11/19/2020)
- Web Integrated Management Information System (WebIMIS)
- State OSHA Annual Report (SOAR, Appendix E)
- HIOSH Annual Performance Plan
- State Plan Grant Application
- Quarterly monitoring meetings between OSHA and the State Plan

### **B. Findings and Observations**

HIOSH made progress addressing the five findings and one observation continued from the FY 2019 Comprehensive FAME report with no new findings or observations identified. Although all five findings and one observation were continued into FY 2020, corrective actions were implemented for four of the five findings and are awaiting on-site verification as part of the FY 2021 comprehensive FAME. Appendix A describes the continued findings and recommendations. Appendix B describes observations subject to continued monitoring and the related federal monitoring plan. Appendix C describes the status of each FY 2019 finding and recommendation in detail.

## FINDINGS (STATUS OF PREVIOUS AND NEW ITEMS)

### Continued Findings

**Finding FY 2020-01 (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.

**Status:** HIOSH retrained all involved staff on contact requirements with the family of victims, and developed a new case correspondence log that included reminders for letters and a comment section for cases to explain when a letter was not sent. The State Plan's corrective action is considered completed, awaiting verification. A case file review is necessary to gather the facts needed to evaluate progress on this finding. This finding will be a focus of next year's on-site case file review during the FY 2021 comprehensive FAME and remains open.

**Finding FY 2020-02 (FY 2019-02):** Policies and procedures for targeting high hazard industries for inspections were not documented.

**Status:** An enforcement directive with policies and procedures for inspection targeting of high hazard industries was developed and is in the final review stages with state attorneys and HIOSH managers for approval before release. This finding remains open.

**Finding FY 2020-03 (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.

**Status:** HIOSH staff was retrained on the requirements of good faith reductions, and a penalty worksheet was reformatted in January 2020 to highlight and facilitate good faith reductions. The State Plan's corrective action is considered completed, awaiting verification. A case file review is necessary to gather the facts needed to evaluate progress on this finding. This finding will be a focus of next year's on-site case file review during the FY 2021 comprehensive FAME and remains open.

**Finding FY 2020-04 (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.

**Status:** To ensure consistent documentation of the rationale for citation modifications a section to document justifications was added on the back of the informal conference sign in sheet to ensure inclusion and accessibility in the case files. The State Plan's corrective action is considered completed, awaiting verification. A case file review is necessary to gather the facts needed to evaluate progress on this finding. This finding will be a focus of next year's on-site case file review during the FY 2021 comprehensive FAME and remains open.

**Finding FY 2020-05 (FY 2019-05):** In FY 2019, in 56% (20 of the 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 complainants were aware of their appeal rights.

**Status:** HIOSH added specific language to address a complainant's acceptance of the administrative closure in the file. For non-acceptance, HIOSH is issuing a Determination Notice and Order (DNO), and the first DNO letter was mailed out on June 4, 2020. The State Plan's corrective action is considered completed, awaiting verification. A case file review is necessary to gather the facts needed to evaluate progress on this finding. This finding will be a focus of next year's on-site case file review during the FY 2021 comprehensive FAME and remains open.

## OBSERVATIONS

### Continued Observation

**Observation FY 2020-OB-01 (FY 2019-OB-01):** In FY 2019, in 17% (6 of the 36) of administratively closed retaliation cases reviewed, there was no evidence administrative closure letters were sent to complainants.

**Status:** Administrative closure letters are sent to complainants and a copy maintained in the file. A case file review is necessary to gather the facts needed to evaluate performance in relation to this observation. This observation will be a focus of next year's on-site case file review during the FY 2021 comprehensive FAME. This observation will be continued.

### C. State Activity Mandated Measures (SAMM) Highlights

Each SAMM has an agreed upon further review level (FRL) that can be either a single number or a range of numbers above and below the national average. 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 2020 SAMM Report and includes the FRLs for each measure. The State Plan's performance in the following SAMMs were outside the FRLs:

#### **SAMM 1a – Average number of workdays to initiate complaint inspections**

Discussion of State Plan data and FRL: The FRL for the average number of workdays to initiate complaint inspections was seven days. HIOSH's average number of workdays to initiate complaint inspections in FY 2020 was 9.06 days and warranted a closer look.

Explanation: HIOSH had one complaint with a response time of 50 days. The complaint came in the day before Governor Ige mandated the closure of the office for two weeks due to the pandemic, and when HIOSH staff returned to the office, the inspection location was temporarily closed down. Because HIOSH responded to a total of 35 complaint inspections, the single case with a long response time significantly skewed the average. If this one complaint inspection was taken out of

the equation, this measure would be within the FRL. Due to the circumstances, this result does not rise to the level of an observation, but will continue to be discussed at quarterly meetings.

### **SAMM 5 – Average number of violations per inspection with violations by violation type**

Discussion of State Plan data and FRL: The FRL for the average number of violations per inspection with violations by violation type is +/- 20% of a three-year national average of 1.79 serious, willful, repeat, or unclassified (SWRU) violations which equaled a range of 1.43 to 2.15. The FRL for other-than-serious (OTS) violations was +/- 20% of a three-year national average of 0.95, which equaled a range of 0.76 to 1.14. HIOSH was within the FRL range for OTS at 0.94, but was below the FRL for SWRU violations with an average of 1.39 and warranted a closer look.

Explanation: The lower than average SWRU violations per inspection was most likely due to two contributing factors: continued high turnover of staff within the year and the Governor's mandate in response to the COVID-19 pandemic, which limited the number of establishments open for inspection. Between March and October 2020, many establishments were closed or with limited operations. Additionally, limitations on travel to neighboring islands were enacted, due to quarantine requirements that limited the ability, to conduct inspections. Due to these circumstances, this result does not rise to the level of an observation, but will continue to be discussed at quarterly meetings.

### **SAMM 6 – Percent of total inspections in state and local government workplaces**

Discussion of State Plan data and FRL: The FRL for the percent of total inspections in state and local government workplaces is +/- 5% of 5.33%, which equaled a range from 5.07% to 5.60%. In FY 2020, HIOSH conducted 9.60% of inspections in state and local government workplaces.

Explanation: The HIOSH programmed inspection list separates local and state government sites from private sector establishments due to the way that the DLIR Research & Statistics division creates the randomized site lists. In previous years, HIOSH would assign sites from the private sector list first, followed by the state and local government list towards the end of year. For FY 2020, HIOSH prioritized equal assignment of state and local government sites throughout the year with the private sector sites. This new system of integrating the lists from the start of the year meant that more state and local government sites were inspected before disruptions and closures caused by COVID-19 impacted the overall planned inspections. Due to the circumstances, this result does not rise to the level of an observation, but will continue to be discussed at quarterly meetings.

### **SAMM 7 – Planned v. actual inspections - safety/health**

Discussion of State Plan data and FRL: The FRL for the planned versus actual inspections is +/- 5% of 420 safety inspections and +/- 5% of 330 health inspections which equaled a range from 399 to 441 safety inspections and from 313.50 to 346.50 health inspections. HIOSH conducted 256 of the 420 planned safety inspections and 140 of the 330 planned health inspections.

Explanation: The lower than planned inspections were due to two contributing factors. The first and most significant factor was the COVID-19 pandemic. The Governor closed the HIOSH office

for two weeks and reassigned 50% of compliance staff to help the overwhelmed Unemployment Insurance Division for six months. Additionally, many establishments were closed or with limited operations, and quarantine requirements were established limiting travel to neighboring islands. The second factor was the high turnover of staff within the year, limiting the number of qualified staff available to conduct inspections. Due to the circumstances, this result does not rise to the level of an observation, but will continue to be discussed at quarterly meetings.

### **SAMM 8b – Average current serious penalty in private sector (26-100 workers)**

Discussion of State Plan data and FRL: The FRL for average current serious penalty in private sector (26-100 workers) was +/- 25% of a three-year national average of \$3,513.45, which equaled a range of \$2,635.09 to \$4,391.81. HIOSH's average current penalty of \$4,570.32 in the private sector for 26-100 workers was significantly above three-year national average.

Explanation: This is a positive indication that HIOSH is developing inspection files that support penalty retention.

### **SAMM 8c – Average current serious penalty in private sector (101-250 workers)**

Discussion of State Plan data and FRL: The FRL for average current serious penalty in private sector (101-250 workers) was +/- 25% of a three-year national average of \$5,027.02, which equaled a range of \$3,770.27 to \$6,283.78. HIOSH's average current penalty of \$7,153.32 in the private sector for 101-250 workers was significantly above three-year national average.

Explanation: This is a positive indication that HIOSH is developing inspection files that support penalty retention.

### **SAMM 9 – Percent in compliance**

Discussion of State Plan data and FRL: The FRL for percent in compliance for health inspections was +/- 20% of the three-year national average of 37.15%, which equaled a range of 29.72% to 44.58%. HIOSH's percent in compliance for health was 40%, which was within the FRL. The FRL for percent in compliance for safety inspections was +/- 20% of the three-year national average of 31.03%, which equaled a range of 24.82% to 37.24%. HIOSH's percent in compliance for safety inspections was 24.80%, which was slightly below the FRL.

Explanation: The in compliance rate for safety inspections was lower than the FRL which indicates that HIOSH conducted more inspections than the national average where violations were cited. Typically, this is a positive indicator; however, as HIOSH had a lower than average SWRU rate for violations per inspection (SAMM 5), the measures taken together indicate HIOSH may need to improve targeting of high hazard locations for inspections. This measure will be discussed at quarterly meetings.

### **SAMM 11 – Average lapse time**



Discussion of State Plan data and FRL: The FRL for the average lapse time for safety inspections was +/- 20% of the three-year national average of 50.58, which equaled a range of 40.46 to 60.70, and +/- 20% of the three-year national average of 60.39 for health inspections, which equaled a range of 48.31 to 72.47. With an average lapse time of 57.91 days for health inspections, HIOSH was within this FRL, but the average safety lapse time of 71.89 days was above the FRL and warranted a closer look.

Explanation: This was the first year since FY 2016 that the lapse time for safety inspections was above the FRL. Several factors contributed to the increased lapse time. The first contributing factor was the safety branch manager vacancy. With no qualified applicants, two senior safety inspectors temporarily filled the position. The lapse time increased at the beginning of the year due to training the first temporary manager, but then started to decrease once the manager was fully trained. However, the first senior safety inspector in the position resigned and the lapse time increased again due to training a second temporary manager. The second contributing factor was high turnover, with two new safety inspectors and the loss of two senior inspectors. To compound this challenge, four of the seven safety inspectors were deployed to the Unemployment Insurance Division for six months. Due to the circumstances, this result does not rise to the level of an observation, but will continue to be discussed at quarterly meetings.

### **SAMM 13 – Percent of initial inspections with worker walk around representation or worker interview**

Discussion of State Plan data and FRL: The FRL for the percentage of initial inspections with worker walk around representation or worker interview was fixed for all State Plans at 100%. For FY 2020, HIOSH's percentage of initial inspections with worker walk around representation or worker interviews was 99.75% and warranted a closer look.

Explanation: After further investigation, it was determined that one inspection was incorrectly documented in OIS to reflect that workers were not interviewed, but OIS was not updated until after the SAMM report was run. The foreman was the only person at the site exposed to the cited hazard, and was interviewed during the inspection. Because the individual was the only person at the site and exposed to the hazard, that individual was an employee of the company and should have been documented as a worker interviewed. HIOSH retrained staff to understand the requirement for conducting and documenting interviews based on the specifics for each inspection.

### **SAMM 14 – Percent of 11(c) investigations completed within 90 days**

Discussion of State Plan data and FRL: The FRL for the percentage of 11(c) investigations completed within 90 days was fixed at 100%. HIOSH did not complete any of the 11(c) investigations within 90 days; therefore, this warranted a closer look.

Explanation: HIOSH improved significantly from FY 2019 (0%) and was above the FY 2020 national average of 38%<sup>1</sup>. Due to the small number of investigations (16), this result does not rise to the level of an observation, but will continue to be discussed at quarterly meetings.

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<sup>1</sup> Report from Web Integrated Management Information System (WebIMIS) "FY 2020 EOY Activity Measures – Both F&S" run November 9, 2020.

### **SAMM 15 – Percent of 11(c) whistleblower complaints that are meritorious**

Discussion of State Plan data and FRL: The FRL for the percent of 11(c) whistleblower complaints that were meritorious was +/- 20% of the three-year national average of 18%, which equaled a range from 14.40% to 21.60%. HIOSH's 11(c) meritorious rate was at 8% and warranted a closer look.

Explanation: HIOSH receives a low number of complaints, which can affect the percent of 11(c) complaints that are merit more significantly year to year depending on the type of complaints the State Plan received. OSHA will continue to discuss this metric at quarterly meetings and review 11(c) whistleblower case files as part of the FY 2021 comprehensive FAME.

### **SAMM 16 – Average number of calendar days to complete an 11(c) investigation**

Discussion of State Plan data and FRL: The FRL for the average number of calendar days to complete an 11(c) investigation was fixed at 90 days. HIOSH's average number of calendar days to complete an 11(c) investigation was 222 days and warranted a closer look.

Explanation: Although HIOSH did not complete any 11(c) investigations within 90 days, their average number of calendar days to complete an 11(c) investigation decreased from 380 days in FY 2019 to 222 days in FY 2020. Additionally, the FY 2020 national average to complete an 11(c) investigation was 262 days<sup>1</sup>. Due to the small number of investigations (16), this result does not rise to the level of an observation; however, OSHA will continue to discuss this metric at quarterly meetings.

### **SAMM 17 – Percent of enforcement presence**

Discussion of State Plan data and FRL: The FRL for the percentage of enforcement presence was +/- 25% of the three-year national average of 1.09%, which equaled a range from 0.82% to 1.36%. HIOSH had a percent enforcement presence of 1.49%, which was higher than the FRL range.

Explanation: The percent of enforcement presence describes the number of safety and health inspections conducted compared to the number of employer establishments in the state. The high enforcement presence indicates that the State Plan is reaching more employers with enforcement activity than the national average.

## Appendix A – New and Continued Findings and Recommendations

### FY 2020 HIOSH Follow-up FAME Report

FY 2020-#	Finding	Recommendation	FY 2019-# or FY 2019 OB-#
FY 2020-01	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. Corrective action complete, awaiting verification.	FY 2019-01
FY 2020-02	Policies and procedures for targeting high hazard industries for inspections were not documented.	HIOSH should document a high hazard targeting process, as described in the grant.	FY 2019-02
FY 2020-03	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. Corrective action complete, awaiting verification.	FY 2019-03
FY 2020-04	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. Corrective action complete, awaiting verification.	FY 2019-04
FY 2020-05	In FY 2019, 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 complainants 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. Corrective action complete, awaiting verification.	FY 2019-05

## Appendix B – Observations and Federal Monitoring Plans

FY 2020 HIOSH Follow-up FAME Report

Observation # FY 2020-OB-#	Observation# FY 2019-OB-# or FY 2019-#	Observation	Federal Monitoring Plan	Current Status
FY 2020-OB-01	FY 2019-OB-01	In FY 2019, in 17% (6 of 36) of administratively closed retaliation cases reviewed, there was no evidence that administrative closure letters were sent to complainants.	This observation will be a focus of next year's on-site case file review during the FY 2021 comprehensive FAME.	Continued

## Appendix C - Status of FY 2019 Findings and Recommendations

### FY 2020 HIOSH Follow-up FAME Report

FY 2019-#	Finding	Recommendation	State Plan Corrective Action	Completion Date	Current Status and Date
FY 2019-01	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.	All involved staff was retrained on the contact requirements for fatality initial, citation and closing letters. Case correspondence log includes an initial and date reminder for all FAT/CAT letters and a comment section for cases to explain why no letter is sent.	July 24 2020	Awaiting verification 07/31/2020
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 described in the grant.	An enforcement directive was created and is in the final review stages with DLIR attorneys and HIOSH managers before release.	Not completed	Open 07/31/2020
FY 2019-03	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.	Managers and inspectors were reminded of the need to consistently comply with the procedure. Staff was retrained on the requirements of good faith reductions. A penalty worksheet was reformatted in January 2020 to highlight / facilitate good faith reduction.	July 13, 2020	Awaiting verification 07/31/2020

## Appendix C - Status of FY 2019 Findings and Recommendations

### FY 2020 HIOSH Follow-up FAME Report

FY 2019-#	Finding	Recommendation	State Plan Corrective Action	Completion Date	Current Status and Date
FY 2019-04	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.	Managers included this information in various areas of their notes. To ensure consistent completion of justification on future cases, a section for modification justification was added on the back of the informal conference sign in sheet to facilitate and ensure inclusion and accessibility in the case files.	July 1, 2020	Awaiting verification 07/31/2020
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 complainants 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.	HIOSH added specific language to address complainant's acceptance of the administrative closure. For non-acceptance, HIOSH is complying with issuance of DNO with first DNO letter mailed out on June 4, 2020.	April 1, 2020	Awaiting verification 07/31/2020

## Appendix D – FY 2020 State Activity Mandated Measures (SAMM) Report

### FY 2020 HIOSH Follow-up FAME Report

U.S. Department of Labor				
Occupational Safety and Health Administration State Plan Activity Mandated Measures (SAMMs)				
State Plan: Hawaii - HIOSH			FY 2020	
SAMM Number	SAMM Name	State Plan Data	Further Review Level	Notes
<b>1a</b>	Average number of work days to initiate complaint inspections (state formula)	9.06	7	The further review level is negotiated by OSHA and the State Plan.
<b>1b</b>	Average number of work days to initiate complaint inspections (federal formula)	5.89	N/A	This measure is for informational purposes only and is not a mandated measure.
<b>2a</b>	Average number of work days to initiate complaint investigations (state formula)	1.17	2	The further review level is negotiated by OSHA and the State Plan.
<b>2b</b>	Average number of work days to initiate complaint investigations (federal formula)	0.29	N/A	This measure is for informational purposes only and is not a mandated measure.
<b>3</b>	Percent of complaints and referrals responded to within one workday (imminent danger)	100%	100%	The further review level is fixed for all State Plans.

## Appendix D – FY 2020 State Activity Mandated Measures (SAMM) Report

### FY 2020 HIOSH Follow-up FAME Report

SAMM Number	SAMM Name	State Plan Data	Further Review Level	Notes
4	Number of denials where entry not obtained	0	0	The further review level is fixed for all State Plans.
5	Average number of violations per inspection with violations by violation type	SWRU: 1.39	+/- 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 0.76 to 1.14 for OTS.
		Other: 0.94	+/- 20% of Other: 0.95	
6	Percent of total inspections in state and local government workplaces	9.60%	+/- 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: 256	+/- 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: 140	+/- 5% of H: 330	
8	Average current serious penalty in private sector - total (1 to greater than 250 workers)	\$3,498.38	+/- 25% of \$2,964.86	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from \$2,223.65 to \$3,706.08.



## Appendix D – FY 2020 State Activity Mandated Measures (SAMM) Report

### FY 2020 HIOSH Follow-up FAME Report

SAMM Number	SAMM Name	State Plan Data	Further Review Level	Notes
	a. Average current serious penalty in private sector (1-25 workers)	\$2,447.00	+/- 25% of \$1,967.64	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from \$1,475.73 to \$2,459.55.
	b. Average current serious penalty in private sector (26-100 workers)	\$4,570.32	+/- 25% of \$3,513.45	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from \$2,635.09 to \$4,391.81.
	c. Average current serious penalty in private sector (101-250 workers)	\$7,153.32	+/- 25% of \$5,027.02	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from \$3,770.27 to \$6,283.78.
	d. Average current serious penalty in private sector (greater than 250 workers)	\$6,918.22	+/- 25% of \$6,190.91	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from \$4,643.18 to \$7,738.64.
<b>9</b>	Percent in compliance	S: 24.80%	+/- 20% of S: 31.03%	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 24.82% to 37.24% for safety and from 29.72% to 44.58% for health.
		H: 40%	+/- 20% of H: 37.15%	
<b>10</b>	Percent of work-related fatalities responded to in	100%	100%	The further review level is fixed for all State Plans.

## Appendix D – FY 2020 State Activity Mandated Measures (SAMM) Report

### FY 2020 HIOSH Follow-up FAME Report

SAMM Number	SAMM Name	State Plan Data	Further Review Level	Notes
	one workday			
11	Average lapse time	S: 71.89	+/- 20% of S: 50.58	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 40.46 to 60.70 for safety and from 48.31 to 72.47 for health.
		H: 57.91	+/- 20% of H: 60.39	
12	Percent penalty retained	70.93%	+/- 15% of 67.51%	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 57.38% to 77.64%.
13	Percent of initial inspections with worker walk around representation or worker interview	99.75%	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	8%	+/- 20% of 18%	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 14.40% to 21.60%.
16	Average number of calendar days to complete an 11(c) investigation	222	90	The further review level is fixed for all State Plans.

## Appendix D – FY 2020 State Activity Mandated Measures (SAMM) Report

### FY 2020 HIOSH Follow-up FAME Report

SAMM Number	SAMM Name	State Plan Data	Further Review Level	Notes
17	Percent of enforcement presence	1.49%	+/- 25% of 1.09%	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 0.82% to 1.36%.

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 9, 2020, as part of OSHA's official end-of-year data run.

**Appendix E – FY 2020 State OSHA Annual Report (SOAR)**  
FY 2020 HIOSH Follow-up FAME Report



**STATE OSHA ANNUAL REPORT (SOAR)**



**FY 2020**

**HAWAII OCCUPATIONAL SAFETY AND HEALTH PROGRAM**

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DLIR Director  
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DLIR Deputy Director  
Norman Ahu  
HIOSH Administrator

**Appendix E – FY 2020 State OSHA Annual Report (SOAR)**  
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## Appendix E – FY 2020 State OSHA Annual Report (SOAR)

### FY 2020 HIOSH Follow-up FAME Report

## Fiscal Year (FY) 2020 Executive Summary

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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 2020 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 2019).

- Response: The State of Hawaii Incidence Rate for Construction, NAICS 23-, for 2019 (based on BLS data <https://www.bls.gov/iif/oshstate.htm#HI>) was 3.0. HIOSH achieved their goal to decrease the Construction injury and illness rate by at least 1% from the previous rate.

Indicators:

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

- Response: Between 2016 and 2020, HIOSH conducted 1,844 inspections within the construction industry, not meeting its 5-year goal. Reflecting on the past 5-years, this is due to low staffing of inspectors (CSHO's).

## Appendix E – FY 2020 State OSHA Annual Report (SOAR)

### FY 2020 HIOSH Follow-up FAME Report

- 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.

- Response: Between 2016 and 2020, HIOSH conducted 116 inspections where monitoring was conducted, achieving the 5-year goal. Expanding this goal's scope in FY 2019 aided HIOSH in obtaining this goal and ability to address more health hazards identified through monitoring.

#### 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.

- Response: In FY 2016 (BLS data 2014), there was a combined total of 20 fatalities in these targeted industries. In FY 2020 (BLS data 2018), there was a combined total of 11 fatalities in these targeted industries. A 5% decrease from 2016 would be 19 fatalities in these targeted industries. In the 5-years, HIOSH has decreased the number of fatalities in these target industries by 9, exceeding the 5-year strategic goal.

Indicators:

-Construction NAICS 23: Conduct 2,115 Inspections.

- Response: Between 2016 and 2020, HIOSH conducted 1,844 inspections within the construction industry, not meeting its 5-year goal. Reflecting on the past 5-years, this is due to low staffing of inspectors (CSHOs).

-Transportation & Warehousing NAICS 42-, 48-49-: Conduct 250 Inspections

- Response: Between 2016 and 2020, HIOSH conducted 239 inspections under the NAICS code for Transportation and Warehousing. HIOSH did not meet its goal due to the limited availability of establishments within this NAICS code on HIOSH's High Hazards Programmed Inspection List (HHPI).

-Landscaping and other building services NAICS 56-: Conduct 100 Inspections

- Response: Between 2016 and 2020, HIOSH conducted 137 inspections under the NAICS code for Landscaping and Other Building Services. HIOSH achieved this 5-year goal.

#### 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.

- Response: HIOSH did not achieve its 5-year goal of obtaining a new VPP site. HIOSH was able to secure a VPP team lead, conduct outreach and participate in VPPPA events in this 5-year periods that, previously, HIOSH was unable to participate in. HIOSH designated a position to manage the HIOSH VPP program in FY 2019 and successfully reevaluated and passed two of the three current HIOSH VPP sites.

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### FY 2020 HIOSH Follow-up FAME Report

## **2. Strengthen public confidence through continued excellence in the development and delivery of HIOSH services.**

### **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.
  - Response: Between 2016 and 2020, HIOSH initiated fatality inspections within 1 day, 95.65% of the time. In FY 2019, availability of an inspector affected 1 of the 23 fatality inspections that occurred in the 5 years causing the normal 100% response of 1 day rate to decrease to its current percent.

### **Goal 2.2 Response to Referrals Alleging Serious Hazards**

- Average number of days to initiate inspections is seven working days and average number of days to initiate investigation is conducted within two days of notification.

#### Indicators:

- Average number of days to initiate complaint inspections and investigations.
  - Response: Between 2016 and 2020, HIOSH initiated complaint inspections with 7.31 days and complaint investigations with 1.25 days. HIOSH exceeded its 5-year goals of initiating complaint investigations within 2 days, but was slightly higher than the 5-year goal on initiating complaint inspections with 7 days. FY 2020 outliers (explained below in annual performance goal 2.2) can account for the higher than average response time.

### **Goal 2.3 Staff Development**

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

#### Indicators:

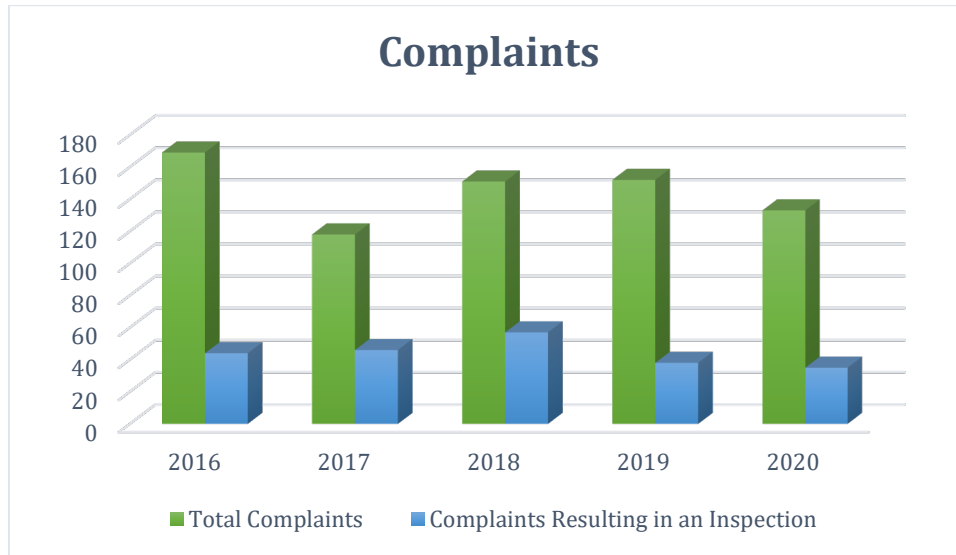
- Percent of compliance safety and health staff receiving professional development.
  - Response: 100% of 23g staff received professional development training through in person OSHA Training Institute (OTI), webinar, virtual, State of Hawaii or outside accredited entity-held training that expanded staff's professional development.



## Annual Performance Results & Response

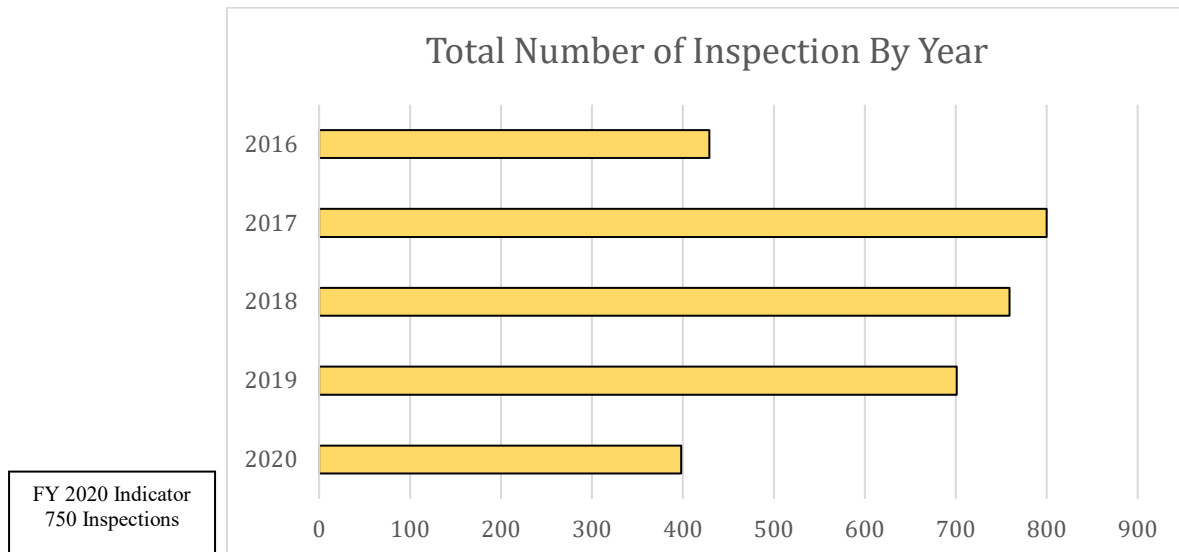
### COMPLAINTS

For FY 2020, HIOSH responded to a total of 133 occupational safety and health complaints. Out of the total 133, 35 resulted in a completed safety and health inspection.



### TOTAL INSPECTIONS

For FY 2020, HIOSH conducted a total of 396 (52.8%) occupational safety and health inspections. HIOSH did not achieved their goal of conducting 750 inspections due to staff retention rates and effects of city and state mandated business closures and staff availability from the COVID-19 pandemic (See Staffing).



### 1.1 INDICATORS

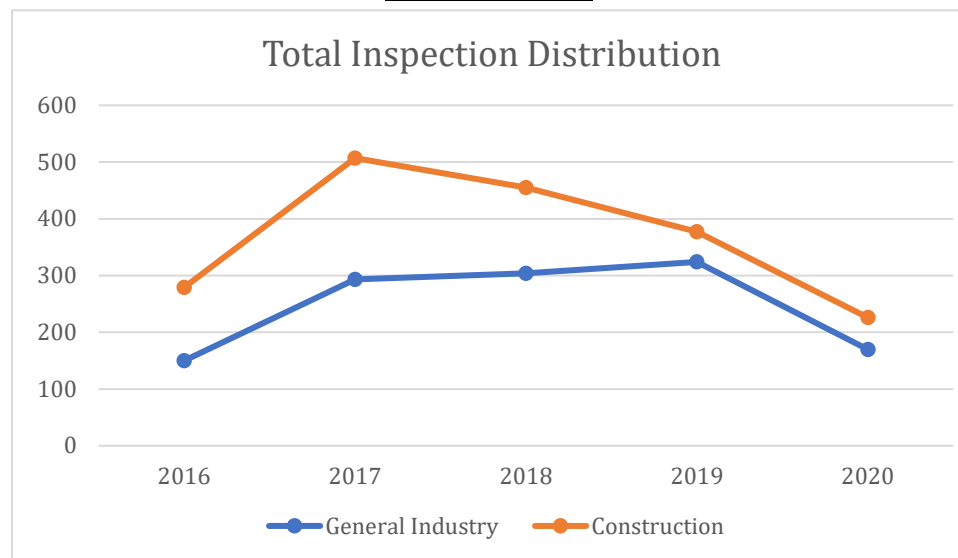
Reduce the injury and illness rate by approximately 1% from the present average of 4.5 to 4.3 in the construction industry.

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### FY 2020 HIOSH Follow-up FAME Report

- The State of Hawaii Incidence Rate for Construction, NAICS 23-, for 2019 (based on BLS data <https://www.bls.gov/iif/oshstate.htm#HI>) was 3.0. HIOSH achieved their goal to decrease the Construction injury and illness rate by at least 1% from the previous 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 2019. 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 460 inspections in the construction industry with at least 2.5 serious violations per inspection identified. HIOSH did not achieve their goal for FY 2020. A total of 226 construction industry inspections were completed with an average of 2.4 serious violations per inspection identified.
  - Response: Compared to the previous years, the number of serious violations identified has increased 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.

FY 2020 Indicator  
226 Inspections



Reduce employee exposure to particulate, mist, vapor, gas and noise hazards.

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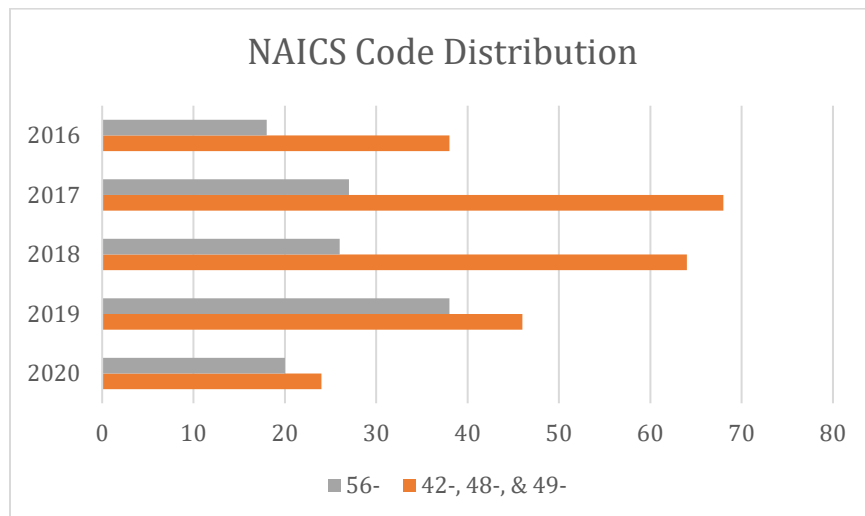
### FY 2020 HIOSH Follow-up FAME Report

- 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.
  - Response: HIOSH achieved 30 monitoring inspections for FY 2020, reaching the annual performance goal. Monitoring included 6 personal air monitoring, 8 noise monitoring, 11 direct sampling and 5 bulk/wipe sample inspections.

## 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, was used as the indicator for Goal 1.2, 2019 was not available for comparison at the time of this report.
- Conduct 460 Construction inspections.
  - HIOSH Conducted 226 Construction NAICS inspections in FY 2020. HIOSH did not achieve the annual performance goal for FY 2020. (See state response in 1.1)
- Conduct 75 NEP Trenching and Excavation Inspections
  - HIOSH conducted a total of 10 inspections under the Trenching and Excavation NEP. The annual performance was not met due to a combination of low staff, delay of NEP adoption and the effects of the COVID-19 pandemic on inspector availability.
- Transportation & Warehousing NAICS 42-, 48-49-: Conduct 50 Inspections.
  - HIOSH conducted a total of 24 inspections of NAICS code 42-, 48- & 49- industries, not achieving the goal of 50 inspection for FY 2020. The primary reason being the unavailability of establishments within this NAICS code on the enforcement targeting inspection list. (See NAICS Code Distribution Graph)
- Landscaping and other building services NAICS 56-: Conduct 20 Inspections.
  - Response: HIOSH achieved this goal and conducted a total of 20 inspections of NAICS code 56- industries. (See NAICS Code Distribution Graph)



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### **FY 2020 HIOSH Follow-up FAME Report**

#### **1.3 INDICATORS**

Develop the VPP program and increase the number of new VPP establishments from 3 to 4.

- Increase the number of VPP participants and the promotion of VPP.
  - Response: For FY 2020, HIOSH did not obtain any new VPP participants. HIOSH planned to conduct outreach through events that were cancelled and postponed due to the COVID-19 pandemic.

#### **2.1 INDICATORS**

Initiate fatalities and catastrophes inspections within one working day of notification.

- For FY 2020, HIOSH accomplished this goal and had a 100% response rate within one working day to four (4) fatality inspections.

Average number of days to initiate inspections is seven working days and average number of days to initiate investigation is conducted within two days of notification.

- Overall, HIOSH initiated thirty-five (35) complaint inspections resulting from formal complaints alleging serious hazards within an average of 9.06 days.
  - Response: HIOSH did not achieve the goal of conducting inspections of formal complaints alleging serious hazards within 7 working days. HIOSH responded, on average, within 9.06 days due to two complaint inspections that could not be conducted on time due to mandated business closures from the COVID-19 pandemic orders from the Governor and Mayors. The inspection occurred as soon as the businesses were reopened, and no employees were exposed to the alleged serious hazards in the interim period due to the businesses being shut down.
- Ninety-Eight (98) of the complaint investigations (phone/fax investigations) were initiated within 1.17 days.
  - Response: HIOSH exceeded their goal by initiating complaint investigations in 1.17 days, less than the 2-day response time goal.
- For FY 2020, HIOSH responded to 100% of the thirteen (13) imminent danger complaints and referrals within one (1) day.

#### **2.2 INDICATORS**

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

- Response: Throughout FY 2020, 100% of HIOSH staff received professional development through in person training, online webinars and virtual courses offered by the OSHA Training Institute (OTI).

## Appendix E – FY 2020 State OSHA Annual Report (SOAR) FY 2020 HIOSH Follow-up FAME Report

### SPECIAL OUTREACH INITIATIVES

- **HIOSH Hazard Highlight (HHH)**
  - HIOSH initiated a monthly newsletter covering safety, health and other relevant topics that the division chose based on current trends. Some of the topics included trenching, chemicals, and respirators. Due to the COVID-19 pandemic, the primary staff person in charge of this project was unable to continue the HHH volumes after February 2020. The volumes will continue in FY 2021. More information can be found here: <http://labor.hawaii.gov/hiosh/hiosh-hazard-highlight/>



### 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 2020, 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.
- HIOSH continued to integrate the above mandated elements through activities and goals within the 5-year and FY 2020 Annual Performance measures.

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## FY 2020 HIOSH Follow-up FAME Report

### Continuing Initiatives

#### PROFESSIONAL TRAINING & CERTIFICATION

For the beginning of FY 2020, HIOSH continued its training efforts for enforcement staff. Inspectors of the health branch of HIOSH participated in the State of Hawaii, Department of Health’s (DOH) accredited training for asbestos inspectors, which covered HIOSH standards, but also DOH requirements and widely used sampling strategies.

With the increased availability of webinars created by the OSHA Training Institute (OTI), inspectors completed webinar trainings as needed and as assigned by management staff. With the hiring of six (7) new inspectors within FY19 and FY20, five (5) of the seven (7) completed the #1000 course on Initial Compliance at OTI.

Due to the COVID-19 pandemic, travel to OTI and three (3) physical classes scheduled for FY 2020 were cancelled or postponed in March of FY 2020. Three (3) manager/supervisors of HIOSH participated in the virtual #9501 – Coaching CSHO’s, one (1) safety inspector participated in the #1051 – Introduction to Safety Standards for Safety Officers, and one (1) safety inspector participated in the #1001 – Initial Compliance virtual course.



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#### **LIMITED ENGLISH PROFICIENCY (LEP)**

HIOSH requires annual training for CSHO's and staff on limited English proficiency (LEP) which, covers topics such as legal requirements for various situations and ensuring staff knowledge of internal and external resources to obtain in person, phone or other needs for translation and communication services. HIOSH updated its Citation and Notification of Penalty packet to include information on contacting HIOSH if there is need for translation or auxiliary aids and services.

#### **STAFFING**

In FY 2020, HIOSH continued without a Compliance Assistant Specialist (CAS). HIOSH is continuing its efforts to increase the attractiveness of the position and increase the outreach potential of the position by reclassifying the position to a higher level. Currently the position duties are being completed by the two (2) HIOSH program specialists within the division.

HIOSH lost five (5) safety compliance inspectors, a research statistician, a secretary, and an office assistant during the FY 2020 year. Within FY 2020, HIOSH gained one (1) safety inspector and a secretary. HIOSH experienced higher loss of staff and lower hiring of new staff than previous years. The Occupational Safety branch manager position continued to be vacant during FY 2020, with the posting of the position resulting in no qualified candidates. The position was filled by temporary assignments of senior staff throughout the year.

Due to the COVID-19 pandemic and the increase of applications for unemployment, several HIOSH staff worked three (3) to six (6) months from March to September of 2020 within the Unemployment Insurance division of DLIR. The COVID-19 pandemic also lead to a two-week closure of government offices and continued closure and virtual transition of schools across the state, requiring HIOSH staff to take substantial leave under the Families First Coronavirus Response Act (FFCRA) during the same period. This led to the unavailability of two (2) staff from the Administration & Technical Support branch, three (3) staff from the Occupational Health branch, and five (5) staff from the Occupational Safety branch starting in March of 2020.

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### **HAWAII VOLUNTARY PROTECTION PROGRAM (PO`OKELA)**

Hawaii VPP participants currently include:

- Monsanto Technology, LLC (Kihei)
- Bayer Production Supply, LLC (Molokai)
- Covanta Honolulu Resource and Recovery Venture (Oahu)

In FY 2020, there were no new applications for the HIOSH Voluntary Protection Program (VPP) and no reevaluations of the current three active sites fell into this year.

Due to the COVID-19 pandemic, the Voluntary Protection Program Participant Association (VPPPA) Region IX Conference and the VPPPA Safety + National Symposium for 2020 were cancelled.



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## 2020 Regulations & Legislation

### **HAWAII ADMINISTRATIVE RULES**

There were no updates to the HIOSH Hawaii Administrative Rules in FY 2020.

### **HAWAII LEGISLATION**

For FY 2020, there were no legislative updates passed through the State of Hawaii that directly affected the HIOSH program.

Legislation was proposed requiring the Department of Labor & Industrial Relations to provide information on seizure first aid and to adopt rules on specifics relating to providing information on seizure first aid. S.B. No. 2554 was not passed but was approved for trial use in Hawaii State Capital offices. For more information, see <https://www.capitol.hawaii.gov/session2020/bills/SB2554 .HTM>.

In January 2020, HIOSH increased the penalty amounts for citations issued per the legislative update from FY 2017. Specific information on HIOSH penalty updates for FY 2020 can be found here: <http://labor.hawaii.gov/hiosh/main/increased-hiosh-penalties-january-15-2020/>

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FY 2020 HIOSH Follow-up FAME Report

## Contact Information

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