**Hawaii State Plan**

**Formal Response to FY 2023 Comprehensive FAME Report**

**Finding #: FY 2023-01 –** Inspection and UPA records were not established and/or maintained for all opened inspections and UPAs.

**State Plan Response:** HIOSH concurs with this finding as written and is currently in the process of its correction.

**Finding #: FY 2023-02** **–** There was no evidence in one of two (50%) fatality investigation files reviewed that the families of victims were contacted during the investigation.

**State Plan Response:** HIOSH concurs with this finding as written and is currently in the process of its correction. HIOSH would like to clarify that the finding is for not documenting contact with the families of victims during the investigation, and not not contacting the families of the victims during the investigation. In the investigation in question, it was the victim’s family (through their attorney) that reported the incident to HIOSH and not the employer. Much of the initial information regarding the fatality came from the victim’s family. Also, the victim’s family was instrumental in identifying key players in the incident. Although the victim’s family was in constant contact with the inspector, the inspector did not document the contacts in the casefile.

**Finding #: FY 2023-03 –** In 15 of 39 (38.46%) cases, files did not contain adequate evidence that substantiated the employer had or could have known of the hazardous condition.

**State Plan Response:** HIOSH concurs with this finding as written and is currently in the process of its correction.

**Finding #: FY 2023-04 –** In seven of ten (70%) case files, there was no evidence that union or other labor representatives were contacted to participate in the opening and closing conferences or walk around inspections and provided with copies of the citations.

**State Plan Response:** For the most part, HIOSH concurs with this finding as written and is taking steps of correction. HIOSH agrees that it needs to better document the opportunity it offers to employee representatives, and their availability and willingness to participate in inspection activities. HIOSH does not agree that in 70% of these cases, citations were not provided to the employee representation (as it sounds as written). Of the cases reviewed, HIOSH could only find one instance where the union may not have been mailed a copy of the citations. For all others, mailing of the citation is noted in the casefile or there were no citations to be mailed (In-compliance inspection). In two instances, “to be mailed on” with a specific date was noted. HIOSH attempts to mail the union its copy a few days after the mailing to the employer to prevent the union from receiving the citation before the employer. In these instances, “to be mailed” may be written on the Case Diary Sheet. HIOSH does not have any information to show that the citations were not actually mailed to the union on these dates.

**Finding #: FY 2023-05 –** HIOSH has not completed adoption of all the required standards by the adoption due date.

**State Plan Response:** HIOSH concurs with this finding as written and is currently in the process of updating its standards.

**Finding #: FY 2023-06 –** Requirement for adopting federal program changes were not completed within six months of the effective date of the directive or official issuance of the federal register notice.

**State Plan Response:** HIOSH concurs with this finding as written and is currently in the process of adopting and/or updating outstanding directives.

**Finding #: FY 2023-07 –** Retaliation case files lacked the required documentation, such as interview summaries, activity logs, evidence of review by a supervisor, or other documents required to be in the retaliation case file.

**State Plan Response:** HIOSH concurs with this finding as written and is currently in the process of its correction.