

FY 2018
Follow-up 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) activities for Fiscal Year (FY) 2018 and its progress in resolving outstanding recommendations from the FY 2017 Comprehensive Federal Annual Monitoring and 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.

For the second year in a row, HIOSH exceeded its annual inspection goals and continued to make progress on the adoption and implementation of Final Rules. Although no new Voluntary Protection Program (VPP) sites were added, HIOSH worked with the Voluntary Protection Program Participant's Association to hold a VPP application workshop after the Pacific Rim Safety and Health Conference.

The Governor of Hawaii, David Ige, approved the Final Rule on Walking-Working Surfaces and Personal Protective Equipment; Final Rule on Occupational Exposure to Beryllium; Final Rule for Occupational Exposure to Respirable Crystalline Silica; Final Rule for Confined Spaces in Construction; Cranes and Derricks in Construction - Operator Certification Final Rule; and the Final Rule for Electric Power Generation, Transmission and Distribution; Electrical Protective Equipment. Governor Ige approved the amended changes to the rules on October 27, 2018, and the standards have an enforcement start date of February 1, 2019.

HIOSH's ability to hire and retain qualified compliance staff continued to be an issue. However, the turnover rate of staff in FY 2018 significantly decreased from previous years. HIOSH looked at different strategies to attract qualified candidates to apply for vacant positions. For example, in the summer of 2018, HIOSH hired four interns from a local community college providing them an opportunity to learn what HIOSH compliance officers do with the intent to peak their interest in applying for permanent positions when they graduate.

HIOSH made progress addressing six findings and two observations previously noted in the FY 2017 Comprehensive FAME Report. One finding was completed, and five findings were carried over to FY 2018. Of the five findings carried over, corrective actions were implemented for three of these and are now awaiting on-site verification scheduled as part of the FY 2019 Comprehensive FAME Report. One observation was carried over from the FY 2017 report, and one was closed. While progress was made toward addressing FY 2017 findings and recommendations, OSHA identified two new observations based on SAMM data. Specifically, the average number of work days to initiate complaint inspections, and the average number of violations per inspection were outside the further review level.

II. State Plan Background

The Hawaii State Plan is administered by HIOSH under the DLIR. Leonard Hoshijo, Director of DLIR, is the State Plan Designee, and Norman Ahu is the HIOSH Program Administrator. Mr. Hoshijo was appointed as the Director on February 21, 2018, replacing Ms. Linda Chu Takayama.

HIOSH is comprised of two major sections: The Occupational Safety and Health (OSH) division, which administers the Hawaii Occupational Safety and Health Program, and the Boiler and Elevator Safety division, which administers the Hawaii Boiler and Elevator Safety Laws. The Boiler and Elevator Safety division was not part of the OSHA 23(g) 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 total final award to \$3,028,000. The 23(g) 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 safety and health consultant, four clerical staff members, and one program specialist.

State and local government 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 2018 Regional Annual Consultation Evaluation Report (RACER).

Following the Kilauea volcano eruption on the island of Hawaii, HIOSH consultation worked with the State of Hawaii Department of Health, County of Hawaii, County of Hawaii Fire Department, and the County of Maui Fire Department Incident Management Team to provide safety and health information to the agencies responding to the event.

New Issues

None.

III. Assessment of State Plan Progress and Performance

A. Data and Methodology

OSHA established a two-year cycle for the FAME process. The Fiscal Year 2018 report is a follow-up year report and OSHA did not conduct an on-site program evaluation and case file review. This strategy allows the State Plan to focus on correcting deficiencies identified in the most recent Comprehensive FAME. The analyses and conclusions described in this report are based on information obtained from a variety of monitoring sources, including:

- State Activity Mandated Measures Report (SAMM, Appendix D)
- State Information Report (SIR)

- Mandated Activities Report for Consultation (MARC)
- State OSHA Annual Report (Appendix E)
- State Plan Annual Performance Plan
- State Plan Grant Application
- Web Integrated Information Management System (WebIMIS)
- Quarterly monitoring meetings between OSHA and the State Plan

B. Findings and Observations

HIOSH made progress addressing six findings and two observations previously noted in the FY 2017 Comprehensive FAME Report. One finding was completed, and five findings were carried over to FY 2018. Of the five findings carried over, corrective actions were implemented for three findings and are now awaiting on-site verification scheduled as part of the FY 2019 Comprehensive FAME. One observation was carried over from the FY 2017 report, and one was closed. Two new observations were identified based on SAMM data. 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 each FY 2017 recommendation in detail.

FINDINGS (STATUS OF PREVIOUS AND NEW ITEMS)

Completed Findings

Finding FY 2017-01 (FY 2016-01): The health sampling inspection goal was not achieved.

Status: The goal for health inspections with sampling established in the FY 2018 grant was 25. In FY 2018, HIOSH conducted 27 health inspections with sampling. This item was completed.

Continued Findings

Finding FY 2018-01 (FY 2017-02): Policies and procedures for targeting high-hazard industries for inspections were not documented.

Status: The percentage of programmed inspections increased from 67% in FY 2017 to 70% in FY 2018; however, the method for effectively targeting high hazard industries was still not 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. It is also important to have a documented program in the event establishment entry is challenged by employers and to ensure resources are prioritized to protect workers in high risk industries; therefore, this finding remains open.

Finding FY 2018-02 (FY 2017-03): Federal Program Changes were not responded to and/or adopted in a timely manner.

Status: The Hawaii Field Operations Manual (FOM) has not been updated in response to CPL 02-00-160; therefore, this finding remains open. The Hawaii Whistleblower Investigations Manual

was updated in response to CPL 02-03-007 and the Hawaii Mandatory Training for Whistleblower Investigators Manual was updated in response to TED 01-00-020. HIOSH is currently working on the plan change supplements for those two directives.

Finding FY 2018-03 (FY 2017-04): In FY 2017, information was not accurately entered in WebIMIS for whistleblower retaliation investigations, including the filing date, adverse action date, the date the Report of Investigation (ROI) was submitted to the supervisor, and the date the supervisor approved the ROI.

Status: The whistleblower investigators were retrained to ensure that data is correctly entered in WebIMIS. The supervising investigator verifies that data is entered correctly in WebIMIS monthly, signs and approve all ROIs, and enters the date of approval into WebIMIS. A case file review is necessary to verify completion of this finding. The corrective action was completed, awaiting verification, and will be a focus of next year's on-site case file review during the FY 2019 Comprehensive FAME.

Finding FY 2018-04 (FY 2017-05): 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.

Status: HIOSH created a checklist to ensure that all required documents were sent to different parties, including a copy of the respondent's position statement to the complainant. A case file review is necessary to gather the facts needed to evaluate progress on this finding. The corrective action was completed, awaiting verification, and will be a focus of next year's on-site case file review during the FY 2019 Comprehensive FAME.

Finding FY 2018-05 (FY 2017-06): In FY 2017, in 4 of 6 (67%) retaliation complaints administratively closed, there was no evidence that a supervisor reviewed and approved the administrative closures.

Status: HIOSH created a checklist to document that the supervising investigator signed off on all cases that were administratively closed, and this checklist is included in the case file. A case file review is necessary to gather the facts needed to evaluate progress on this finding. The corrective action was completed, awaiting verification, and will be a focus of next year's on-site case file review during the FY 2019 Comprehensive FAME.

OBSERVATIONS

Closed FY 2017 Observation

Observation FY 2017-OB-02 (FY 2016-04): Six standards were not adopted in a timely manner.

Status: The Governor of Hawaii approved the Final Rule on Walking-Working Surfaces and Personal Protective Equipment; Final Rule on Occupational Exposure to Beryllium; Final Rule for Occupational Exposure to Respirable Crystalline Silica; Final Rule for Confined Spaces in

Construction; Cranes and Derricks in Construction - Operator Certification Final Rule; and the Final Rule for Electric Power Generation, Transmission and Distribution; Electrical Protective Equipment. The Governor approved the amended changes to the rules on October 27, 2018, and the standards had an enforcement start date of February 1, 2019. This observation is closed.

Continued FY 2018 Observation

Observation FY 2018-OB-01 (FY 2017-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.

Status: A case file review is necessary to gather the facts needed to evaluate performance in relation to this observation; therefore, it will be continued. This observation will be a focus of next year's on-site case file review during the FY 2019 Comprehensive FAME

New FY 2018 Observations

Observation 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 (FRL) of seven days.

Federal Monitoring Plan: OSHA will monitor HIOSH data during FY 2019 quarterly meetings to ensure timely responses to complaints.

Discussion: The FRL for the average number of work days to initiate complaint inspections was negotiated at seven days. At the end of the third quarter, the average number of work days to initiate complaint inspections was 5.6 days, but jumped to 8 days at the end of FY 2018. This is a substantial increase for the quarter and from the average of 4.5 days in FY 2017. Since HIOSH was within the negotiated range for the previous FAME, OSHA will monitor the situation as an observation.

Observation 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 FRL (SAMM 5).

Federal Monitoring Plan: OSHA will monitor HIOSH data during FY 2019 quarterly meetings to ensure the average number of violations are within the FRL.

Discussion: The FRL for the average number of violations per inspection was +/- 20% of the three-year national average of 1.82 for SWRU and 0.98 for other-than-serious, which equals a range of 1.46 to 2.18 and from 0.78 to 1.18, respectively. In FY 2018, the average number of SWRU violations per inspection decreased to 1.39 from 1.76 in FY 2017, and the average number of other-than-serious violations per inspection increased to 1.32 from 0.97 in FY 2017. This is the first year that HIOSH has dipped below the FRL on SAMM 5 and OSHA will monitor the situation as an observation.

C. State Activity Mandated Measures (SAMM) Highlights

Each SAMM has an agreed upon FRL which 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 HIOSH's FY 2018 State Activity Mandated Measures (SAMM) Report and includes the FRLs for each measure. The State Plan's performance in the following SAMMs were noted to be outside the FLRs:

SAMM 8 – Average current serious penalty in private sector

Discussion of State Plan data and FRL: The FRL for this measure for 1-25 workers was +/- 25% of the three-year national average of \$1,765.19 which equals a range of \$1,323.89 to \$2,206.49. The State Plan's penalty average for employers with 1-25 workers was \$2,297.22, and exceeded the upper range of the FRL of \$2,206.49. The FRL for this measure for 26-100 workers was +/- 25% of the three-year national average of \$3,005.17 which equals a range of \$2,253.88 to \$3,756.46. The State Plan's penalty average for employers with 26-100 workers was \$4,211.02, and exceeded the upper range of the FRL of \$3,756.46.

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 this measure for safety was +/-20% of the three-year national average of 29.90%, which equals a range of 23.92% to 35.88%. The percent of safety inspections that were in-compliance was 21.94%. This is below the lower range of the FRL of 23.92% inspections that were in-compliance, and deserves acknowledgement. The percent of health inspections that were in-compliance was within the FRL range.

Explanation: HIOSH exceeded the standard for safety in-compliance set by the FRL, which indicates that the State Plan was better than average at targeting high hazard industries and identifying safety hazards.

SAMM 11 – Average lapse time

Discussion of State Plan data and FRL: The FRL for this measure for safety was +/-20% of the three-year national average of 46.20%, which equals a range of 36.96% to 55.44%. The safety lapse time was 46.20, which was within the FRL range. The FRL for this measure for health was +/-20% of the three-year national average of 56.56%, which equals a range of 45.25 to 67.87. The health lapse time was 43.03 days, which was below the lower FRL range of 45.25 days and deserves acknowledgment.

Explanation: HIOSH's health lapse time that was lower than the FRL indicates that the State Plan did better than average on completing case files quickly in order to provide the results to employers.

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

Discussion of State Plan data and FRL: The FRL for this metric was fixed at 100% for all State Plans. HIOSH did not complete any of the 11(c) investigations within 90 days. However, the national average for 11(c) investigations completed within 90 days was only 35%.

Explanation: Due to the small number of investigations (20) and the above average merit rate, this result does not rise to the level of an observation.

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

Discussion of State Plan data and FRL: The FRL for this metric was +/- 20% of the three-year national average of 24%, which equals a range of 19.20% to 28.80%. HIOSH's average 11(c) merit rate was 35%, and exceeded the upper range of the FRL of 28.80%.

Explanation: This was the fifth highest state plan 11(c) merit rate. Additionally, \$251,480.83 in back wages and compensatory damages was awarded to workers who were retaliated against for exercising their rights under the Occupational Safety and Health Act.

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

Discussion of State Plan data and FRL: The FRL for this metric was fixed at 90 days for all State Plans. HIOSH's average number of calendar days to complete an 11(c) investigation was 345 days.

Explanation: HIOSH was outside of the FRL; however, the national average to complete an 11(c) investigation was 277 days. HIOSH decreased the average number of calendar days to complete an 11(c) investigation from 463 days in FY 2017 to 345 days in FY 2018. This result does not rise to the level of an observation but OSHA will continue to have discussions with the State Plan during quarterly meetings.

Appendix A – New and Continued Findings and Recommendations

FY 2018 Hawaii Occupational Safety and Health Follow-up FAME Report

FY 2018-#	Finding	Recommendation	FY 2017-# or FY 2017-OB-#
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.	FY 2017-02
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.	FY 2017-03
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 WebIMIS. Corrective action complete, awaiting verification.	FY 2017-04
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. Corrective action complete, awaiting verification.	FY 2017-05
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 closures.	HIOSH should ensure that a supervisor review and approve the decision to administratively close a complaint. Corrective action complete, awaiting verification.	FY 2017-06

Appendix B – Observations and Federal Monitoring Plans
 FY 2018 Hawaii Occupational Safety and Health Follow-up FAME Report

Observation # FY 2018-OB-#	Observation# FY 2017-OB-# or FY 2017-#	Observation	Federal Monitoring Plan	Current Status
FY 2018-OB-01	FY 2017-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.	During next year’s FAME, OSHA will review selected case files to determine if this reflects the data trend.	Continued
	FY 2017-OB-02	Six standards were not adopted in a timely manner.		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.	OSHA will monitor HIOSH data during FY 2019 quarterly meetings to ensure timely responses to complaints.	New
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).	OSHA will monitor HIOSH data during FY 2019 quarterly meetings to ensure the average number of violations are within the further review level.	New

Appendix C - Status of FY 2017 Findings and Recommendations

FY 2018 Hawaii Occupational Safety and Health Follow-up FAME Report

FY 2017-#	Finding	Recommendation	State Plan Corrective Action	Completion Date	Current Status and Date
FY 2017-01	The health sampling inspection goal was not achieved.	HIOSH should devote resources to conduct health sampling inspections.	Health sampling scope within the goal was expanded to add direct sampling and noise sampling for the FY18 grant. HIOSH now uses the Establishment Targeting List-Generation System to generate lists using adopted National Emphasis Programs (NEPs) to target employers who have high hazards that require health monitoring.	09/30/2018	Completed
FY 2017-02	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.	HIOSH outlined selection procedures for targeting within the FOM and some NEPs. For FY19, HIOSH will initiate the publication of a directive to explain high-hazard targeting processes.		Continued 1/29/2019
FY 2017-03	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 has finished amending, reviewing and going through the steps to adopt all Federal Program Changes. Currently signed by the Governor and awaiting finalized review processes.		Continued 1/29/2019
FY 2017-04	Information was not accurately entered in WebIMIS for whistleblower retaliation	HIOSH should follow procedures to ensure whistleblower retaliation	Whistleblower investigators were retrained on (date) to ensure that data is correctly being entered in WebIMIS. The supervising investigator will double check to	07/16/2018	Awaiting Verification 07/16/2018

Appendix C - Status of FY 2017 Findings and Recommendations

FY 2018 Hawaii Occupational Safety and Health Follow-up FAME Report

	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.	investigation information is accurately entered into WebIMIS.	verify data is being entered correctly monthly. The Supervising Investigator will sign and approve all ROI's, as well as enter the approval into WebIMIS.		
FY 2017-05	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 documentation required to be sent to different parties has been completed, including a copy of the respondent's position statement to the complainant. This includes how the documents are being sent and that they are being sent through a trackable method to ensure delivery and receipt. This is included in the case file.	07/16/2018	Awaiting Verification 07/16/2018
FY 2017-06	In 4 of 6 (67%) retaliation complaints administratively closed, there was no evidence that a supervisor reviewed and approved the administrative closures.	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 being administratively close. This is included in the case file.	7/16/2018	Awaiting Verification 07/16/2018

Appendix D - FY 2018 State Activity Mandated Measures (SAMM) Report

FY 2018 Hawaii Occupational Safety and Health Follow-up FAME Report

Department of Labor				
Occupational Safety and Health Administration State Plan Activity Mandated Measures (SAMMs)				
State Plan: Hawaii – HIOSH			FY 2018	
SAMM Number	SAMM Name	State Plan Data	Further Review Level	Notes
1a	Average number of work days to initiate complaint inspections (state formula)	8.04	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)	5.47	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)	1.14	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)	0.57	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.
5	Average number of violations per inspection	SWRU: 1.39	+/- 20% of SWRU: 1.82	The further review level is based on a three-year national average. The range of acceptable data not requiring further

Appendix D - FY 2018 State Activity Mandated Measures (SAMM) Report

FY 2018 Hawaii Occupational Safety and Health Follow-up FAME Report

	with violations by violation type	Other: 1.32	+/- 20% of Other: 0.98	review is from 1.46 to 2.18 for SWRU and from 0.78 to 1.18 for OTS.
6	Percent of total inspections in state and local government workplaces	5.67%	+/- 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: 486	+/- 5% of S: 400	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 380 to 420 for safety and from 332.50 to 367.50 for health.
		H: 272	+/- 5% of H: 350	
8	Average current serious penalty in private sector - total (1 to greater than 250 workers)	\$3,236.62	+/- 25% of \$2,603.32	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from \$1,952.49 to \$3,254.15.
	a. Average current serious penalty in private sector (1-25 workers)	\$2,297.22	+/- 25% of \$1,765.19	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from \$1,323.89 to \$2,206.49.
	b. Average current serious penalty in private sector (26-100 workers)	\$4,211.02	+/- 25% of \$3,005.17	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from \$2,253.88 to \$3,756.46.
	c. Average current serious penalty in private sector (101-250 workers)	\$4,740.72	+/- 25% of \$4,203.40	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from \$3,152.55 to \$5,254.25.
	d. Average current serious penalty in private sector (greater than 250 workers)	\$6,462.03	+/- 25% of \$5,272.40	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from \$3,954.30 to \$6,590.50.
9	Percent in compliance	S: 21.94%	+/- 20% of S: 29.90%	The further review level is based on a three-year national average. The range of acceptable data not requiring further

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		H: 41.67%	+/- 20% of H: 36.10%	review is from 23.92% to 35.88% for safety and from 28.88% to 43.32% for health.
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: 40.31	+/- 20% of S: 46.20	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 36.96 to 55.44 for safety and from 45.25 to 67.87 for health.
		H: 43.03	+/- 20% of H: 56.56	
12	Percent penalty retained	75.33%	+/- 15% of 66.81%	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 56.79% to 76.83%.
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	35%	+/- 20% of 24%	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 19.20% to 28.80%.
16	Average number of calendar days to complete an 11(c) investigation	345	90	The further review level is fixed for all State Plans.
17	Percent of enforcement presence	2.89%	+/- 25% of 1.24%	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 0.93% to 1.55%.

NOTE: Fiscal Year 2018 is the third year since the transition from the NCR (OSHA's legacy data system) began that all State Plan enforcement data has been captured in OSHA's Information System (OIS). Therefore, the national averages on 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 13, 2018, as part of OSHA's official end-of-year data run.



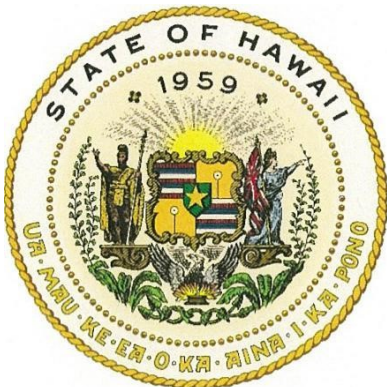
FY 2018

HAWAII OCCUPATIONAL SAFETY AND HEALTH PROGRAM

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Appendix E – FY 2018 State OSHA Annual Report (SOAR)
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Fiscal Year (FY) 2018 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 2018 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.

-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:

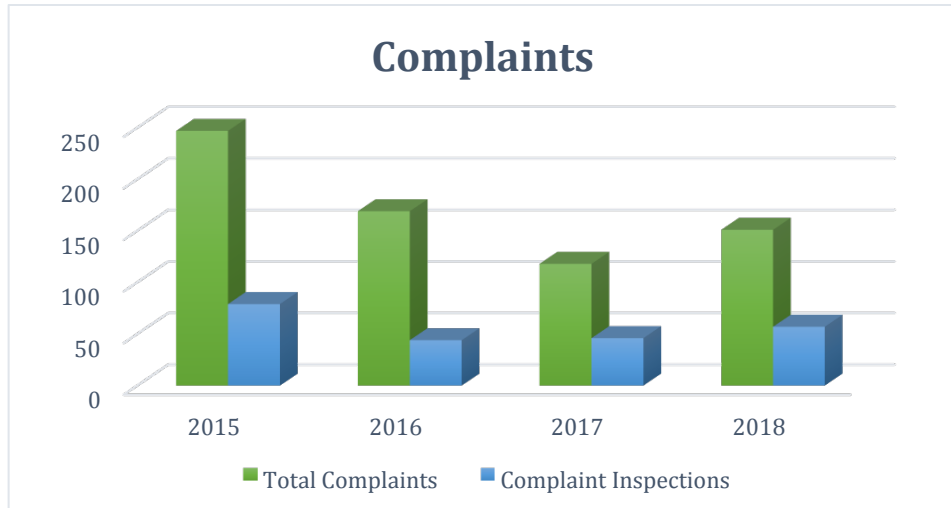
- Percent of compliance safety and health staff receiving professional development. -
- Percent of consultation safety and health staff receiving professional development.

Annual Performance Results & Response

COMPLAINTS

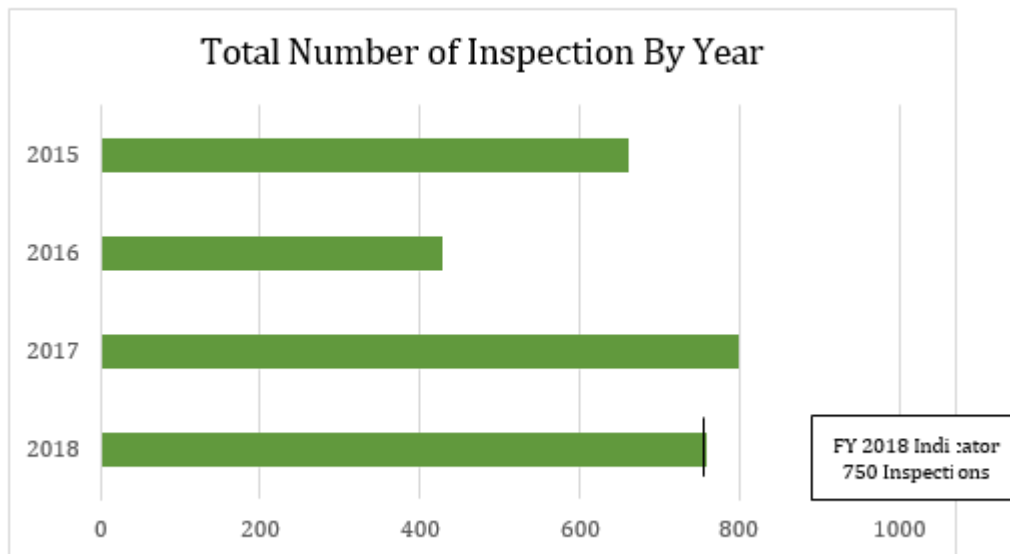
For FY 2018, HIOSH responded to a total of 151 occupational safety and health complaints. Out of the total 151, 47 resulted in a completed safety and health inspection.

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TOTAL INSPECTIONS

For FY 2018, HIOSH conducted a total of 759 occupational safety and health inspections. HIOSH achieved their goal of conducting 750 inspections.



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1.1 INDICATORS

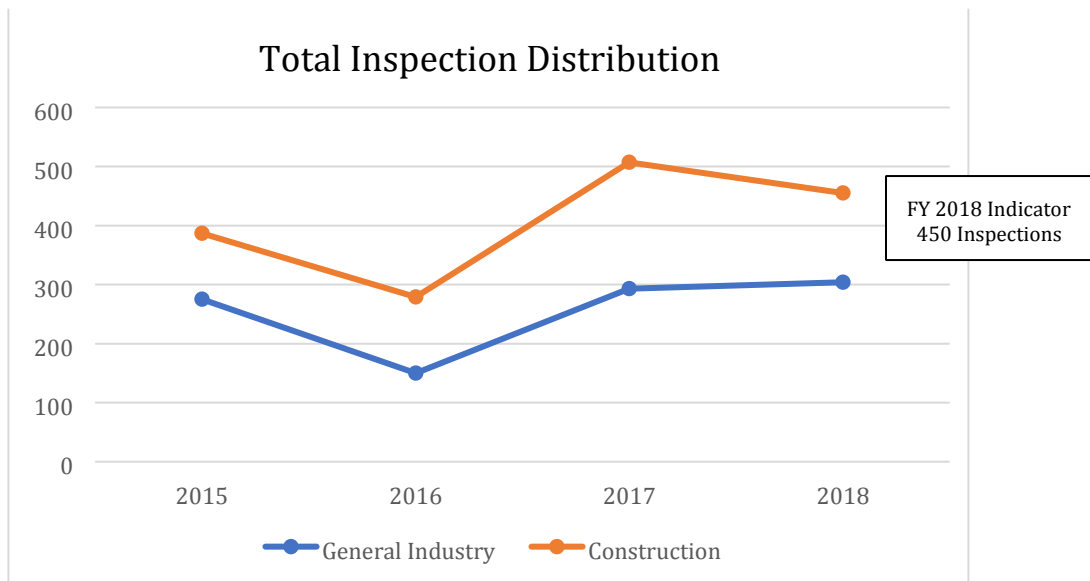
- Reduce the injury and illness rate by approximately 1% from the present average of 4.5 to 4.45 in the construction industry.

- ✦ For FY18, the State of Hawaii Incidence Rate for NAICS 23- (Construction) was 4.6. HIOSH did not achieve their goal to decrease the Construction injury and illness rate more than 1% from the previous 4.5 to 4.45 rate. (Based on 2017 BLS data <https://www.bls.gov/iif/oshstate.htm#HI>)

- ✦ Response: The injury and illness rate here is based on BLS data for 2017. 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 FY18. 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 475 inspections in the construction industry with at least 1,188 serious violations identified. HIOSH did not achieve their goal. A total of 455 construction industry inspections were completed in FY18 and a correlating 386 serious hazards identified

- ✦ Response: After looking at the data for FY18, HIOSH did not utilize the building permit list and program planned list in order to utilize a proportionate ratio of safety to health inspections. Although the goal of overall inspections was achieved, the balance has been addressed for FY19. In regards to citation classification, inspectors were retrained in citation classifications but this goal is not controllable since the number of hazards and their classifications are based individually on each inspection site.



- 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.

- ✦ After the expansion of the goal from FY17, HIOSH achieved 27 monitoring inspections for FY18. Protecting employees from health hazards beyond toxic dust including monitoring for

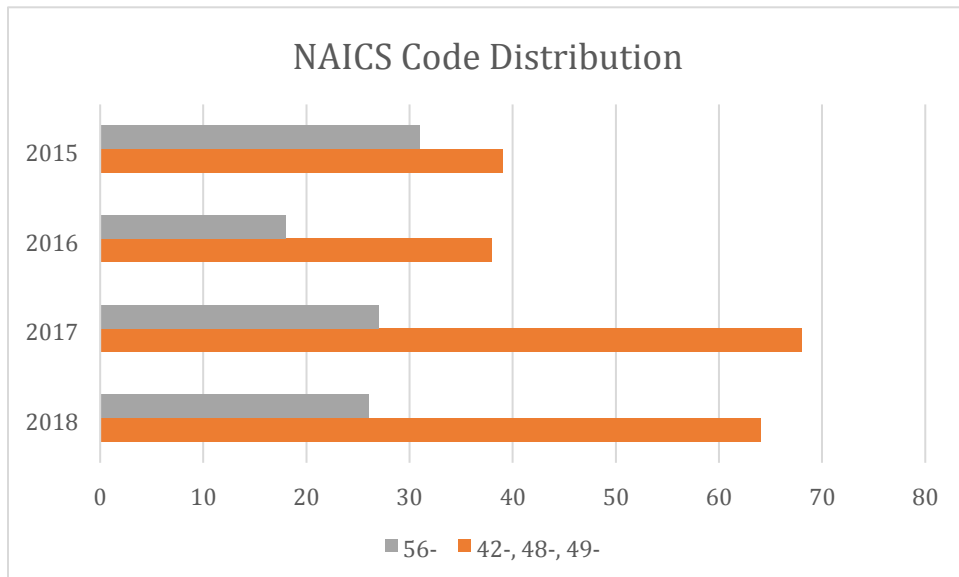
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particulates, mists, vapors, gas and noise hazards. This includes personnel monitoring, direct readings, bulk and wipe sampling.

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 2017, used as the indicator for 1.2, was not available for comparison at the time of this report. No fatality report for 2017 is available currently.
- Conduct 475 Construction inspections.
 - ✦ See indicator graph under 1.1: HIOSH Conducted 455 Construction NAICS inspections in FY18. HIOSH did not achieve this goal for FY18. (See state response in 1.1)
- Transportation & Warehousing NAICS 42-, 48-49-: Conduct 45 Inspections.
 - ✦ HIOSH achieved this goal and conducted a total of 64 inspections of NAICS code 42-, 48- & 49- industries. (See NAICS Code Distribution Graph)
- Landscaping and other building services NAICS 56-: Conduct 25 Inspections.
 - ✦ HIOSH achieved this goal and conducted a total of 26 inspections of NAICS code 56- industries. (See NAICS Code Distribution Graph)



1.3 INDICATORS

- Develop the VPP program and increase the number of new VPP establishments from 3 (FY 2018) to 4.
- Increase the number of VPP participants and the promotion of VPP.
 - ✦ For FY18, HIOSH did not obtain any new VPP participants. Instead, HIOSH focused on rebuilding the marketing and outreach of the Po`okela program. HIOSH continued training a team lead and worked with VPPPA to organize outreach events for interest and applicants for the FY19 year.

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2.1 INDICATORS

- Initiate 98% percent of fatalities and catastrophes inspections within one working day of notification.
- For FY18, HIOSH accomplished this goal and had a 100% response rate within one working day to four fatality inspections.

2.2 INDICATORS

- Conduct inspections of formal complaints alleging serious hazards within 7 working days 95% of the time.
 - For FY18, HIOSH responded to 100% of imminent danger complaints and referrals within 1 day.
 - Although overall HIOSH initiated the 47 complaint inspections within an average of 8 days,
HIOSH conducted inspections of the 18 formal complaints alleging serious hazards within 5.5 days. HIOSH achieved its goal of conducting inspections of formal complaints alleging serious hazards within 7 working days 95% of the time.

2.3 INDICATORS

- Eighty percent of safety and health staff will receive professional development through a variety of methods.
- Throughout FY18, 100% of HIOSH staff received professional development both through the State of Hawaii and the Occupational Safety and Health Administration. Four courses occurred at HIOSH throughout FY18, with a 95-100% attendance rate. HIOSH employees also partook in state provided training address independent contractors and determining employer types. HIOSH will continue to bring courses here and send enforcement and consultation employees to professional development throughout FY19.

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FY 2018 Hawaii Fatalities & Significant Cases

HAWAII FATALITIES

- **Eddie Gaspar, Inspection #1273811**
 - On October 10, 2017, an employee fell 33 feet through a fiberglass skylight panel to a concrete floor below sustaining fatal injuries.
 - Initially, 3 serious and 4 other-than-serious citations were issued with a penalty of \$8,400.
- **Hawaii Precast Inc, Inspection #1294211**
 - On February 5, 2018, an employee fell off a flat rack trailer onto a rough terrain forklift's outrigger supports. The employee later passed away from fatal injuries.
 - Initially, 8 serious and 15 other-than-serious citations were issued with a penalty of \$28,976.
- **Environmeteo Service Inc, Inspection #1306154**
 - On March 29, 2018, an employee fell 16 feet through a fiberglass panel skylight on the ground below sustaining fatal injuries.
 - Initially, 3 serious citations were issued with a penalty of \$13,689.
- **Hawaii Electric Light Company Inc, Inspection #1315071**
 - On May 2, 2018, an employee hoisting a transmission pole was struck by and pinned by the pole when the boom collapsed. The employee sustained fatal injuries.
 - Initially, 4 serious citations were issued with a penalty of \$68,448.
- **Native Imports LLC, Inspection #1314738**
 - On May 2, 2018, an employee operating a forklift was crushed when the forklift tipped over. The employee sustained fatal injuries.
 - Initially, 3 serious, 1 willful and 1 other-than-serious citations were issued with a penalty of \$70,619.
- **US Security Associates Inc, Inspection #1315741**
 - On May 7, 2018, an employee was partially ejected from the passenger side of a golf cart that unexpectedly started moving with the employee. The employee later passed away.
 - Initially, 2 serious citations were issued with a penalty of \$25,350.
- **National Tropical Botanical Garden, Inspection #1318227**
 - On May 18, 2018, an employee operating a ride-on lawn mower lost control, slid down an embankment and over a retaining wall falling 6 feet to the ground. The employee sustained fatal injuries.
 - Initially, 4 serious citations were issued with a penalty of \$57,040.

HAWAII SIGNIFICANT CASES

- **Hyatt Corporation dba Hyatt Regency Waikiki, Inspection #1325041**
 - Initial Penalties \$66,013
 - Initially Issued 8 Serious Citations
- **Festival Fun Parks, LLC dba Sea Life Park #1330815**
 - Initial Penalties \$138,542

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- Initially Issued 16 Serious, 5 Other-Than-Serious Citations
- **City & County Honolulu Board of Water Supply, Inspection #1288864**
 - Initial Penalties \$198,828
 - Initially Issued 4 Serious and 3 Repeat Citations
- **Nan Inc, Inspection #1293434**
 - Initial Penalties \$45,968
 - Initially Issued 1 Serious, 2 Repeat and 4 Other-Than-Serious Citations
- **DOE – Kapolei High School, Inspection #1300782**
 - Initial Penalties \$81,495
 - Initially Issued 5 Serious and 1 Other-Than-Serious Citations
- **Paul Y. Yokoyama Services Inc, Inspection #1311491**
 - Initial Penalties \$26,624
 - Initially Issued 11 Serious and 3 Other-Than-Serious Citations
- **Super Foods Inc, Inspection #1317452**
 - Initial Penalties \$42,734
 - Initially Issued 9 Serious and 1 other-than-serious Citations
- **PSD – Maui Community Correctional Center**
 - Initial Penalties \$37,490
 - Initially Issued 3 Serious Citation
 - Corresponding News Release ([Here](#))



SPECIAL OUTREACH INITIATIVES

Photo Credit: nytimes.com

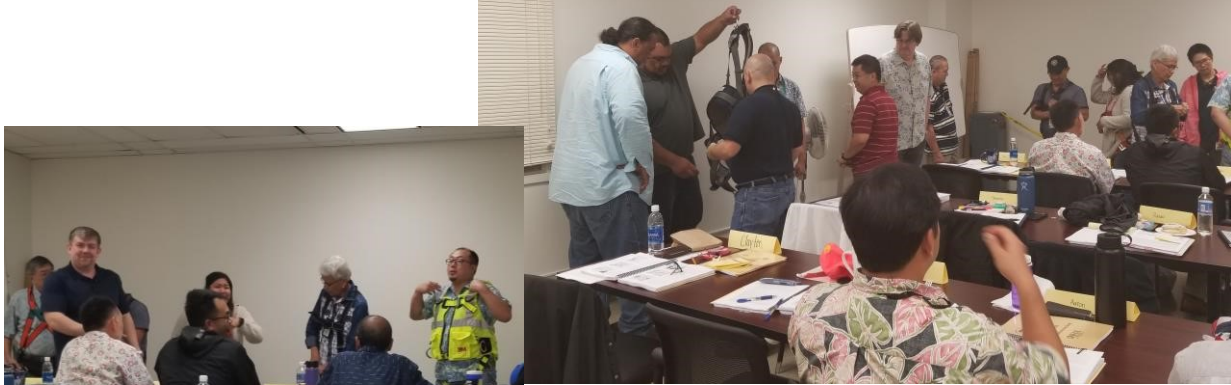
- **Hawaii Island, Kilauea Volcano Eruption**
 - In response to the sudden eruption activities with the Leilani Estates (Pahoa, Hawaii), HIOSH consultation was requested and met with the State of Hawaii Department of Health, County of Hawaii, County of Hawaii Fire Department, and County of Maui Fire Department Incident Management Team.
- **Fatalities Trending**
 - In response to a sudden increase of fatalities in the month of May, HIOSH published an article bringing light to safe work practices. Find the article [here](#).

Continuing Initiatives

PROFESSIONAL TRAINING & CERTIFICATION

For FY 2018, HIOSH Enforcement and Consultation continued their collaboration efforts for specified training in subjects such as Accident Investigation Training (1230) and Fall Protection (3110). Enforcement staff and supervisors continued their ongoing training requirements by Federal OSHA.

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LIMITED ENGLISH PROFICIENCY (LEP)

HIOSH continued its response to trends of limited English speakers in Hawaii's workforce. HIOSH translated more employer and employee forms into common languages found in the Hawaii. HIOSH continues to evaluate access to translators to ensure workplaces were being thoroughly inspected and that both employer and employee rights were communicated during the entire inspection process.

STAFFING

In FY 2018, HIOSH lost their Compliance Assistant Specialist (CAS). During their active time, this position increased outreach to employer's under HIOSH's jurisdictional coverage, especially regarding the new standards that were being finalized and increasing penalties. This outreach effort reached over 650 of Hawaii's employers and included attendance at specialized conferences and private meetings.

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HIOSH also gained three new health compliance officers (Environmental Health Specialists), a health consultant (Occupational Safety & Health Advisor) and an office assistant for FY18. HIOSH also lost one safety compliance officer and the safety branch manager during the FY18 year. Overall, a low turnover year compared to past trends.

For the first time in many years, HIOSH reinitiated an intern program. For the summer of FY18, HIOSH hired four interns from the local community college. This opportunity allowed them to work in each section of HIOSH and to hopefully peak their interest in applying for permanent positions as compliance officers. The four interns finished their summer with a public presentation summarizing the most cited hazard for FY17.



HAWAII VOLUNTARY PROTECTION PROGRAM (PO`OKELA)

Hawaii VPP participants currently include:

- Monsanto Kihei
- Monsanto Molokai
- Covanta (Oahu) – Inactive for FY18



In FY18, HIOSH conducted the reevaluation for the Monsanto Kihei site. The site will continue in the Hawaii VPP program after they were approved. For FY18, Covanta was listed as inactive pending a fatality and accident investigation and follow up incident investigation to determine their status within HIOSH's VPP program.

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) National Conference in New Orleans, Louisiana and the VPPA Region IX Conference held in San Diego, California. This resulted in an increase of communication with employers interested in Po`okela, as well as with state programs managing their own VPP programs.

HIOSH Po`okela team members attended the Special Government Employee (SGE) training held at the Region IX VPPA conference. The HIOSH team is currently working with the VPPA to have events available in FY19 for interested employers about VPP, the VPP application process and potentially hosting a SGE training within the state itself.

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Regulations & Legislation

HAWAII ADMINISTRATIVE RULES

In FY 2018, HIOSH worked on finishing the update 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. HIOSH will be enforcing the new changes starting February 1, 2019.

Specific Changes to the Hawaii Administrative Rules Include:

§12-56-2: Certificate of Safety Health Professional applications increase from \$50.00 to \$75.00. Certification fees increase from \$300.00 to \$460.00. Renewal of the certificate increases from \$100.00 to \$150.00.

§12-56-4: Examination fees for Certificate of Fitness applicants increase from \$150.00 to \$225.00. Renewal fees increase from \$50.00 to \$75.00.

§12-60-2: Addition of an exception. Employers with less than ten employees need not comply with the (b)(1) requirements for keeping a written safety and health program.

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§12-60 Exhibit A:

- Beryllium and beryllium compounds (as Be) PEL-TWA changed from 0.002 ppm to 0.0002 ppm, PEL-STEL changed from 0.005 ppm to 0.002 ppm, and PEL-CEILING changed from 0.025 ppm to 0.005 ppm.
- Silica, crystalline cristobalite (as quartz), respirable dust PEL-TWA* changed from 0.05 mg/m³ to see §1910.1053.
- Silica, crystalline quartz (as quartz), respirable dust PEL-TWA* changed from 0.1 mg/m³ to see §1910.1053.
- Silica, crystalline tripoli (as quartz), respirable dust PEL-TWA* changed from 0.1 mg/m³ to see §1910.1053.
- Silica, crystalline tridymite (as quartz), respirable dust PEL-TWA* changed from 0.05 mg/m³ to see §1910.1053.
- Silica, fused, respirable dust PEL-TWA* changed from 0.01 mg/m³ to see §1910.1053.
- Silicates Talc (containing asbestos) and Tremolite corrected to read See §1910.1001.

§12-60 Exhibit B:

Beryllium and beryllium compounds (as Be) 8-hour time-weighted average changed from 2 µg/m³ to 0.0002 ppm, Ceiling Concentration changed from 5 µg/m³ to 0.005 ppm.

§12-110-2: Addition of an exception. Employers with less than ten employees need not comply with the (b)(1) requirements for keeping a written safety and health program.

§12-110-3: Addition of an exception: Projects employing less than 3 persons, need not comply with keeping written records of the daily safety and health inspections (shall be kept on the project site for review by the director for the duration of the project).



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HAWAII LEGISLATION

For FY18, there was no legislation passed through the State of Hawaii that directly affected the HIOSH program.

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