

CHAPTER I

GENERAL RESPONSIBILITIES AND ADMINISTRATIVE PROCEDURES

A. Director (State Designee).

1. General. The director, DLIR, having been designated by the governor to head the Hawaii occupational safety and health program, is also known as the state designee.
2. Responsibilities. The director establishes program policy and direction, and represents the program before the State legislature and in national forums, as required.

B. Administrator.

1. General. The administrator has been delegated authority to administer the Hawaii occupational safety and health program in accordance with the Law, rules, and standards and within the policies established by the director.
2. Responsibilities. The administrator is responsible for the administration of the Hawaii Occupational Safety and Health (OSH) program and for providing specific direction and policy interpretation. When directed, the administrator will act for the director in program matters.
3. Duties. The following are some, but not necessarily all, of the administrator's specific duties:
 - a. Provide general supervision and policy guidance to branch managers;
 - b. Preside, or designate someone to preside, at informal conferences;
 - c. Provide administrative interpretation of OSH rules and standards, when required;
 - d. Evaluate the findings resulting from discrimination investigations or inspections involving possible wilful violations and issue appropriate orders or citations;
 - e. Monitor the design and use of the inspection scheduling system (ISS) and management information system (MIS);
 - f. Insure the maintenance of adequate qualified personnel through appropriate training and technical support;
 - g. Insure adequate legal representation during contested cases;
 - h. Represent the program interests to the State legislature and in other forums, as directed; and

- i. Evaluate and resolve scheduling conflicts between enforcement and consultation visits.

C. Compliance Branch Managers.

1. General. The compliance branch managers have been delegated authority by the administrator to implement and maintain the routine enforcement elements of the Hawaii OSH program.
2. Responsibilities. The compliance branch managers are responsible for implementing the enforcement program policies and procedures, and for supervising the performance of the field and administrative support staff.
3. The following are some, but not necessarily all, of the compliance branch managers' responsibilities:
 - a. Schedule compliance inspectors in accordance with procedures and priorities established in chapter II of the Field Operations Manual (FOM);
 - b. Review inspection reports to ensure uniform and equitable application of the rules and standards and to approve citations and proposed penalties for the administrator (this includes forwarding items to the branch manager of the opposite discipline for review whenever items from that discipline are addressed);
 - c. Ensure that an inspection case file is established and maintained for each inspection, containing all appropriate documents pertaining to the case, including an inspection case file activity diary (HIOSHL-40) comprising a chronological record of significant actions taken affecting the case;
 - d. Evaluate petitions for modification of abatement periods and take appropriate action;
 - e. Evaluate complaints, determine validity, and initiate action appropriate to the gravity of the circumstances;
 - f. Advise the administrator immediately in all cases involving discrimination or apparent willfulness;
 - g. Initiate investigations into alleged discrimination and apparent willfulness as directed by the administrator;
 - h. Advise the administrator immediately in all cases involving a denial of entry, a fatal industrial accident, or a catastrophic happening, and initiate the mutually determined appropriate action;
 - i. Coordinate to ensure standardization of procedures and rules in each compliance branch;
 - j. Exercise special care to ensure that all employee rights are preserved including the right to remain anonymous;

- k. Issue spoken or written statements to the public which are necessary to interpret the Law, rules, standards, or program policies but only with the express approval of the administrator; and
- l. Insure conflicts between inspection and consultation visits are resolved through an agreement reached between the respective branch managers.

D. Supervisor.

1. General. The Field Supervisor has first level supervisory responsibility over compliance officers in the discharge of their duties.
2. Responsibilities. The supervisor exercises responsibility under the authority of the branch manager. The following are among the specific duties of the supervisor:
 - a. Reviewing the work products of compliance officers under supervision for technical adequacy in applying the policies and procedures in effect in the agency, accepting, amending, or rejecting them as appropriate (This includes forwarding such products to a supervisor of the opposite discipline for review whenever items from that discipline are addressed.);
 - b. Evaluating the performance, including an annual on-the-job evaluation of compliance officers under supervision;
 - c. Advising, counseling, and instructing compliance officers under supervision of DOSH policies, procedures, and administrative matters;
 - d. Ensuring that compliance officers have available all report forms and handouts in sufficient quantity for use in inspections; that necessary personal protective equipment is available for use and in serviceable condition; that test equipment required for inspections is properly calibrated and ready for use when needed; and that compliance officers are trained in the field use of such equipment;
 - e. Developing, scheduling, and executing training to upgrade the knowledge and skills of compliance officers under supervision;
 - f. Evaluating incoming complaints and referrals, establishing priorities among inspection categories, scheduling programmed and unprogrammed inspections in accordance with the targeting procedures outlined in chapter II, and ensuring that adherence to targeting procedures is adequately documented;
 - g. Recommending and initiating work methods, organizational alignment, and the structure of work to achieve optimum utilization of available resources;
 - h. Participating in informal conferences, as appropriate, and generally offering advice and consultation to the branch manager on program and procedural issues; and

- i. Providing abatement assistance to employers by arranging for off-site consultation services, workshops, etc., in response to inquiries from employer or employee groups or members of the interested public.

E. OSH Compliance Officers.

1. General. An effective OSH program is dependent on the effectiveness of the compliance officers since they are the primary program representatives in the public eye.
2. Responsibilities. The compliance officer's responsibilities are necessarily extensive and encompass, but are not limited to: thorough and effective inspections; identification of all hazards in the work environment; counseling and advising employers on correction methods; and professional conduct at all times, befitting an agent of the State.
3. Performance and Procedures. The bulk of this FOM is devoted to discussion of the compliance officer's specific duties; therefore, the following addresses performance and procedures of broad application.
 - a. Conduct at all times must be in accordance with the highest of ethical codes.
 - b. Behavior should, at all times, reflect impartiality, consistency, and courtesy.
 - c. The position title of compliance officer commands great respect with many individuals. Therefore, limit counsel and advice to the public to program matters and technical explanations of a non-controversial nature. Refer all inquiries requiring interpretation of the Law, standards, or program policies to the branch manager.
 - d. If served with a subpoena or another type of court order related to official duties, refer the matter through the branch manager to the administrator, who will coordinate appropriate action with the deputy attorney general and provide instructions.
 - e. All inspection work papers (i.e., notes, memoranda, or other written records), made by or obtained by the compliance officer in the course of an inspection, become part of the official record and property of the State and shall be included in the case file.

F. All Other Division Personnel.

1. General. This FOM is intended primarily for use by compliance officers; however, all division personnel, regardless of position, support the compliance effort directly or indirectly and must therefore be familiar with the FOM. The following are general responsibilities that apply to all staff support personnel as well as field personnel.
2. Responsibilities. All division personnel must adhere to the rules of conduct for State employees and must also carry out responsibilities with courtesy and tact,

mindful that affected public members may not understand or support the need for the regulatory process.

- a. Division personnel may not accept goods or services of value from any source if the acceptance might reasonably be construed as an effort to influence the impartial administration of the Law, rules, or standards.
- b. Written communication concerning interpretations or application policies of the Law, rules, and standards shall be signed by the administrator.
- c. With the exception of the Citation and Notification of Penalty (HIOSHL-2 Form) all other information contained in a compliance investigation or inspection is confidential according to Section 396-14, HRS. By court interpretation, certain parts of the report may be released only by the administrator. All inquiries regarding inspection findings shall be referred to the branch manager, who may clarify or amplify inspection findings to affected employers and employees. When any question arises regarding properness of responding to an inquiry, the branch manager will refer the matter to the administrator. (See Chapter XIV for document disclosure.)
- d. The compliance-consultation communication is, by program design, a one-way communication channel. The consultation project folder and any communication with the employer is confidential and not releasable to the public or to anyone associated with the compliance program. On the other hand, the information contained in the case files is available to consultants to aid in their consultation effort, subject to Section 396-14, HRS, guidance.
- e. Division personnel shall not attempt to respond to inquiries or requests that pertain to other DLIR or State programs. If confident that your information is accurate, refer the inquiry to the appropriate office. If not, refer the inquiry to the information specialist or branch manager.