

JOSH GREEN, MD
GOVERNOR

SYLVIA LUKE
LIEUTENANT GOVERNOR



JADE T. BUTAY
DIRECTOR

DEPT. COMM. NO. 354
WILLIAM G. KUNSTMAN
DEPUTY DIRECTOR

STATE OF HAWAII
KA MOKU'ĀINA O HAWAII
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
KA 'OIHANA PONO LIMAHANA
830 PUNCHBOWL STREET, ROOM 321
HONOLULU, HAWAII 96813

January 24, 2023

The Honorable Ronald D. Kouchi,
President and Members of the Senate
Thirty-Second Legislature
State Capitol, Room 409
Honolulu, HI 96813

The Honorable Scott K. Saiki
Speaker and Members House of
Representatives
Thirty-Second Legislature
State Capitol, Rm 431
Honolulu, HI 96813

Dear President Kouchi, Speaker Saiki, and Members of the Legislature:

For your information and consideration, I am transmitting a copy of the Hawaii Occupational Safety and Health Division's (HIOSH) Penalty Adjustment Report for the fiscal year ending June 30, 2022, as required by section 396-10(o), Hawaii Revised Statutes (HRS).

In accordance with section 93-16, HRS, I am also informing you that the report may be viewed electronically at <http://labor.hawaii.gov/find-a-report/>.

Sincerely,

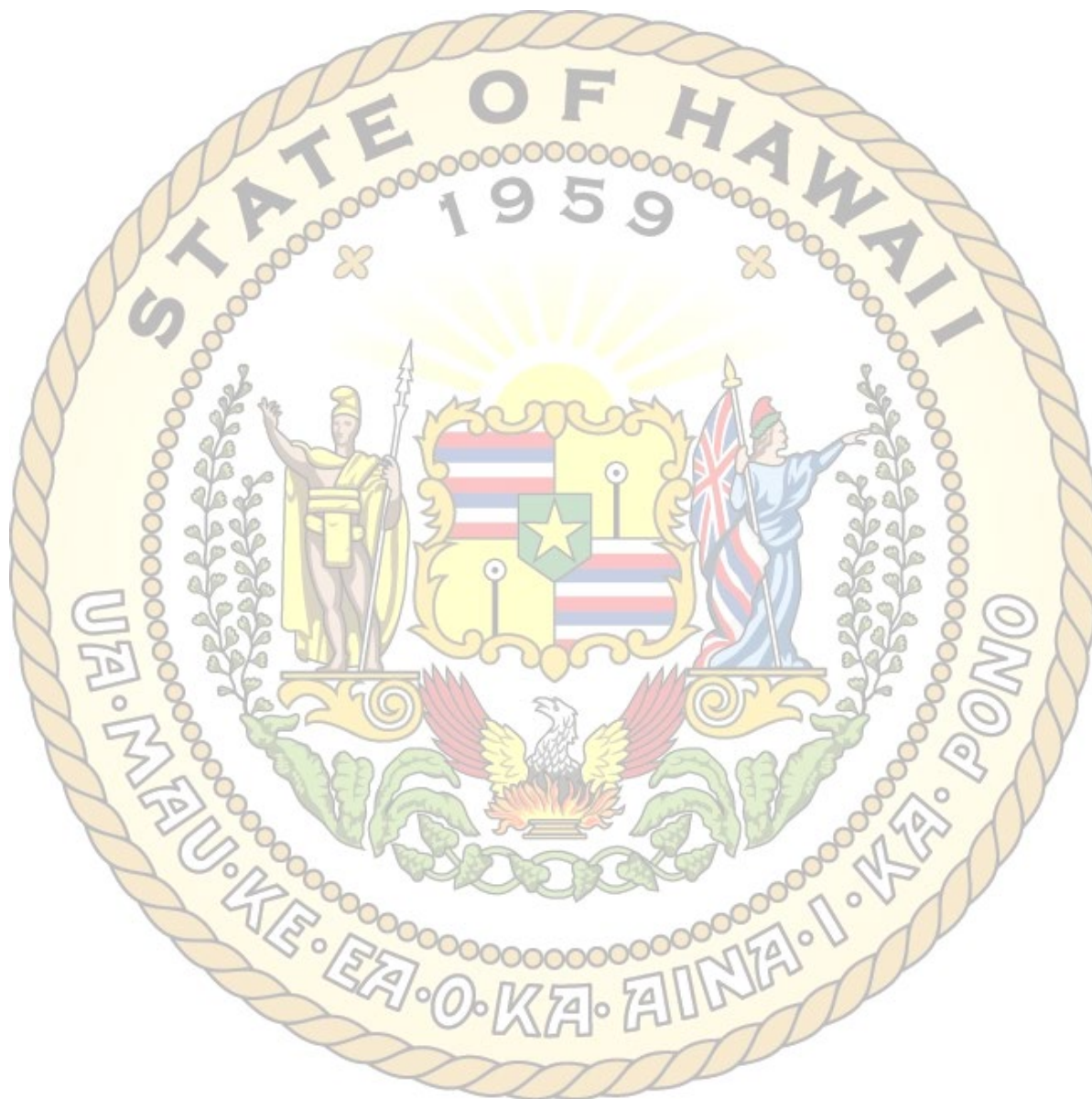
Jade T. Butay
Director

Enclosure

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HAWAII OCCUPATIONAL SAFETY AND HEALTH DIVISION

2023 PENALTY ADJUSTMEN REPORT



Department of Labor and Industrial Relations

STATE OF HAWAII
JOSH GREEN, M.D., Governor
SYLVIA LUKE, Lt. Governor

DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
JADE T. BUTAY, Director
WILLIAM G. KUNSTMAN, Deputy Director

OCCUPATIONAL SAFETY AND HEALTH DIVISION
NORMAN AHU, Administrator

I. INTRODUCTION

Pursuant to Hawaii Occupational Safety and Health Law, Chapter 396, Hawaii Revised Statutes (HRS), the Director of Labor and Industrial Relations (DLIR), "...shall submit a report to the legislature no later than twenty days prior to the convening of each regular session on the penalty adjustments."

II. BACKGROUND

In 2015, Congress passed the Federal Civil Penalties Inflation Adjustment Act Improvements Act (Act) to advance the effectiveness of civil monetary penalties and to maintain their deterrent effect. Under the Act, agencies are required to publish "catch-up" rules that adjust the level of civil monetary penalties and make subsequent annual adjustments for inflation no later than January 15 of each year.

The Occupational Safety and Health Act of 1970 requires that states with state plans "must set standards that are at least as effective as the equivalent Federal standard." To be in compliance with this condition, HIOSH adopted the requirements of the Congressional Act and annual civil monetary penalties adjustment that is based on the Consumer Price Index for all Urban Consumers (CPI-U).

Act 126 (SLH, 2017) provides for HIOSH compliance with the Congressional Act, and the Director of Labor and Industrial Relations is required to submit a report to the legislature on the penalty adjustments pursuant to 396-10(o), HRS:

(o) The director shall adjust penalties pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, section 701 of P.L. 114-74, by December 15, 2018, and each year thereafter. The director shall adjust penalty levels using the guidance of the Office of Management and Budget and issue the new penalties by December 15 of each year. The new penalties shall take effect the following January 15 of each year. The director shall submit a report to the legislature no later than twenty days prior to the convening of each regular session on the penalty adjustments.

The Federal Register announcing the Federal Civil Penalties Inflation Adjustment Act Annual Adjustments for 2023 was published on January 13, 2023 with an effective date of January 15, 2023. [Federal Register :: Federal Civil Penalties Inflation Adjustment Act Annual Adjustments for 2023](#)

III. HIOSH PENALTIES FOR 2023

Below are the **maximum** penalty amounts with the annual adjustment for inflation, that may be assessed after January 15, 2023.

Type of Violation	Penalty
Serious Other-Than-Serious Posting Requirements	\$15,625 per violation
Failure to Abate	\$15,625 per day beyond the abatement date
Willful or Repeat	\$156,259 per violation

Penalty amounts may be adjusted for size (number of employees) of the employer, the gravity or seriousness of the violation, and the probability of injury occurring.

IV. PENALTIES CONTRIBUTION TO THE STATE GENERAL FUND

The civil penalties collected are initially deposited into the labor law enforcement special fund pursuant to 371-12.5(3), HRS. After certain penalty collection expenses by the Attorney General's Office are covered, the balance is deposited to the State General Fund. The following table identifies the amounts collected and deposited to the State General Fund:

Year	Collection Amount	Deposit to State General Funds
FY2020	\$2,729,274	\$2,519,255
FY2021	\$1,438,862	\$1,438,862
FY2022	\$1,767,481	\$1,767,481