

**Appendix B**  
**Iowa State Plan**  
**FY 2010 EFAME Follow-up Report Prepared by Region VII**  
**Status of FY 2009 EFAME Findings, Recommendations, and Corrective Actions**

Rec #	Findings	Recommendations	Corrective Action Plan	State Action Taken	Status
09-1	Iowa periodically sees a reduction in fatalities but the average number of fatalities for the past eleven (11) years is twenty (20). Seven (7) of eleven (11) years (64%) have experienced more than twenty (20) fatalities. Beginning in FY 2003 every year experienced more than 20 workplace fatalities.	Review the previous ten (10) years of fatality data and compare this to the fatality rates for construction and general industry. After the evaluation, develop enforcement and compliance assistance programs to target industries or hazards associated with the fatalities which have occurred during the previous ten (10) years.	Iowa OSHA will collate Iowa fatality data from Bureau of Labor Statistics (BLS), Iowa OSHA Strategic Planning and Federal OSHA fatality analysis studies and will develop a table that lists findings. Iowa OSHSHA will then compare findings to determine if there are trends in fatal hazards in Iowa's work-places and then develop new or continue existing Iowa OSHA targeting programs that address identified fatal workplace hazards.	Iowa completed an analysis in April 2011 of fatality data for as far back as 1998 and identified 3 groups of fatalities: falls, crushed by and struck by. Given this data, Iowa has adjusted their process of identifying a constantly moving fatality statistic. Iowa OSHA reviews the data no less than annually and the Des Moines Area Office continues to work with Iowa OSHA during quarterly meetings to monitor their fatality rates.	Complete
09-2	Iowa OSHA did not ensure that adequate abatement was received for all phone and fax investigations.	Review with employees, who review abatements for phone and fax complaints, the FOM and what is considered adequate abatement.	Iowa OSHA will develop a Complaint and Referral Processing tracking sheet which will accompany each phone and fax intervention and retrain the single duty officer in the FOM and the abatement process.	Iowa created a phone fax tracking sheet for use with all non-formal complaints and has implemented its use. During upcoming quarterly monitoring meetings, OSHA will conduct a brief sampling of non-formal complaint case files to ensure that the forms are being used to ensure adequate abatement.	Complete
09-3	The IMMLANG policy is not consistently followed.	Review the IMMLANG policy with all employees and ensure that information is entered into the IMIS system.	Iowa OSHA PSE2 supervisors have reviewed the IMMLANG policy and become more diligent in reviewing the OSHA 1s for accuracy. Iowa OSHA administrative support staff will be trained to edit OSHA 1s for coding and will inform supervisors of potential missing items. Iowa OSHA will also include refresher training for all compliance officers in the IMMLANG policy by December 2010.	This matter was addressed by Iowa managers and administrative staff immediately following the original 2009 Efame, which was conducted in February 2010. At that time, Iowa OSHA initiated and currently maintains fatality file review to ensure the IMMLANG policy is complied with. The DMAO monitoring included an interview with a supervisor to ensure he was familiar with the policy and its requirements. When questioned, the supervisor was intimately familiar with the policy. In addition, a fatality inspection case file was randomly selected and reviewed and found to be in compliance with the policy.	Complete

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09-4	Families of victims are not always contacted when a fatality investigation is initiated, citations are issued, a settlement conference is held or when the case is closed. There is limited additional communication with family members once the investigation has begun.	We suggest communication with families when the investigation is initiated, when citations are issued, when informal settlement agreements are signed, when the case is contested and when the case is closed. Additionally, a tracking system should be developed and implemented to help ensure that required correspondence is sent to families of victims.	Since the final E-Fame was made available, Iowa OSHA has initiated the development and implementation of a spreadsheet to track the letters sent to the family of the victim to ensure appropriate letters as indicated in column B are sent in a timely manner.	The administrative person assigned to this duty was interviewed and she was asked to describe the agency's process for ensuring the family of victims had been identified and contacted as required during fatality inspections. The administrative person accurately described a process that was initiated by Iowa OSHA as a corrective action in April 2011. In addition, the administrative person tracks letters by way of electronic spreadsheet.	Complete
09-5	LEP and NEP inspections were not coded properly in the IMIS system.	Provide refresher training to all employees on LEP and NEP program and IMIS requirements.	Iowa OSHA will become more diligent in reviewing OSHA 1s for accuracy and will include reviewing the LEP and NEP inspection codes with the inspectors in each quarterly meeting.	Iowa OSHA has initiated running Inspection Summary Reports to identify LEP codes and then making necessary corrections to the affected case files when found. In addition this matter is now included as a discussion topic for regularly scheduled quarterly meetings. Managers have issued instructions to all persons not to use the two LEP codes that are currently in the drop down menu. The process for removing the two codes is still in process. A supervisor was interviewed and was aware of the two out of date codes and the need to not use them. The out of date codes are: BLOOD and SW2000. This process will be completed upon removal of the two out of dated codes in the IMIS.	Complete
09-6	Excessive and inappropriate grouping issues were identified.	Iowa OSHA must review its current citation grouping policies and procedures and issue citations in accordance with its FOM.	Iowa OSHA will become more diligent in reviewing OSHA 1B's for accuracy and ensure the FOM is followed with regards to grouping.	Supervisors have been advised of this E fame issue as far back as April 2010 and have undertaken a program of file review and inspector training to ensure the FOM requirements are being followed. A supervisor was interviewed and he stated that he has	Complete

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				instructed his compliance staff to refer to the FOM regarding grouping and if a doubt exists to not use grouping. The supervisor also indicated if his compliance staff have any questions or are unable to make the determination the supervisor will then make the final determination about the use of grouping. Case files were chosen at random and the supervisor illustrated how citations issued in those files were properly grouped or not grouped and defended his position in light of the requirements of the FOM.	
09-7	Fifty-three percent (53%) of the programmed safety inspections resulted in Serious/Willful/Repeat violations.	(Repeat) Iowa OSHA must evaluate its safety targeting system and make modification to ensure that its limited resources are inspecting locations where serious hazards are present. Iowa OSHA must also ensure that violations are being classified in accordance with the FOM and other policy directives.	Iowa OSHA will become more diligent in reviewing OSHA 1b's for accuracy and to ensure citations are properly classified according to the FOM.	As a result of the 2009 Efame, supervisors have become more diligent in properly classifying citations. A supervisor was interviewed and was asked about citation classification. His response was that information was sent to all CSHO's about classification criteria as required by the FOM via email and .pdf. The supervisor stated he has been more diligent in reviewing the 1B's and requires CSHO's to explain their assessment classification in writing in the 1B. In addition, the most recent documentation contained in the first six month SAMM report indicated Iowa OSHA has issued 66% SWR which is 13% more that originally reported in the 2009 Efame.	Complete
09-8	In 35 percent of the cases reviewed, hazards that were identified during inspections were not addressed in citations or a letter to the employer.	All hazards identified during inspections must be addressed. Case files must be reviewed more thoroughly including review of photographs for hazards not identified or addressed by CSHO's.	Supervisors have instituted a photo review process which is now included in the initial case file review. Conditions noted in photographs that may constitute citations or letters to the employer are addressed with the compliance officer for	Since April 2010, supervisors have become more diligent in addressing hazards that may have been overlooked by reviewing case file photographs. One supervisor was interviewed and he stated the program was successful. Two case files were randomly	Complete

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			validity and possible issuance prior to issuing the case file.	selected and the file photos were reviewed to ensure any apparent hazards were address by citation or letter.	
09-9	Employees are unclear what constitutes employer knowledge to document a prima facie case.	Iowa OSHA must work with the legal staff to provide training to employees to ensure violations are supportable and have all elements for a prima facie case.	The field staff supervisors will ensure the case files with citations contain all documents and necessary employee statements to ensure elements for a prima facie case are present and are factors that constitute supportable violations.	Iowa OSHA has conducted CSHO training to ensure each supervisor and CSHO has the ability to discover and document Employer Knowledge as required to establish the prima facie in an inspection. A supervisor was selected at random and was interviewed about this matter and successfully described prima facia and was able to successfully describe information necessary to establish employer knowledge. A CSHO was interviewed and he stated he recently had taken the legal aspects class at OTI and the matter was discussed and he accurately described prima facie as evidence, information and documentation adequate to sustain a citation. The CSHO went on to successfully describe employer knowledge. A case file was selected at random and reviewed for employer knowledge, item 23 in the OSHA 1B, employer knowledge and that information was adequately described.	Complete
09-10	Severity assessments are inaccurate which result in incorrect penalty assessments. Other than serious violations had injuries and illnesses described as eye injuries and hearing loss which should have been classified as serious. In addition machine guarding and fall	Iowa OSHA must review the FOM requirements for severity assessments with employees and ensure that severity assessments are evaluated during case file reviews conducted by PSE2s	Iowa OSHA will review its severity assessment policies and procedures and issue citations in accordance with its FOM.	This matter has been addressed by supervisors shortly after the 2009 E fame and follows closely with Item #7 of this report. Supervisors have since reviewed OSHA 1B's and communicated their suggestion to CSHO's regarding severity assessment. This process is considered to be instrumental in the increase of SWR citations as discussed in Item #7 of this report. A case file was selected at random and the	Complete

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	protection violations were classified as other-than-serious and should have been classified as serious.			citation classifications for the nature of the citations issued were reviewed and there were no apparent citation misclassifications.	
09-11	The Open Inspection Report is not effectively utilized to track cases with incomplete abatement with twenty-three percent (23%) of the cases having abatement more than thirty (30) days past due.	Iowa OSHA must develop a procedure to analyze the Open Inspection Report, identify cases with past due abatement and obtain timely abatement.	Since this report was issued, Iowa OSHA support staff has been running 3 IMIS reports automatically each Friday: Cases with Citations Pending, Employer Response due for Non-formal Complaints, and Unsatisfied Activities Report. The IMIS Open Case Report is also run manually on Friday. These four reports are discussed at the Monday morning staff meetings.	Iowa OSHA runs the Open Inspection Report twice monthly and that report is provided to the supervisors for their review. The most recent reports were provided and their run dates were April 8 and April 22. A supervisor was interviewed and he verified he uses the report to track overdue abatement.	Complete
09-12	Abatement dates are not assigned in accordance with the FIRM.	Provide training to employees on the current FOM and other adopted directives to ensure that abatement dates are assigned in accordance with current policy.	Training and review of the FOM and other adopted directives is conducted during inspector meetings including abatement practices and time frames	A supervisor was interviewed and he verified that inspector meetings are periodically conducted and a wide variety of matters are discussed, one of which is determining abatement time frames. The supervisor stated that CSHO's are relied upon to use sound judgment in establishing abatement time frames and that CSHO's encourage employers to abate while the CSHO is onsite. When this is not possible CSHO's enter into a dialogue with employers to abate citations as quickly as possible.	Complete
09-13	Iowa OSHA does not conduct follow-up inspections when they are indicated.	Iowa OSHA must evaluate the Candidates from the Follow-Up Inspection Report to identify inspections without adequate abatement and where follow-up inspections could be conducted.		Iowa OSHA conducted 5 (five) follow up inspections during FY 2010. A supervisor was interviewed and he stated the inspections targeted employers who provided inadequate or overdue abatement. In this current FY, Iowa OSHA has started scheduling follow-ups and has one scheduled for April 25, 2011.	Complete
09-14	The LEP table included inactive LEP codes for use	Update the IMIS LEP tables to reflect active LEPs and ensure proper	Iowa NCR Administrator will contact the National Office to ensure that the	Iowa OSHA contacted the National Office on 22 April 2011 and requested	Complete

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	by employees.	IMIS coding.	IMIS codes are current and updated. During the interim, all CSHO's have been informed about obsolete LEP's.	assistance removing the inactive LEP codes. This item has not yet been completed.	
<b>09-15</b>	The TRC and DART rates for public sector employers are higher than private sector employers and Iowa OSHA conducts approximately twenty (20) inspections in the public sector each year.	Iowa OSHA must identify a targeting measure to address the high incidence rates for public sector employers.	Iowa OSHA will review BLS rates for public sector employers to identify where the injuries and illnesses are occurring and take appropriate targeting action.	Iowa OSHA has dedicated time and resources by their administrative and enforcement staff to research and study this matter. They have accumulated accident and injury data for the public and private sectors and have assimilated this data into spreadsheets and charting in order to develop a process to address this item. This matter is ongoing and requires review at least annually to redirect resources to the necessary inspection and consultation areas.	Complete
<b>09-16</b>	Iowa has experienced a reduction in the TRC and DART rates for private sector employers, but the rates still remain above the national rates for employers.	Iowa OSHA must identify enforcement activities that will reduce TRC and DART rates for private industry.	Iowa OSHA will review BLS rates for public sector employers to identify where the injuries and illnesses are occurring and take appropriate targeting action.	Iowa OSHA has dedicated time and resources by their administrative and enforcement staff to research and study this matter. They have accumulated accident and injury data for the public and private sectors and have assimilated this data into spreadsheets and charting in order to develop a process to address this item. This matter is ongoing and requires review at least annually to redirect resources to the necessary inspection and consultation areas.	Complete
<b>09-17</b>	Notifications for Federal Program Changes were not provided by the specified dates.	Iowa OSHA must implement a procedure to ensure that Federal Program Change notifications are provided by the specified date.	Staff assignments will be made to ensure that future Federal Program changes will be responded to on a timely basis.	The most recent Federal Program Change responses were submitted by Iowa OSHA within the prescribed time frame and the log is currently up to date. This item is typically discussed at each quarterly meeting and a procedure has previously been established with DMAO to ensure the changes are acted upon in the prescribed time frame.	Complete

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09-18	Yearly partnership evaluations were not completed and placed in the partnership files.	Complete the yearly evaluations in accordance IOSH Instruction CSP 03-02-002 and place in the partnership file.	The Compliance Assistant Specialist is currently working to complete the four yearly evaluations that are past due and will continue to keep them completed on timely basis and placed in the partnership files.	The Compliance Assistance Specialist was interviewed and the partnership file was examined. The file for terminated partnerships was reviewed and there was a final report for each of the closed partnerships. The active partnership file was reviewed and of those partnerships that were at least one year old there was a current annual review on file.	Complete
09-19	Partnership employers were not required to provide notification to Iowa OSHA abatement information for hazards identified during non-enforcement on-site visits.	Request that partnership employers submit documentation to Iowa OSHA of abatement actions taken for hazards identified during non-enforcement verification inspections.	The Compliance Assistance Specialist has developed a standard document to track corrective actions taken by the employer and has initiated the process.	Three partnership files were selected at random and reviewed. Each file contained documentation from the employer regarding hazardous conditions that had been observed during the non-enforcement visits and they verified corrective action had been taken. One file contained very descriptive photographs of the corrected conditions.	Complete
09-20	Employers were not provided with formal notification of receipt of their VPP applications.	Provide formal acknowledgement of receipt of the application within fifteen (15) days of receipt. This should be completed in accordance with CSP 03-01-003.	Iowa OSHA will review the CSP 03-01-003 and ensure compliance with this document. Iowa OSHA will also ensure that notification of receipt of VPP applications is done within fifteen (15) days.	The Consultation Education Secretary and the Consultation Education Supervisor were interviewed. The supervisor stated he was aware of the requirement and of the notification period. The supervisor produced the two VPP applications his department had received since November 2010 and in each case, a response letter was sent within the required time frame.	Complete
09-21	Iowa OSHA did not utilize 90 day items to ensure uncontrolled hazards were corrected prior to the final on-site evaluation report.	Implement the use of 90 day items to ensure uncontrolled hazards are corrected prior to the final on-site evaluation report.	In addition to the current on-site verification of communicated hazards to the employer, Iowa OSHA will incorporate the 90 day items into a draft report sent to the employer.	The Consultation and Education Supervisor and The Consultation and Education Administrative Person were interviewed and stated the 90-day items are now included in the VPP draft report to the employer and the employers response verifies corrective action. A file was selected at random and the site report checklist was in the	Complete

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				file and the employer's response to the 90-day list was in the file.	
09-22	Iowa OSHA employees have not received all required training.	Iowa OSHA must review their training directive IOSH Instruction TED 01-00-018 and ensure that employees receive the required training.	The Iowa OSHA Administrator and supervisors will look at each of their individual employee's training status. An excel spreadsheet will be used to track training with special emphasis given to ensuring the core courses for new CSHO's are given priority status.	The completion date for this item was negotiated for May 30, 2011. Completion of this item will be discussed at the August Quarterly Meeting at which time all CSHO required training will be reviewed and priorities will be established.	Not Complete
09-23	No IDPs were developed for Iowa OSHA personnel.	Iowa OSHA must work with compliance officers to develop initial IDPs and update them annually.	Supervisors will complete IDP's for each employee in their work group which will project their employee's suggested training path in advance for a 5 year period. The IDP's will be revisited at the end of each fiscal year for the purpose of updating and creating a new 5-year projection.	The negotiated time frame for completion of the IDP's was May 30, 2011. The completed documents will be reviewed at the August Quarterly meeting for completion.	Not Complete

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**11(c) Discrimination Program Review**  
**FY 2010 EFAME Follow-up Report Prepared by Region VII**  
**Status of Findings, Recommendations, and Corrective Actions**

Rec #	Findings	Recommendations	Corrective Action Plan	State Action Taken	Status
09-1	A copy of the closing letter to the Complainant was not provided to Federal OSHA upon completion of the dual filed complaint investigation.	Provide Federal OSHA with a copy of the closing letter to the Complainant upon completion of the dual filed complaint investigation.	The State of Iowa 11(c) program suffered a breakdown of its 11(c) process that resulted in findings 1-12 of this report. IOSHA will review its 11(c) program and processes and initiate a new program with a newly hired and trained 11(c) Investigator.	The State of Iowa 11c Investigator retired during the 3rd Quarter of FY 2010. Iowa hired a new 11(c) Investigator in the 4th Quarter. The Investigator completed the OSHA Basic Investigator Course, and continues On-the-Job Training. The Investigator began the process of properly initiating, developing and completing 11(c) investigations that follow current Federal OSHA guidelines and address Items 09-1 thru 09-11.	A Region VII Whistleblower Protection Program (WPP) Investigator conducted an assist visit with the new Iowa 11(c) Investigator. RVII WPP continues to provide program support as the Iowa Investigator gains experience and knowledge.
09-2	[47 percent] of 11(c) investigations were not completed within the 90 day goal.	Review the 11(c) investigation process and identify process improvements to ensure 11(c) investigations are completed within 90 days.	See Item 09-1	See Item 09-1	See Item 09-1
09-3	Adequate allegation summary statements were not entered into IMIS for all 11(c) cases and IMIS updates were not recorded to track all actions taken on each 11(c) case.	Draft adequate allegation summary statements for entry into IMIS which clearly convey Complainant's alleged protected activity and adverse action. Update IMIS entries for whistleblower cases as each new action occurs throughout the investigative and appeal stages until final case closure.	See Item 09-1	See Item 09-1	See Item 09-1
09-4	Adequate and timely opening letters were not provided to all Complainants and Respondents for notification purposes that a	Draft adequate opening letters and send or deliver them to the parties in a timely manner.	See Item 09-1	See Item 09-1	See Item 09-1

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### Discrimination Program

#### Status of FY 2009 EFAME Findings, Recommendations and Corrective Actions

Rec #	Findings	Recommendations	Corrective Action Plan	State Action Taken	Status
	whistleblower case had been opened for investigation.				
<b>09-5</b>	Face-to-face interviews were not conducted by the Investigator with all Complainants in a timely manner to obtain signed statements documenting detailed information as evidence in 11(c) cases.	Schedule a meeting of the investigator with the Complainant as soon as possible after a prima facie allegation has been presented in order to conduct a face-to-face interview and obtain a signed statement.	See Item 09-1	See Item 09-1	See Item 09-1
<b>09-6</b>	Adequate case file organization was not accomplished in all 11(c) case files.	Utilize adequate case file organization techniques to aid review of investigations.	See Item 09-1	See Item 09-1	See Item 09-1
<b>09-7</b>	Face-to-face interviews were not conducted by the Investigator with all relevant witnesses to obtain signed statements documenting detailed information as evidence in 11(c) cases. Documentation was not present on interview forms to verify that confidentiality was offered to non-management witnesses	Schedule a meeting of the Investigator with all relevant witnesses during the whistleblower investigation in order to conduct face-to-face interviews and obtain signed statements. Include a confidentiality statement on all non-management witness interview statement forms.	See Item 09-1	See Item 09-1	See Item 09-1
<b>09-8</b>	Settlement agreements were not negotiated and documented per established policies and procedures.	Accomplish early resolution of 11(c) complaints through implementation of established settlement agreement policies and procedures.	See Item 09-1	See Item 09-1	See Item 09-1

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### Discrimination Program

#### Status of FY 2009 EFAME Findings, Recommendations and Corrective Actions

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09-9	Adequate evaluation of the elements of a work refusal was not performed during the Investigation of a whistleblower complaint.	Conduct a thorough evaluation of all the elements of a work refusal in order to determine if a valid work refusal complaint has been filed.	See Item 09-1	See Item 09-1	See Item 09-1
09-10	Adequate Final Investigation Reports for 11(c) case files were not prepared per established policies and procedures.	Draft Final Investigation Reports that effectively communicate results of investigations as required by established policies and procedures.	See Item 09-1	See Item 09-1	See Item 09-1
09-11	Adequate documentary evidence was not gathered in all 11(c) cases to determine if a violation had occurred.	Seek and obtain all necessary documentary evidence to reach a conclusion.	See Item 09-1	See Item 09-1	See Item 09-1
09-12	IOSH Discrimination Program Investigators and Supervisors have not attended the most current 11(c) training provided by Federal OSHA.	Accomplish training for all IOSH Discrimination Program Investigators and Supervisors by enrolling in the OSHA Training Institute Course #1420 Basic Whistleblower Investigations - 11(c) in FY 10 or FY 11.	The State of Iowa 11(c) program suffered a breakdown of its 11(c) process that resulted in findings 1-12 of this report. IOWSHA will review its 11(c) program and processes and initiate a new program with a newly hired and trained 11(c) Investigator.	Close cooperation between Iowa OSHA and the Region 7 Supervisory 11c Investigator will ensure Iowa's 11c investigations will comply with Federal OSHA guidelines. Discussions continue between Region VII and Iowa OSHA regarding an agreeable training method for the Administrator and/or Legal Staff.	Neither Administrative Staff, nor Legal Staff have attended the OSHA 11C Training Course. RVII WPP continues to provide program support to assist Administrative and Legal Staff as necessary.