



IOWA WORKFORCE DEVELOPMENT
IOWA DIVISION OF LABOR
IOWA OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION
ENFORCEMENT AND CONSULTATION

Federal Annual Monitoring and Evaluation Report (FAME)
of the Iowa Occupational Safety and Health Administration

For the Period of: October 1, 2009 through September 30, 2010

Prepared by
The United States Department of Labor
Occupational Safety and Health Administration
Des Moines Area Office



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**U.S. Department of Labor
Occupational Safety and Health Administration**

**Iowa State Plan
FY 2010 Enhanced FAME Follow-up Report**

EXECUTIVE SUMMARY

This report, unlike previous annual FAME reports, seeks to primarily address Iowa OSHA's response to the FY 2009 Enhanced FAME Report (EFAME), the status of Iowa OSHA's Corrective Action Plan (CAP), and any noteworthy activities that occurred and any issues that arose during FY 2010.

Introduction:

The state of Iowa, under an agreement with federal OSHA, operates an occupational safety and health program in accordance with Section 18 of the *Occupational Safety and Health Act of 1970*. The state of Iowa Occupational Safety and Health Administration (Iowa OSHA) received certification on September 14, 1976, for completing all developmental steps as specified in the plan. Iowa OSHA was granted final approval status under Section 18(e) on July 2, 1985 and is an integral part of Region VII.

Iowa OSHA is a division of Iowa Labor Services which in turn is a division of Iowa Workforce Development. The Commissioner of Iowa Labor Services retired as of the writing of this report, and was replaced by the newly appointed Commissioner. The IOSH Administrator remains the same.

Iowa's total 23(g) grant expenditures for FY 2010 were \$4,394,074. This included Federal/State matching funds of \$2,066,500 and state overmatch funds of \$261,074. Iowa chose not to accept one time funds offered under the American Recovery and Reinvestment Act (ARRA) of 2009. However, the newly elected Governor recommended budget cuts for of up to fifteen percent (15%) for various state agencies.

Staffing levels were at the benchmark of thirteen (13) Industrial Hygienists and sixteen Safety Inspectors. These included three (3) Supervisors. Iowa OSHA continued to fill vacancies that were created due to the loss of personnel through retirement, or transfer. One notable personnel loss was that of the lone 11(c) Discrimination Investigator. However, the position was filled and 11(c) investigation activities resumed. Statewide,

the former Governor of Iowa implemented furloughs for state employees during FY 2010. The furloughs were staggered which allowed Iowa OSHA to continue to provide normal safety and health protection coverage to workers in Iowa.

The Iowa OSHA program functions similarly to Federal OSHA. Iowa injury and illness rates remained above the national average, but continued to decrease through 2010. Iowa works diligently with Region VII to compare and improve enforcement and inspection statistics. In addition, Federal OSHA standards are usually adopted identically or with minimal differences. Maritime standards which are within Federal OSHA retains jurisdiction for maritime standards.

Two (2) Complaints About State Program Administration (CASPA) were filed with Federal OSHA in FY 2010, and both were related to the Iowa OSHA Discrimination Program. One (1) additional Complaint About State Program Administration was filed with Federal OSHA in FY 2011 which contained a dual complaint addressing Iowa OSHA's discrimination program and its Health and Safety referral program.

Report Summary:

The FY 2009 EFAME identified twenty three (23) program deficiencies that included Iowa OSHA's inspection activity, IMIS information and training program. In addition, twelve (12) deficiencies were reported in the 11(c) discrimination program report. The FY 2009 EFAME Corrective Action Plan (CAP) was negotiated with Iowa OSHA and the proposal was transmitted through Region VII to DCSP in December 2010. The CAP received final approval in early March 2011.

Only two of the 23 program deficiencies identified in the FY 2009 EFAME remain incomplete. The items include employee training, and development of Individual Development Plans (IDPs). The negotiated time frame for completion of the employee training and IDP activities was May 30, 2011. Completion status of the two program deficiencies will be reviewed at the August Quarterly meeting.

Iowa OSHA moved forward dramatically with the 11c Discrimination Program. During FY 2010, Iowa OSHA's long time Discrimination Investigator retired. A new Investigator was hired and trained at the OSHA Training Institute (OTI). Region VII Whistleblower Protection Program Investigators provided program and technical support to the new Iowa Discrimination Investigator. An onsite assist visit occurred in early 2011. Activities included investigation and interview assistance, case file reviews and on the job training (OJT).

Monitoring Methodology:

The original baseline special evaluation for Iowa OSHA was conducted in two segments during the periods of January 25 - February 4, 2010 and March 2-3, 2010. The audit team utilized a random number table to select cases that involved inspections and investigations conducted from October 1, 2008 through September 30, 2009. Categories

included fatality investigations, complaint based inspections, and phone and fax complaint investigations. Additionally, the team randomly selected additional cases from the entire pool of remaining inspection and investigation cases for a total of fifty-four (54) cases. Interviews were conducted with Iowa OSHA personnel and including managers, supervisors, compliance officers, administrative support personnel, and an attorney.

Stakeholders were contacted for feedback on the program. Stakeholders made up of employer associations, minority employer associations, labor organizations, public employee labor organizations, and public employer associations were contacted for feedback on Iowa OSHA performance.

Iowa data contained in the Integrated Management Information System (IMIS) was examined. The team also evaluated Iowa OSHA's achievement of annual performance goals, state performance on mandated measures, Complaints About State Program Administration (CASPA), voluntary compliance programs and overall program administration. An audit of the discrimination program was also conducted. Iowa OSHA was cooperative, shared information and ensured staff was available to discuss cases, policies, and procedures. In addition, Iowa OSHA staff members were eager to work with the evaluation team.

The annual audit of the IOSH discrimination program was conducted during the week of March 1-5, 2010. The audit team utilized a random number table to select ten (10) whistleblower cases for review. Interviews were conducted with Iowa OSHA personnel including one (1) discrimination investigator and two (2) attorneys. The review of whistleblower cases focused on the organization of the case files, the methods used by the investigator to document evidence, and the manner in which the investigator summarized the evidence and applied the evidence to the elements of a whistleblower case. Other issues, such as jurisdiction, early resolution, and Complainant and Respondent notification, were also examined.

Monitoring Methodology for the FY 2010 EFAME Follow-up Report was primarily guided by and focused on the approved CAP which is contained in this report. In each of the thirty-five items listed in both appendices are evaluation parameters and completion dates. The results of the monitoring survey will be contained in the Executive Summary and in detail in Section 3 of this report, "Assessment of State Actions and Performance Improvements in Response to Recommendations from the FY 2009 EFAME".

MAJOR NEW ISSUES

The 2010 fall elections resulted in a new Governor for the State of Iowa. Another important change was the retirement of the current Commissioner of Labor and the swearing in of his replacement during the writing of this report in late April 2011. The past Commissioner was instrumental in securing matching funds for Iowa OSHA and brought the agency up the benchmark employment level.

Due to state budget shortfalls, the previous Governor considered mass layoffs. He offered concessions to the two unions representing employees working at Iowa OSHA. Safety and administrative personnel are represented by the American Federation of State County and Municipal Employees (AFSCME). AFSCME voted and those employees agreed to accept concessions which resulted in employees being required to take five (5) mandatory unpaid days (MUD) between November 30, 2009 and June 30, 2010. The Industrial Hygienists working at Iowa OSHA are represented by the Iowa United Professional Union (IUP) and they voted to not accept the concessions that were offered. The consequence of not accepting the Governor's concessions was the layoff of fifty-five (55) state employees represented by IUP. No Iowa OSHA Industrial Hygienists were affected by the layoffs, however. In addition, management employees were required to take seven (7) furlough days between November 30, 2009 and June 30, 2010. Furloughs were staggered which allowed Iowa OSHA to continuously provide safety and health protections to workers in Iowa. Salary increases and cost of living increases have been frozen for non-contract employees throughout the state during FY 2011.

PERFORMANCE ASSESSMENT IN RESPONSE TO FY 2009 EFAME

During the months of October thru December 2010, Iowa OSHA and the Des Moines Area OSHA Office (DMAO) were engaged in negotiations that addressed the issues found during the 2009 Enhanced Fame Report (EFAME). Those items are contained in Appendices B-1 and B-2. Corrective actions for all but one Discrimination Program item and appropriate timeframes for completion were negotiated. Region VII forwarded the Corrective Action Plan (CAP) to the Directorate of Cooperative and State Programs (DCSP) prior to the deadline date. DCSP then recommended the CAP be approved as it was submitted and on March 1, 2011, the Deputy Assistant Secretary tentatively approved the CAP. Iowa OSHA reviewed and accepted the final CAP without any further negotiation.

The state completed twenty-one (21) of twenty-three (23) action items as described on the FY 2010 Enhanced FAME Follow-up Report; Status of Findings, Recommendations, and Corrective Actions (Appendix B-1). In addition, due to the lengthened timelines of the FY 2009 EFAME and FY 2010 EFAME Follow-up Report, there were not any new Findings, Recommendation, and Corrective Actions that arose for the FY 2010 report (Appendix A).

DISCRIMINATION PROGRAM

The 2009 EFAME review of Iowa OSHA's Discrimination Program reported twelve (12) areas in need of review and corrective action. Iowa OSHA's State Response / Corrective Action reads: "The State of Iowa 11C program has suffered a breakdown of its 11C process that resulted in findings 1-12 of this report. IOSHA will review its 11C program and processes and initiate a new program with a newly hired and trained 11C investigator."

Iowa OSHA dramatically improved their Discrimination Program. Deficiencies with the program have been addressed by Iowa OSHA in its implementation of changes along recommended lines. The new Discrimination Investigator received formal training at the OSHA Training Institute and is now conducting independent investigations in a satisfactory manner. The next formal, comprehensive audit of the program will be conducted in the FY 2011 review. This is due to the insufficient number of completed cases available on which to audit their program this year. The cases that are completed, and are available have been opened and closed in FY 2011 which is not within the scope of this report.

FY 2010 ENFORCEMENT PROGRAM ASSESSMENT

The following sections discuss in detail Iowa OSHA's enforcement program as it relates to Federal/State IMIS comparison data, FY 2010 State Activity Mandated Measures (SAMM) and State Indicator Reports (SIR). The data illustrates Iowa OSHA's performance for FY 2009 compared to FY 2010.

State/Federal Enforcement Data Comparison:

Total Inspections: The total number of inspections conducted by Iowa OSHA during FY 2010 declined by 45 or 4.4% over the previous year while State Plan states declined 6.3% and Federal OSHA increased 5.0%. This decline may be partially attributable to furloughs and staff hiring during the year. In spite of this decrease, Iowa OSHA exceeded its Performance Goal #3.

Percentage of Safety Inspections: The percentage of Safety inspections conducted by Iowa OSHA declined slightly from 82% in FY 2009 to 79% in FY 2010.

Percentage of Health Inspections: The percentage of Health inspections conducted by Iowa OSHA increased slightly from 18% in FY 2009 to 21% in FY 2010.

Percentage of Complaint Inspections: The percentage of Complaint inspections conducted by Iowa OSHA increased slightly from 8% in FY 2009 to 11% in FY 2010. State Plans increased slightly from 14% in FY 2009 to 16% in FY 2010 and Federal OSHA increased slightly from 17% in FY 2009 to 20% in FY 2010.

Percentage of inspections where citations were issued: The percentage of Not In Compliance (NIC) inspections conducted by Iowa OSHA increased moderately from 66% in FY 2009 to 71% in FY 2010.

Total Violations: The number of violations cited by Iowa OSHA increased slightly from 2114 in FY 2009 to 2122 in FY 2010, an increase of 8. .

Total Penalties: Iowa OSHA's total penalty assessment for FY 2009 was \$1,908,952 and \$2,359,576 for FY 2010. The increased penalty amount of \$450,624 for FY 2010 represented a 23.6% increase in penalties.

Average Current Penalty / Serious Violation: Iowa OSHA's average penalty for serious violations increased from \$1,017.80 in FY 2009 to \$1,201.10 in FY 2010.

Percentage of Inspections with Contested Violations: Iowa OSHA's contest rate increased from 3.6% in FY 2009 to 8.8% in FY 2010.

Iowa OSHA SAMM Comparison FY 2009 and FY 2010:

The following State Activity Mandated Measures (SAMM) reviews and compares fifteen (15) SAMM measures during FY 2009 and FY 2010:

Discussion: Measures either Met or Failed to Meet their negotiated benchmark

Measure 1. (Met) During FY 2010, Iowa OSHA took 3.45 days to initiate a complaint inspection. This equates to a 15% increase from FY 2009. Both figures are well within the benchmark of five (5) days.

Measure 2. (Met) During FY 2010 and FY 2009, Iowa OSHA initiated complaint investigations within the one (1) day benchmark.

Measure 3. (Failed to Meet) During FY 2010, the percentage of complaints where the complainant was notified within the required time frame fell from 98.78% in FY 2009 to 97.25% in FY 2010.

Measure 4. (Met) During both fiscal years, Iowa OSHA responded to referrals or complaints of imminent danger at a 100% rate.

Measure 5. (Met) During FY 2010, Iowa OSHA experience a denial where entry was not obtained. A warrant was obtained and upon return to the site, the job was finished and no employees or employer was available.

Measure 6. (Failed to Meet by 0.25%) During FY 2010, Iowa OSHA increased the level of violation abatement verification in the private sector within specified time frames from 94.12% in FY 2009 to 99.75% FY 2010. Public sector verification remained at 100%.

Measure 7. (Met) The average lapse time for safety inspections increased slightly during FY 2010 from 29.24 days to 29.41 days. However, during FY 2010, the benchmark against which Iowa OSHA is measured, which is the previous year national average, increased from 43.8 days to 47.3 days.

(Met) The average lapse time for health inspections decreased in FY 2010 from 35.94 days to 32.69 days. However, during FY 2010, the benchmark against which Iowa OSHA is measured, which is the previous year national average, also decreased from 57.4 days to 51.7 days.

Measure 8. (Met) The percentage of safety programmed inspections where S,W,R violations were issued increased in FY 2010 from 53.4% to 60.46%. The benchmark remained relatively unchanged at 58.4%.

(Met) The percentage of health programmed inspections where S,W,R violations were issued increased in FY 2010 from 62.5% to 71.17%. The benchmark decreased slightly from 51.2% in FY 2009 to 50.9% in FY 2010.

Measure 9. (Met) The average number of violations per inspection where S,W or R were issued increased from 2.4 in FY 2009 to 2.55 in FY 2010. This represents a 6% increase. The benchmark remained the same at 2.1.

Measure 10. (Met) The average penalty per serious violation increased from \$1,412.35 in FY 2009 to \$1,642.21 in FY 2010. This represents a 16% increase. The benchmark, which is the three year national average rose 1.8% from \$1,335.20 in FY 2009 to \$1,360.40 in FY 2010.

Measure 11. (Met) The percentage of inspections conducted in the public sector rose from 1.98% in FY 2009 to 2.27% in FY 2010. The benchmark, which for this measure is the State of Iowa OSHA's three (3) year average declined from 2.5% in FY 2009 to 2.1% in FY 2010.

Measure 12. (Met) The average lapse time in days from receipt of contest to first level decision declined from 198.93 days in FY 2009 to 189.94 days in FY 2010. This represents a 4.5% decrease. The benchmark in this measure also decreased from 246.1 days in FY 2009 to 217.8 days in FY 2010. This represents a 11.5% decrease.

Measure 13. (Failed to Meet) The percentage of 11c discrimination investigations completed in 90 calendar days increased from 47.83% in FY 2009 to 63.64% in FY 2010. The benchmark for this measure is 100%. A dramatic increase is shown most probably due to the efforts of the newly hired and trained 11c investigator considering he inherited a significant outstanding case load from the previous investigator.

Measure 14. (Met) The percentage of 11c discrimination complaints found meritorious decreased from 30.43% in FY 2009 to 27.27% in FY 2010.

Measure 15. (Met) The percentage of meritorious 11c discrimination complaints that were settled increased from 71.43% in FY 2009 to 100% in FY 2010. The benchmark which is the three (3) year national average remained relatively unchanged at 86%.

Iowa OSHA SIR Comparison FY 2009 and FY 2010:

Measure C.1., Enforcement, private sector safety percentage programmed inspections: During FY 2009, 73.8% of Iowa OSHA's programmed inspections were safety related. During FY 2010, the rate was slightly less at 68.7%.

During FY 2009, 50.0% of their programmed inspections were health related. During FY 2010, the rate rose moderately to 59.2%.

Measure C.2., Enforcement, private sector safety inspections issued with S,W,R & O citations: During FY 2009, Iowa OSHA issued citations in 52.9% of inspections that were safety related. During FY 2010, the rate rose moderately to 58.6%.

During FY 2009, 52.7% of health related inspections resulted in citations. During FY 2010, the rate rose moderately to 69.1%.

Measure C.3., Enforcement, all sectors, percentage of serious violations: During FY 2009, Iowa OSHA issued Serious violations in 67.4% of their safety related inspections. During FY 2010, the rate increased to 72.1%.

During FY 2009, Iowa OSHA issued Serious violations in 56.1% of their health related inspections. During FY 2010, the rate increased slightly to 58.2%.

Measure C.7., Enforcement, Pre Contest Percentage of Violations Vacated: During FY 2009, Iowa OSHA vacated 3.7% of citations compared to the Federal OSHA rate of 5.1%. During FY 2010, Iowa OSHA vacated 2.8% of citations compared to the Federal OSHA rate of 4.7%.

Measure C.8., Enforcement, Percentage of Violations Reclassified: During FY 2009, Iowa OSHA reclassified 9.3% of citations compared to the Federal OSHA rate of 4.8%. During FY 2010, Iowa OSHA reclassified 10.2% of citations compared to the Federal OSHA rate of 4.0%.

Measure C.9., Enforcement, Pre Contest Penalty Retention: During FY 2009, Iowa OSHA's penalty retention rate was 49.1% compared to the Federal OSHA rate of 63.2%. During FY 2010, Iowa OSHA's penalty retention rate was 45.8% compared to the Federal OSHA rate of 63.0%.

Measure E.1., Post Contest, Percentage of Violations Vacated: During FY 2009, Iowa OSHA vacated 16.9% of citations compared to the Federal OSHA rate of 23.4%. During FY 2010, Iowa OSHA vacated 12.5% of citations compared to the Federal OSHA rate of 21.9%.

Measure E.2., Post Contest, Percentage of Violations Reclassified: During FY 2009, Iowa OSHA reclassified 20.4% of citations compared to the Federal OSHA rate of 15.1%. During FY 2010, Iowa OSHA reclassified 19.8% of citations compared to the Federal OSHA rate of 11.7%.

Measure E.3., Post Contest, Penalty Retention: During FY 2009, Iowa OSHA's penalty retention rate was 53.2% compared to Federal OSHA's rate of 58.5%. During FY 2010, Iowa OSHA's penalty retention rate improved substantially to 65.6% compared to Federal OSHA's rate of 58.1%.

OTHER NOTABLE INFORMATION

Standards Adoption:

There were four (4) standards that were to be adopted during FY 2010 that fell within the State of Iowa's jurisdiction. All were adopted within six (6) months.

Standard Number	Subject	Response Due Date	Date Response Received	Date Promulgated	Effective Date
1910.102	Acetylene – Direct Final Rule	01/11/2010	11/12/2010	01/13/2010	04/01/2010
1910,1926	Hexavalent Chromium - Direct Final Rule	07/19/2010	05/24/2010	07/10/2010	09/15/2010
1926.754	Safety Standards for Steel Erection Technical Amendment	07/20/10	05/24/2010	07/22/2010	09/15/2010
1910,1915 1917,1918	Updating OSHA Standards Based on National Consensus Standards; Personal Protective Equipment	11/20/2009	09/21/2009	11/25/2009	01/20/2010

Complaint About State Plan Administration CASPA:

One (1) CASPA, #2011-16 was initiated on December 10, 2010. This CASPA while complex in nature was not considered “Significant” in that it did not raise issues that warranted broader agency awareness or notification to the National Office. This CASPA had its origins on or about October 13, 2009 when the Complainant believed he was discriminated against for alleged protected activity arising from health and safety issues at a work site. The CASPA complains that the State of Iowa OSHA failed to respond to the Complainant's health and safety referral as well as his 11c discrimination. The CASPA investigation was completed on or about March 29, 2011 and on that same date, in accordance with Directive STP 2-0.22B, State Plans Policies and Procedures Manual, Page 11-4, Region VII's findings, recommendations and any action the State would be taking were discussed. Iowa OSHA indicated they would submit a written response.

CASPA #2009-8 was filed with Federal OSHA on August 10, 2009 regarding a whistleblower investigation which was conducted by Iowa OSHA in March 2007. The whistleblower investigation resulted in a determination of "Dismissed/Non-merit" on April 4, 2007. The results of the investigation were appealed by the Complainant on April 26, 2007 and the appeal was denied on May 1, 2007. Federal OSHA was asked to

determine if an appropriate investigation of the Complainant's appeal was conducted by Iowa OSHA. The review showed evidence was not obtained during the original Iowa OSHA whistleblower investigation and was not subsequently requested following the Complainant's appeal.

Prior to filing the CASPA, the Complainant had filed private litigation in district court in 2007 which contained his retaliation claim. The district court dismissed his claim and the court of appeals upheld that decision. However, the Iowa Supreme Court ruled on March 13, 2009 that the remedy set forth in Iowa Code section 88.9(3) does not preclude an employee from bringing a common law action for wrongful discharge. The Supreme Court remanded the case back to district court stating, "Further, the remedy provided in IOSHA is not exclusive, and Complainant may bring a common law action for wrongful discharge in the district court." This was a precedent setting decision for whistleblower case law in Iowa.

ANNUAL PERFORMANCE GOALS

During FY 2010, Iowa OSHA was in the second year of its current five (5) year strategic plan.

Performance Goal 1:

Goal: Increase the percentage of employers participating in Iowa OSHA outreach programs and increasing staff trained in compliance assistance skills by 2013.

Finding: Iowa OSHA continued to use several activity measures to evaluate their progress toward Performance Goal 1. They planned to increase Voluntary Protection Program (VPP) participants by three (3), Safety and Health Recognition Program (SHARP) participants by two (2), partnership participants by two (2) and alliance participants by one (1). By accomplishing these activity measures they would have eight (8) new participants in cooperative programs. During FY 2010, Iowa OSHA added ten (10) new participants to their cooperative programs exceeding this portion of their activity measures. They also planned to increase the number of outreach programs to Latino workers and youth workers by twenty (20), they conducted twenty-six (26). Iowa OSHA accomplished 25,189 of their projected 21,000 one-on-one compliance assistance contacts.

No specific training related to compliance assistance was provided to Iowa staff. Iowa OSHA and Iowa Consultation and Education participate in Webinars offered by Federal OSHA.

Performance Goal 2:

Goal: Secure public confidence through excellence in the development and delivery of Iowa OSHA programs and services.

Finding: The Performance Goal 2 is a product of the 5-year Outcome Goal of the Strategic Plan. Performance Goal 2 has been in the Iowa OSHA strategic plan since FY 2004. The Outcome goal states, “Improve Iowa business participation in IOSHA cooperative programs and staff professional and technical development by 2013.”

Iowa OSHA is using six (6) performance measures to assess their progress toward the accomplishment of Performance Goal 2. They planned to increase compliance assistance outcomes by one (1), increase direct safety intervention outcomes by one (1) and increase direct health intervention outcomes by one (1). Two of the first three measures were met in FY 2010. Additional measures included increasing safety local emphasis programs (LEPs) by one (1) and health LEPs by one (1). Neither of these two measures were met. The final measures for this performance goal are increase the number of internal and external public relations analysis projects by one (1) and also track the number of IOSHA staff participating and number of other employees attending. Neither of these measures were met.

The Iowa OSHA leadership team uses weekly meetings on Monday morning to continue discussing safety and health issues as well as direct intervention activities that include feedback from employers participating in informal conferences, and issues inspectors have experienced on their cases the previous week. This team carefully monitors staff performance using the “red/green” report provided weekly by the Federal Area OSHA office that identifies performance measures that meet regional expectations by highlighting them in green and highlighting those that do not in red.

The Iowa OSHA leadership team has quarterly meetings with the Safety and Industrial Hygiene staff and discussed hazards, current IOSH policy and areas where program improvements need to be made. Iowa OSHA also participates in OSHA webinars and brings OTI courses to Iowa if possible. They also fund independent classes to obtain cost effective training for their employees.

Performance Goal 3:

Goal: Reduce injuries, illnesses and fatalities by five percent (5%) by 2013.

Finding: Iowa OSHA is utilizing ten (10) enforcement performance measures to evaluate achievement of Performance Goal 3. FY 2007 data is used as the baseline for all performance measures. Iowa OSHA’s baseline number of workplaces visited and hazards abated are 736 and 1,215. During FY 2010, Iowa OSHA increased their number of inspections to 974 and abated 2,131 hazards. Both measures were exceeded. The number of hazards corrected and private sector consultation hazard survey made in emphasis areas were to increase by 38 to a level of 353. Iowa OSHA exceeded by performing at the 353 level. Iowa OSHA met their number of 10-hour and other training sessions/number of participants by conducting 152 sessions during which 16,620 participants were contacted. Iowa OSHA met their VPP measure by achieving the required three (3) new sites. The number of SHARP sites did not meet the requirement as only one (1) was added instead of the stated two (2).

Iowa OSHA planned to reduce their total number of fatalities by three (3) percent, general industry fatalities by one and one half percent (1.5)% and construction fatalities by one and one half percent (1.5)%. The actual activity measure was sixteen (16) fatalities during FY 2010 which was a 27.3% decrease. General industry fatalities decreased from fifteen (15) to ten (10) which was a decrease of 33.3% and construction fatalities decreased from seven (7) to six (6) which was a decrease of 14.3%. The fatality rate measure was met and exceeded. The following chart outlines the number of fatalities from FY 1999 through FY 2010.

FY 99	FY 00	FY 01	FY 02	FY 03	FY 04	FY 05	FY 06	FY 07	FY 08	FY 09	FY 10
11	19	15	14	22	24	21	26	22	30	21	16

Iowa OSHA’s combined Non-Fatal Outcome Measures declined beyond its target and exceeded their goal. Total Recordable Cases declined from the FY 2007 benchmark of 5.9 to 4.7 in FY 2010, this represented a 20.3% decrease.

Conclusions:

Iowa’s average number of fatalities per year for the twelve (12) year period shown above is 20.1. In the twelve (12) year period shown above, seven (7) years were at or above the average.

Appendix A
Iowa State Plan
FY 2010 Enhanced FAME Follow-up Report
Summary of New and Continuing Findings and Recommendations

Rec #	Findings	Recommendations	Related FY 09 Rec #
10-1	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.	09-22
10-2	No IDPs were developed for Iowa OSHA personnel.	Iowa OSHA must work with compliance officers to develop initial IDPs and update them annually.	09-23

**Appendix A - Iowa State Plan
FY 2010 FAME Report
Discrimination Program Review
Summary of New and Continuing Findings and Recommendations**

Rec #	Findings	Recommendations	Related FY 09 Rec #
10-3	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.	09-01 11(c)
10-4	[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.	09-02 11(c)
10-5	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.	09-03 11(c)
10-6	Adequate and timely opening letters were not provided to all Complainants and Respondents for notification purposes that a whistleblower case had been opened for investigation.	Draft adequate opening letters and send or deliver them to the parties in a timely manner.	09-04 11(c)
10-7	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.	09-05 11(c)
10-8	Adequate case file organization was not accomplished in all 11(c) case files.	Utilize adequate case file organization techniques to aid review of investigations.	09-06 11(c)
10-9	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.	09-07 11(c)
10-10	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.	09-08 11(c)
10-11	Adequate evaluation of the elements of a work refusal was not performed during the Investigation of a whistleblower complaint.	Conduct a through evaluation of all the elements of a work refusal in order to determine if a valid work refusal complaint has been filed.	09-09 11(c)
10-12	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.	09-10 11(c)
10-13	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.	09-11 11(c)
10-14	IOSH Discrimination Program Investigators and Supervisors have not attended the most current 11(c) training provided by Federal OSHA.	Accomplished 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.	09-12 11(c)

Appendix B
Iowa State Plan
FY 2010 FAME 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	Complete

Appendix B - Iowa State Plan

Status of FY 2009 EFAME Findings, Recommendations and Corrective Actions

Rec #	Findings	Recommendations	Corrective Action Plan	State Action Taken	Status
				reviewed and found to be in compliance with the policy.	
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	Iowa OSHA will become more diligent in reviewing OSHA 1B's for accuracy and ensure the FOM is followed with regards to	Supervisors have been advised of this E fame issue as far back as April 2010 and have undertaken a program of file review and	Complete

Appendix B - Iowa State Plan

Status of FY 2009 EFAME Findings, Recommendations and Corrective Actions

Rec #	Findings	Recommendations	Corrective Action Plan	State Action Taken	Status
		accordance with its FOM.	grouping.	inspector training to ensure the FOM requirements are being followed. A supervisor was interviewed and he stated that he has 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 E fame, 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 E fame.	Complete
09-8	In 35 percent of the cases reviewed, hazards that were identified during	All hazards identified during inspections must be addressed. Case files must be reviewed	Supervisors have instituted a photo review process which is now included in the initial case file review.	Since April 2010, supervisors have become more diligent in addressing hazards that may have been	Complete

Appendix B - Iowa State Plan

Status of FY 2009 EFAME Findings, Recommendations and Corrective Actions

Rec #	Findings	Recommendations	Corrective Action Plan	State Action Taken	Status
	inspections were not addressed in citations or a letter to the employer.	more thoroughly including review of photographs for hazards not identified or addressed by CSHO's.	Conditions noted in photographs that may constitute citations or letters to the employer are addressed with the compliance officer for validity and possible issuance prior to issuing the case file.	overlooked by reviewing case file photographs. One supervisor was interviewed and he stated the program was successful. Two case files were randomly 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 facie 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	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 Efname 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	Complete

Appendix B - Iowa State Plan

Status of FY 2009 EFAME Findings, Recommendations and Corrective Actions

Rec #	Findings	Recommendations	Corrective Action Plan	State Action Taken	Status
	as eye injuries and hearing loss which should have been classified as serious. In addition machine guarding and fall protection violations were classified as other-than-serious and should have been classified as serious.			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 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		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	Complete

Appendix B - Iowa State Plan

Status of FY 2009 EFAME Findings, Recommendations and Corrective Actions

Rec #	Findings	Recommendations	Corrective Action Plan	State Action Taken	Status
		follow-up inspections could be conducted.		overdue abatement. In this current FY, Iowa OSHA has started scheduling follow-ups and has one scheduled for April 25, 2011.	
09-14	The LEP table included inactive LEP codes for use by employees.	Update the IMIS LEP tables to reflect active LEPs and ensure proper IMIS coding.	Iowa NCR Administrator will contact the National Office to ensure that the IMIS codes are current and updated. During the interim, all CSHO's have been informed about obsolete LEP's.	Iowa OSHA contacted the National Office on 22 April 2011 and requested assistance removing the inactive LEP codes. This item has not yet been completed.	Complete
09-15	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
09-16	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
09-17	Notifications for Federal Program Changes were not provided by the	Iowa OSHA must implement a procedure to ensure that Federal Program Change	Staff assignments will be made to ensure that future Federal Program changes will be responded to on a	The most recent Federal Program Change responses were submitted by Iowa OSHA within the prescribed	Complete

Appendix B - Iowa State Plan

Status of FY 2009 EFAME Findings, Recommendations and Corrective Actions

Rec #	Findings	Recommendations	Corrective Action Plan	State Action Taken	Status
	specified dates.	notifications are provided by the specified date.	timely basis.	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.	
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	Implement the use of 90 day items to ensure uncontrolled hazards	In addition to the current on-site verification of communicated hazards to	The Consultation and Education Supervisor and The Consultation and	Complete

Appendix B - Iowa State Plan

Status of FY 2009 EFAME Findings, Recommendations and Corrective Actions

Rec #	Findings	Recommendations	Corrective Action Plan	State Action Taken	Status
	uncontrolled hazards were corrected prior to the final on-site evaluation report.	are corrected prior to the final on-site evaluation report.	the employer, Iowa OSHA will incorporate the 90 day items into a draft report sent to the employer.	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 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

**Appendix B- Iowa State Plan
Discrimination Program Review
Status of FY 2009 EFAME Findings and Recommendations**

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

**Appendix B - Iowa State Plan
Discrimination Program Review
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.				
09-5	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
09-6	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
09-7	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
09-8	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

**Appendix B - Iowa State Plan
Discrimination Program Review
Status of FY 2009 EFAME Findings, Recommendations and Corrective Actions**

Rec #	Findings	Recommendations	Corrective Action Plan	State Action Taken	Status
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. IOSHA 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.

**Appendix C
Iowa State Plan
FY 2010 Enforcement Activity**

	IA	State Plan Total	Federal OSHA
Total Inspections	968	57,124	40,993
Safety	761	45,023	34,337
% Safety	79%	79%	84%
Health	207	12,101	6,656
% Health	21%	21%	16%
Construction	568	22,993	24,430
% Construction	59%	40%	60%
Public Sector	22	8,031	N/A
% Public Sector	2%	14%	N/A
Programmed	630	35,085	24,759
% Programmed	65%	61%	60%
Complaint	107	8,986	8,027
% Complaint	11%	16%	20%
Accident	15	2,967	830
Insp w/ Viols Cited	688	34,109	29,136
% Insp w/ Viols Cited (NIC)	71%	60%	71%
% NIC w/ Serious Violations	47%	62.3%	88.2%
Total Violations	2,122	120,417	96,742
Serious	1,432	52,593	74,885
% Serious	67%	44%	77%
Willful	2	278	1,519
Repeat	58	2,054	2,758
Serious/Willful/Repeat	1,492	54,925	79,162
% S/W/R	73%	46%	82%
Failure to Abate	6	460	334
Other than Serious	624	65,031	17,244
% Other	29%	54%	18%
Avg # Violations/ Initial Inspection	2.9	3.4	3.2
Total Penalties	\$2,359,576	\$ 72,233,480	\$ 183,594,060
Avg Current Penalty / Serious Violation	\$ 1,201.10	\$ 870.90	\$ 1,052.80
Avg Current Penalty / Serious Viol- Private Sector Only	\$ 1,205.30	\$ 1,018.80	\$ 1,068.70
% Penalty Reduced	50.7%	47.7%	40.9%
% Insp w/ Contested Viols	8.8%	14.4%	8.0%
Avg Case Hrs/Insp- Safety	22	16.2	18.6
Avg Case Hrs/Insp- Health	32.4	26.1	33
Lapse Days Insp to Citation Issued- Safety	21.6	33.6	37.9
Lapse Days Insp to Citation Issued- Health	24.2	42.6	50.9
Open, Non-Contested Cases w/ Incomplete Abatement >60 days	10	1,715	2,510

Source: DOL-OSHA. State Plan & Federal INSP & ENFC Reports, 11.9.2010.

Appendix D

Iowa FY 2010 State Activity Mandated Measures (SAMM) Report

U. S. D E P A R T M E N T O F L A B O R
 OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION
 STATE ACTIVITY MANDATED MEASURES (SAMMs)

NOV 12, 2010
 PAGE 1 OF 2

State: IOWA

RID: 0751900

MEASURE	From: 10/01/2009 To: 09/30/2010	CURRENT FY-TO-DATE	REFERENCE/STANDARD
1. Average number of days to initiate Complaint Inspections	380 3.45 110	31 3.87 8	Negotiated fixed number for each State
2. Average number of days to initiate Complaint Investigations	8 .04 200	2 .15 13	Negotiated fixed number for each State
3. Percent of Complaints where Complainants were notified on time	106 97.25 109	10 100.00 10	100%
4. Percent of Complaints and Referrals responded to within 1 day -ImmDanger	3 100.00 3	0 0 0	100%
5. Number of Denials where entry not obtained	1	0	0
6. Percent of S/W/R Violations verified			
Private	1197 99.75 1200	57 90.48 63	100%
Public	8 100.00 8	1 100.00 1	100%
7. Average number of calendar days from Opening Conference to Citation Issue			
Safety	15765 29.41 536	1924 27.48 70	2624646 47.3 55472 National Data (1 year)
Health	4904 32.69	879 51.70	750805 61.9 National Data

Appendix D
Iowa FY 2010 State Activity Mandated Measures (SAMM) Report

	150			17		12129	(1 year)

*IA 11.12

**PRELIMINARY DATA SUBJECT TO ANALYSIS AND REVISION

Appendix D

Iowa FY 2010 State Activity Mandated Measures (SAMM) Report

U. S. D E P A R T M E N T O F L A B O R
 OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION
 STATE ACTIVITY MANDATED MEASURES (SAMMs)

NOV 12, 2010
 PAGE 2 OF 2

State: IOWA

RID: 0751900

MEASURE	From: 10/01/2009 To: 09/30/2010	CURRENT FY--TO-DATE	REFERENCE/STANDARD
8. Percent of Programmed Inspections with S/W/R Violations			
Safety	318 60.46 526	33 71.74 46	93201 58.4 159705 (3 years)
Health	79 71.17 111	6 66.67 9	10916 50.9 21459 (3 years)
9. Average Violations per Inspection with Violations			
S/W/R	1750 2.55 685	231 2.62 88	428293 2.1 201768 (3 years)
Other	419 .61 685	46 .52 88	240266 1.2 201768 (3 years)
10. Average Initial Penalty per Serious Violation (Private Sector Only)	2724440 1642.21 1659	313425 1599.10 196	509912690 1360.4 374823 (3 years)
11. Percent of Total Inspections in Public Sector	22 2.27 968	0 .00 68	63 2.1 2988 (3 years)
12. Average lapse time from receipt of Contest to first level decision	7218 189.94 38	302 151.00 2	3826802 217.8 17571 (3 years)
13. Percent of 11c Investigations Completed within 90 days	7 63.64 11	0 0 0	100%
14. Percent of 11c Complaints that are Meritorious	3 27.27 11	0 0 0	1461 21.2 6902 (3 years)

Appendix D
Iowa FY 2010 State Activity Mandated Measures (SAMM) Report

15. Percent of Meritorious 11c		3			0		1256	
Complaints that are Settled		100.00					86.0	National Data
		3			0		1461	(3 years)

*IA 11.12

**PRELIMINARY DATA SUBJECT TO ANALYSIS AND REVISION

Appendix D
Iowa FY 2010 State Activity Mandated Measures (SAMM) Report

MEASURE NUMBER: 13

MEASURE 13

PAGE 1

REPORT-ID	ACT-NR	DISP-DATE	DISP-CODE	DISP-LEVEL
0751900	001742147	20091230	D	R
0751900	001730670	20100202	D	R
0751900	001736917	20100203	D	R
0751900	001726959	20100114	D	R

*****TOTAL ***** 4

Appendix D Iowa FY 2010 State Activity Mandated Measures (SAMM) Report

MEASURE NUMBER: 14

MEASURE 14

PAGE 1

REPORT-ID	ACT-NR	DISP-DATE	DISP-CODE	DISP-LEVEL
0751900	001735232	20091103	S	R
0751900	001736958	20091221	D	R
0751900	001742147	20091230	D	R
0751900	001730670	20100202	D	R
0751900	001736917	20100203	D	R
0751900	001745793	20100223	D	R
0751900	001745819	20100303	D	R
0751900	001726959	20100114	D	R
0751900	001749241	20100323	S	R
0751900	001752385	20100427	D	R
0751900	001757020	20100601	S	R

*****TOTAL ***** 11

MEASURE NUMBER: 15

MEASURE 15

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REPORT-ID	ACT-NR	DISP-DATE	DISP-CODE	DISP-LEVEL
0751900	001735232	20091103	S	R
0751900	001749241	20100323	S	R
0751900	001757020	20100601	S	R
□□□□□□	000000000	00000000	□	□

*****TOTAL ***** 4

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Appendix E

Iowa FY 2010 State Indicator Report (SIR)

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OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

CURRENT MONTH = SEPTEMBER 2010

INTERIM STATE INDICATOR REPORT (SIR)

STATE = IOWA

PERFORMANCE MEASURE	---3 MONTHS---		---6 MONTHS---		---12 MONTHS---		---24 MONTHS---	
	FED	STATE	FED	STATE	FED	STATE	FED	STATE
C. ENFORCEMENT (PRIVATE SECTOR)								
1. PROGRAMMED INSPECTIONS (%)								
A. SAFETY	5298	119	11403	267	21912	510	43788	1115
	62.4	57.2	63.8	64.8	65.1	68.7	65.9	71.3
	8493	208	17860	412	33647	742	66434	1564
B. HEALTH	488	33	1094	62	2232	109	4202	194
	30.6	64.7	33.7	60.2	35.0	59.2	35.1	54.8
	1597	51	3249	103	6378	184	11960	354
2. PROGRAMMED INSPECTIONS WITH VIOLATIONS (%)								
A. SAFETY	4663	89	9421	191	17649	350	34350	730
	72.7	62.7	71.2	60.6	69.1	58.6	67.1	55.3
	6413	142	13232	315	25525	597	51214	1319
B. HEALTH	45	27	880	54	1756	94	3238	153
	57.8	62.8	53.9	70.1	55.4	69.1	53.4	61.7
	780	43	1632	77	3168	136	6066	248
3. SERIOUS VIOLATIONS (%)								
A. SAFETY	17341	337	33678	596	62211	1124	117447	2177
	81.6	75.2	81.5	72.2	81.0	72.1	80.1	69.1
	21261	448	41304	825	76839	1558	146593	3152
B. HEALTH	3233	77	6183	166	11743	292	21554	553
	69.6	59.2	70.5	60.8	70.2	58.2	69.6	57.1
	4645	130	8776	273	16725	502	30947	969
4. ABATEMENT PERIOD FOR VIOLS								
A. SAFETY PERCENT >30 DAYS	3054	202	6515	349	12732	670	25040	1243
	15.0	45.8	16.3	46.4	17.2	47.4	17.7	42.1
	20398	441	39855	752	74010	1414	141219	2954
B. HEALTH PERCENT >60 DAYS	255	2	633	9	1406	47	2977	101
	5.6	1.6	7.3	3.3	8.5	10.3	9.6	11.7
	4548	125	8681	273	16580	455	30862	865

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OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

CURRENT MONTH = SEPTEMBER 2010

INTERIM STATE INDICATOR REPORT (SIR)

STATE = IOWA

PERFORMANCE MEASURE	---3 MONTHS---		---6 MONTHS---		---12 MONTHS---		---24 MONTHS---	
	FED	STATE	FED	STATE	FED	STATE	FED	STATE
C. ENFORCEMENT (PRIVATE SECTOR)								
5. AVERAGE PENALTY								
A. SAFETY								
	587112	17650	1106734	36300	2038916	61150	3500911	103200
OTHER-THAN-SERIOUS	837.5	1103.1	803.1	1100.0	894.3	899.3	967.6	731.9
	701	16	1378	33	2280	68	3618	141
B. HEALTH								
	249175	1000	434447	1950	732953	4400	1039303	23275
OTHER-THAN-SERIOUS	817.0	1000.0	801.6	487.5	835.8	488.9	842.2	705.3
	305	1	542	4	877	9	1234	33
6. INSPECTIONS PER 100 HOURS								
A. SAFETY								
	9778	225	20529	448	38849	824	76136	1760
	5.8	6.3	5.7	5.3	5.5	4.6	5.5	5.1
	1679	36	3593	84	7112	180	13925	348
B. HEALTH								
	1864	69	3844	138	7547	237	14276	451
	2.1	2.0	2.0	2.0	1.9	1.8	1.8	1.7
	908	35	1940	68	3898	133	8070	273
7. VIOLATIONS VACATED %								
	1123	26	2474	37	5103	66	10425	178
	3.7	3.5	4.3	2.8	4.7	2.8	5.0	3.5
	29962	736	57441	1312	108213	2349	207527	5105
8. VIOLATIONS RECLASSIFIED %								
	844	62	1978	133	4276	239	9196	503
	2.8	8.4	3.4	10.1	4.0	10.2	4.4	9.9
	29962	736	57441	1312	108213	2349	207527	5105
9. PENALTY RETENTION %								
	15767907	281052	30073309	697199	57457651	1185731	111052615	2315474
	64.5	52.6	63.9	49.5	63.0	45.8	62.8	47.3
	24439885	534650	47032897	1408500	91194322	2588465	176868726	4890790

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OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

CURRENT MONTH = SEPTEMBER 2010

INTERIM STATE INDICATOR REPORT

STATE = IOWA

PERFORMANCE MEASURE	---3 MONTHS---		---6 MONTHS---		---12 MONTHS---		---24 MONTHS---	
	PRIVATE	PUBLIC	PRIVATE	PUBLIC	PRIVATE	PUBLIC	PRIVATE	PUBLIC
D. ENFORCEMENT (PUBLIC SECTOR)								
1. PROGRAMMED INSPECTIONS %								
A. SAFETY	119	0	267	0	510	3	1115	6
	57.2	.0	64.8	.0	68.7	50.0	71.3	37.5
	208	2	412	2	742	6	1564	16
B. HEALTH	33	0	62	0	109	0	194	0
	64.7	.0	60.2	.0	59.2	.0	54.8	.0
	51	7	103	9	184	14	354	23
2. SERIOUS VIOLATIONS (%)								
A. SAFETY	337	0	596	0	1124	3	2177	27
	75.2	.0	72.2	.0	72.1	60.0	69.1	84.4
	448	0	825	0	1558	5	3152	32
B. HEALTH	77	5	166	5	292	6	553	9
	59.2	100.0	60.8	83.3	58.2	50.0	57.1	45.0
	130	5	273	6	502	12	969	20

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OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

CURRENT MONTH = SEPTEMBER 2010

COMPUTERIZED STATE PLAN ACTIVITY MEASURES

STATE = IOWA

PERFORMANCE MEASURE	---3 MONTHS---		---6 MONTHS---		---12 MONTHS---		---24 MONTHS---	
	FED	STATE	FED	STATE	FED	STATE	FED	STATE
E. REVIEW PROCEDURES	610	3	1134	8	2052	38	3827	76
1. VIOLATIONS VACATED %	22.5	8.3	23.2	6.3	21.9	12.5	23.0	14.7
	2709	36	4888	127	9366	303	16668	518
	306	11	585	18	1100	60	2217	111
2. VIOLATIONS RECLASSIFIED %	11.3	30.6	12.0	14.2	11.7	19.8	13.3	21.4
	2709	36	4888	127	9366	303	16668	518
	4940512	18600	7526155	55925	12856359	981962	23378285	1128287
3. PENALTY RETENTION %	65.3	24.1	62.3	33.2	58.1	65.6	58.4	63.3
	7563023	77325	12074308	168625	22143463	1497800	40052611	1781700

Appendix F

Iowa FY 2010 State OSHA Annual Report (SOAR)

Available Separately