



**KENTUCKY
OCCUPATIONAL SAFETY AND HEALTH PROGRAM**

STATE OFFICE ANNUAL REPORT

for

FEDERAL FISCAL YEAR 2010

Mark S. Brown, Secretary
Michael L. Dixon, Commissioner

INTRODUCTION

The Kentucky Occupational Safety and Health (OSH) Program was established in 1972 by the Kentucky General Assembly. In July of 1973, the U.S. Department of Labor's Occupational Safety and Health Administration (OSHA) approved Kentucky's state plan.

The Kentucky Labor Cabinet has experienced two (2) significant reorganizations. By Executive Order 2004-731, issued by Governor Ernie Fletcher in 2004, the Labor Cabinet was abolished with all duties, responsibilities, employees, and functions transferred to the Environmental and Public Protection Cabinet, Department of Labor. Executive Order 2004-731 was ratified into law during the 2005 General Assembly by Senate Bill 41.

Executive Order 2008-472, issued by Governor Steven L. Beshear and effective June 16, 2008, re-established the Labor Cabinet, headed by a Secretary appointed by the Governor, and assigned to it all organizational entities within, attached to, or associated with the former Department of Labor, including all duties, functions, responsibilities, personnel, records, files, equipment, budgets, appropriations, allotments, and cash balances assigned to those entities. All duties, responsibilities, records, files, equipment, budgets, appropriations, allotments, and cash balances assigned to the Office of Occupational Safety and Health were assigned to the Department of Workplace Standards, headed by a Commissioner appointed by the Secretary with the approval of the Governor.

Executive Order 2008-472 was not ratified in the 2009 Regular Session of the General Assembly. Therefore, Executive Order 2009-537 was issued by Governor Beshear on June 12, 2009, to preserve the organizational structure established in Executive Order 208-472. Executive Order 2009-537 once again established the Labor Cabinet and assigned to it all organizational entities associated with the former Department of Labor as stated in Executive Order 2008-472.

Under the reorganization, the appointed directors of the Division of OSH Compliance and Division of Education and Training for OSH report to the Commissioner of Workplace Standards who, in turn, reports to the Secretary of the Labor Cabinet.

On March 25, 2010, Governor Beshear signed into law House Bill 393, an act relating to reorganization. House Bill 393 amended and created various sections of the Kentucky Revised Statutes to abolish the Environmental and Public Protection Cabinet and created (re-established) the Labor Cabinet. Kentucky's OSH Program now consists of the Division of OSH Compliance, headed by a Director; the Division of Education and Training for OSH, headed by a Director; and the OSH Federal-State Coordinator. The OSH Federal-State Coordinator and the appointed directors of the Division of OSH Compliance and Division of Education and Training for OSH report to the Commissioner of Workplace Standards who, in turn, reports to the Secretary of the Labor Cabinet.

The Division of Education and Training for OSH and Division of OSH Compliance have developed an effective and comprehensive effort to promote the safety, health, and general welfare of the people of the Commonwealth. This effort focuses on preventing hazardous working conditions and practices at places of work. The Divisions of Education and Training for OSH and OSH Compliance provide for voluntary compliance services, education and training, enforcement through inspections of workplaces, onsite consultation services, research, statistics, and other functions that meet the mandate of the Kentucky Revised Statutes (KRS) Chapter 338.

The Kentucky Labor Cabinet remains fully committed to promoting the safety, health, and general welfare of the Commonwealth of Kentucky by preventing any detriment to the safety and health of all employees, both public and private, arising out of exposure to harmful conditions and practices at places of work. In addition, the Cabinet is fully involved in preserving our human resources by providing for education and training, inspection of workplaces, consultation services, research, reports, statistics, and other means of advancing progress in occupational safety and health.

The Kentucky OSH Program implemented a two (2) year strategic plan for FY 2009-2010 which established a new baseline that ensured Kentucky met statutory mandates that were built upon achievements and realized significant progress in workplace safety and health.

This report is presented in three (3) distinct sections. Section I addresses Kentucky's success in achieving FY 2010 Performance Plan goals. Section II addresses mandated activities during FY 2010. Section III addresses noteworthy accomplishments achieved by the Kentucky OSH Program during FY 2010.

In a January 2011 memorandum for regional administrators from Ms. Lee Anne Jillings, Acting Director, Directorate of Cooperative and State Programs, subject line "FY 2010 Enhanced FAME Follow-up Reports," the following statement is made on page 1 of 5 of the accompanying document dated December 21, 2010, and entitled Guidance for the FY 2010 State Plan Evaluation Reports:

"States may wish to modify their SOAR reports to the extent feasible to address their follow-up actions in response to the FY 2009 Enhanced FAME Reports."

In response to that statement, Kentucky's formal response to OSHA's FY 2009 Enhanced FAME Report is provided in the Appendix to this report.

All Kentucky state government executive branch merit and non-merit employees, including the Governor and all cabinet secretaries, were furloughed for three (3) days in Fiscal Year 2010. The three (3) days included a state-wide furlough day, Friday, September 3, 2010, and two (2) other days chosen by each employee. The Kentucky OSH Program scheduled employee furloughs in a manner that ensured Division of OSH Compliance coverage and minimized impact to the public. The Kentucky OSH Program was prepared to respond to fatalities, catastrophes, and imminent danger incidents during any of the furlough days.

SECTION I SUCCESS ACHIEVING PERFORMANCE GOALS

In the FY 2009-2010 two (2) year strategic plan, Kentucky continued to build on previous successes. Kentucky's first two (2) year Strategic Goal was to improve workplace safety and health for all workers, as evidenced by fewer hazards and reduced exposures, resulting in fewer injuries, illnesses, and fatalities.

Performance Goal 1.1.1 for the two (2) year plan was to reduce injuries and illness incident rates in at least five (5) of the ten (10) industries with the highest incident rate. The FY 2010 Annual Performance Goal was to reduce injury and illness incident rates in the ten (10) industries with the highest incident rate from baseline.

The combined efforts of the Division of OSH Compliance and the Division of OSH Education and Training continue to have an impact upon reducing incidence rates through 2010. In FY 2009, Kentucky set a new baseline for Performance Goal 1.1.1 with the ten (10) most hazardous industries in Kentucky identified by the NAICS classifications.

Also, as part of Kentucky's two (2) year strategic effort to meet Performance Goal 1.1.1, the Division of OSH Compliance planned to increase compliance inspection activities for several industries that had very large increases in their total case incident rates. During FY 2010, the Division of Compliance conducted sixty-five (65) inspections within the top ten (10) identified NAICS sub-sector classifications in 2003. The Division of Compliance continued its commitment to identify and inspect establishments within the selected ten (10) high hazard NAICS by performing approximately five (5) percent of its inspections within the ten (10) high hazard NAICS.

During FY 2010, the Division of OSH Education and Training conducted 262 safety and health surveys in the selected top ten (10) Kentucky high hazard NAICS. Additionally, training conducted at six (6) Population (POP) Centers during FY 2010 encompassed fifty-four (54) sessions addressing

subjects appropriate for the targeted NAICS such as fire safety and protection, injury/illness recordkeeping, combustible dust, lockout/tagout, bloodborne pathogens, personal protective equipment, crane safety, construction safety, ergonomics, noise, indoor air quality, hazard communication, electrical safety, fall protection, confined space, and powered industrial truck safety. Over 2400 participants attended POP Center Training courses in FY 2010.

In an effort to supplement resources in addressing high hazard industry issues, the Division of OSH Education and Training continued to coordinate outreach with professional and industry associations including the Kentucky Crush Stone Association, Kentucky Ready-Mix Concrete Association, Kentucky Association of Counties, the Association of General Contractors, Associated Builders and Contractors, and Kentucky Community Technical Colleges.

The Division of OSH Education and Training targeted employers in specific NAICS classifications in FY 2010 by mailing numerous offers for comprehensive safety and health surveys under the program known as Safety Tops Our Priority (STOP). The outreach mailings for FY 2010 were also made under the Targeted Outreach Program (TOP). This program utilizes OSHA Data Initiative information to target specific facilities rather than specific industries. Together, the two (2) programs solicited 580 employers and resulted in 140 requests for consultative services

Kentucky remains committed to working with these employers and continues to target those industries and employers with the worst injury and illness rates. It is evident that significant reductions in injury and illness rates will be difficult for some industry sectors unless ergonomic hazards are adequately addressed. The Division of OSH Compliance and the Division of OSH Education and Training will continue to focus on these industries along with the associated hazards to promote a greater awareness and a reduction in ergonomic-related injuries and illnesses. The Division of OSH Education and Training continues to offer ergonomic training and to provide technical assistance to employers upon request.

The 2009 and 2010 strategic plan focuses on high-hazard NAICS, targeting these industries based upon the total case rate and providing complete safety and health surveys upon request.

Performance Goal 1.1.2 aims to reduce by five (5) percent the employers currently identified in the 2007 Establishment Data System as having Total Case Rates three times (19.2) the Kentucky Total Case Rate of 6.4 for Private Industry to levels less than twice the Total Case Rate (12.8). In FY 2009, a new target list was established based upon the 2007 OSHA Data Initiative (ODI) currently identified in the 2007 Establishment Data System as having Total Case Rates three (3) times the Kentucky Total Case Rate for Private Industry to levels less than twice the Total Case Rate. And in FY 2009, a new baseline was established from the 2007 ODI survey for specific facilities targeted. The FY 2010 Annual Performance Goal was identical to Performance Goal 1.1.2.

Kentucky will continue the mission of reducing the number of worker injuries, illnesses, and fatalities by focusing Kentucky OSH resources on the most prevalent types of workplace injuries and illnesses, the most hazardous industries, and the most hazardous workplaces.

A list of the companies that did not respond to the Division of OSH Education and Training's mail-out was turned over to the Division of Compliance. In FY 2010, the Division of OSH Compliance conducted 7 inspections from the 2008 TOP list. In this manner, the Division of OSH Education and Training or the Division of OSH Compliance has contact with employers in high-hazard NAICS codes.

Performance Goal 1.1.3 is to decrease injuries caused by falls, struck-bys, and crushed-bys in the construction industry by 4 (four) percent. The FY 2010 Annual Performance Goal was to decrease injuries caused by falls, struck-bys, and crushed-bys in the construction industry by the remaining percentage necessary to achieve the four (4) percent reduction identified in Performance Goal 1.1.3.

FY 2009 Bureau of Labor Statistics (BLS) data, which reflects 2008 industry data, is the new baseline year for Kentucky. The 2008 data shows 390 struck by/crushed by incidents and 180 falls to a lower level, incidence rates of 74.6 and 24.2, respectively. The 2009 numbers have improved very

dramatically with ninety (90) struck by/crushed by incidents and 120 falls to a lower level with associated incidence rates of 12.1 and 16.6. This represents an amazing reduction in both categories that far exceeds our performance goals.

Kentucky has a state specific regulation that specifically addresses residential construction fall protection. Employees engaged in residential construction activities working ten (10) feet or more above a lower level who are exposed to unprotected sides and edges, leading edges, hoist areas, form work, reinforcing steel, or roofing work on roof slopes three (3) in twelve (12) or less, must be protected by guardrail systems, safety net systems, personal fall arrest systems, or a specific alternative measure established in the regulation. During FY 2010, the Division of OSH Compliance continued its local emphasis program for residential construction fall protection by conducting eighty-six (86) residential construction inspections and issuing 127 violations. The majority of the violations concerned lack of fall protection and unsafe scaffolds.

The Division of OSH Compliance remained focused on fall protection and it was the top construction standard cited in Kentucky during FY 2010. In FY 2010, Kentucky cited 29 CFR 1926.501, duty to have fall protection, 113 times with total proposed penalties of \$200,250. The second most cited construction standard cited was 29 CFR 1926.451, general requirements for scaffolding. This standard was cited forty-one (41) times with penalties totaling \$30,009. The 11th and 12th most cited construction standards were 29 CFR 1926.453, fall protection requirements while in aerial lifts, and 29 CFR 1926.502, fall protection systems criteria and practice. Both standards were cited thirteen (13) times with penalties totaling \$42,975.

The 16th most cited construction standard for FY 2010 was 29 CFR 1926.760, fall protection during steel erection activities. This standard was cited ten (10) times with penalties totaling \$16,250. 190 fall protection-related violations were issued in FY 2010 with penalties totaling \$298,484.

Excavation hazards were prevalent in the top ten (10) this year with twenty-seven (27) violations issued for specific excavation requirements and sixteen (16) for lack of protective systems. Penalties totaled \$22,650.

During FY 2010, Kentucky conducted a total of 606 construction inspections as identified by OSH-1 SIC codes. The Division of OSH Compliance conducted 149 construction inspections in SICs starting with fifteen (15), forty-nine (49) inspections in SICs starting with sixteen (16), and 408 in SICs starting with seventeen (17). Kentucky's continued commitment to construction activities was demonstrated in FY 2010 when 52% of all inspections were in the construction industry sector.

As reported in prior Annual Activity Reports, the Division of OSH Compliance has implemented the construction scheduling system provided by the University of Tennessee, which has produced excellent results. Although a state budget shortfall limited the Division of OSH Compliance to maintain present staffing levels, and in spite of economic challenges, the Division of OSH Compliance continued an emphasis on construction. From the 496 construction inspections conducted in FY 2010, the Division of OSH Compliance identified 516 hazards. Of the 516 construction hazards identified, the majority were serious violations, demonstrating a focus where serious hazards exist. The Division of OSH Compliance issued \$596,875 in total construction penalties in FY 2010.

The Division of OSH Education and Training continued to offer commercial and residential construction training classes at POP Centers throughout the state.

In addition, the Division of OSH Education and Training continued outreach training, consultation, and partnership efforts in construction in FY 2010. The number of construction training courses taught was thirty-seven (37). The number of construction employees affected by this training for FY 2010 was 815.

The Division of OSH Education and Training continues to focus on the construction industry by promoting our Construction Partnership Program (CPP) by maintaining Association-Based Partnerships,

Training-Based Partnerships and Site-Based Partnerships. Kentucky developed a Voluntary Protection Program for Construction (VPPC) Program. This program enables employers in the construction industry to participate in the state's program, the agency's premiere recognition program. The overall objective of VPPC is to reduce injuries, illnesses and fatalities in the construction industry through increased participation by construction employers.

Performance Goal 1.2.1 addresses initiating compliance inspections of fatalities and multiple hospitalization accidents (as defined in 803 KAR 2:180 Section 9) within one (1) working day of notification for 100 percent of occurrences. The FY 2010 Annual Performance Goal was to accomplish inspection of 100 percent of fatalities and catastrophes within one (1) working day of notification.

Kentucky's Performance Goal for FY 2010 aims for 100% of fatality and catastrophe inspections to begin within one (1) working day after the Kentucky OSH Program is notified. Kentucky did not meet its goal for FY 2010 of responding within one (1) working day of all fatalities in one case.

Seven (7) fatalities appeared as outliers on the Fatality/Catastrophe data for FY 2010. They were:

1. A fatal accident at [REDACTED] occurred on October 30, 2009 and was reported the same day. The death was attributed to natural causes as the employee suffered an asthma attack during break but a subsequent complaint requested the division look into the circumstances surrounding the death. The Complaint was received on November 16, 2009 and the inspection was opened November 19, 2009. The Division of OSH Compliance had not intended to conduct an inspection of this fatality from apparent natural causes until it received the complaint.

2. A homicide at [REDACTED] was reported on December 8, 2009 and opened on December 10, 2009. There was confusion whether or not an inspection should be opened. That issue has been addressed.

3. A fatal accident at ^[REDACTED] was reported as a hospitalization under Kentucky's reporting regulation on May 6, 2010 and opened the following day. The employee passed away on May 10, 2010.

4. A fatality at the [REDACTED] . was reported as a heart attack on May 24, 2010 even though it occurred on May 21, 2010. The inspection was opened in order to issue a reporting violation.

5. A catastrophe occurred on June 2, 2010 at the [REDACTED] . A referral by a local emergency management official was made on June 2, 2010 and the inspection was opened that afternoon. The compliance officer went to the site on June 2, 2010 but could not open with the contractor as he was one (1) of the hospitalized workers.

6. A fatality at [REDACTED] was reported as a heart attack on July 6, 2010 even though it occurred on July 3, 2010. The inspection was opened in order to issue a reporting violation.

7. A fatality at ^[REDACTED] was reported on July 24, 2010, a Saturday, and the inspection was opened on Monday, July 26, 2010. The employee was injured on July 19, 2010, and hospitalized. The facility was shut down on the Saturday the fatality was reported.

Performance Goal 1.2.2 addresses response time by the Division of OSH Compliance in critical situations. This goal seeks to initiate inspection of imminent danger reports within one (1) working day of notification for 100 percent of occurrences. The FY 2010 Annual Performance Goal requires the Division of OSH Compliance to initiate inspection of 100 percent of imminent danger reports within one (1) working day of determination.

This performance goal requires the Division of OSH Compliance to initiate inspection of 100 % of imminent danger reports within one (1) working day of determination. The referral audit log indicates Kentucky failed to respond to nine (9) imminent danger referrals out of 230 received within one (1) working day but the outliers were discovered to be data entry errors. The investigation of the circumstances surrounding these inspections indicates Kentucky met this goal.

1. The [REDACTED] referral [REDACTED] was received January 3, 2011 and opened on January 3, 2011, inspection [REDACTED]. These referral inspection dates were incorrectly entered into the IMIS system. They were corrected.

2. The [REDACTED] referral [REDACTED] was received January 12, 2011 and opened January 12, 2011, inspection [REDACTED]. The inspection dates were incorrectly entered into the IMIS system. They were corrected.

3. The [REDACTED] referral [REDACTED] was received January 12, 2010 and opened January 12, 2010, inspection [REDACTED]. This referral inspection OSHA-36 date reported was incorrectly entered into the IMIS system. It was corrected.

4. The [REDACTED] referral [REDACTED] was received June 16, 2010 and opened June 16, 2010, inspection [REDACTED]. The supervisor did not enter the assignment until June 18, 2010 which accounts for the error. It was corrected.

5. The [REDACTED] . referral [REDACTED] was received September 8, 2010 and opened September 9, 2010, inspection [REDACTED]. The OSH-36 had the incorrect reporting month and the referral inspection opening date was incorrectly entered into the IMIS system. The compliance officer actually went to the site on September 8, 2010 but no one was at the site. He returned early the next morning.

6. The [REDACTED] referral [REDACTED] was received on October 16, 2009 on a complaint form but was handled as a referral as it was from a city government agency. A compliance officer responded that same date but no employees were in the excavation at the time. A subsequent phone call from a neighbor on October 20, 2009, reported individuals in the excavation so another compliance officer was dispatched to the site. The compliance officer was refused entry and entered the site on October 29, 2009 with a search warrant and a Kentucky State Trooper.

7. The [REDACTED] referral [REDACTED] was received on October 7, 2009 and a compliance officer responded on October 7, 2009, inspection [REDACTED]. The job had been completed and no employees were at the site. A no-inspection OSH-1 form was generated. The referral and assignment forms were generated two (2) days after the inspection was conducted and that was the date entered into the system. It was corrected and the accuracy of date entry has been communicated to staff.

8. The [REDACTED] referral [REDACTED] was received on October 18, 2009 and opened on October 18, 2009, inspection [REDACTED]. This referral inspection OSHA-36 date reported was incorrectly entered into the IMIS system. It was corrected.

9. Referral [REDACTED] and associated OSH-1 [REDACTED] show up in the IMIS system as Ivitts Plumbing Contractors, Inc. This was received as an OSHA e-mail complaint but since it involved an unprotected excavation it was handled as an imminent danger. The complaint was received on the afternoon of October 28, 2009 and opened as an imminent danger inspection on October 29, 2009.

It has been reiterated and emphasized to Division of OSH Compliance staff that accurately entering information into the IMIS database is critical in order to evaluate the program. Division of OSH Compliance supervisors occasionally do not enter an assignment of an imminent danger referral inspection in the IMIS system until the compliance officer has opened the inspection and determined the identity of the employer. This practice is actively discouraged and the importance of accurate data entry has been emphasized.

The second goal of Kentucky's two (2) year Strategic Plan is to change workplace culture to increase employer and worker awareness of, commitment to, and involvement in safety and health.

Performance Goal 2.1.1 aims to continue incorporating safety and health management systems evaluation in 100 percent of the full service comprehensive surveys conducted. There are two (2) FY 2010 Annual Performance Goals for 2.1.1. They are:

A. Utilize the Safety and Health Program Assessment Worksheet (Form 33) in 100 percent of the full service comprehensive surveys conducted.

B. Include a narrative safety and health program evaluation in 100 percent of reports completed for comprehensive surveys.

Performance Goal 2.1.2 has been fully met in FY 2010 as 100 percent of the consultation reports on comprehensive consultative surveys contain a completed Form 33. The Form 33 attempts to measure the safety culture of an organization, which is a key ingredient in whether the performance is sustainable or just random luck. Each comprehensive survey case file also includes a safety and health program evaluation report.

Performance Goal 2.1.2 addresses Kentucky's efforts to continue to develop and promote partnership and recognition programs, including the Voluntary Protection Partnership (VPP), the Safety and Health Achievement Recognition Program (SHARP), Construction Partnership Program (CPP), the VPPC, and the Safety Partnership Program (SPP), etc. Eight (8) Annual Performance Goals were established for 2.1.2. They are:

A. Continue to develop and expand our partnerships with existing VPP companies.

B. Work with three (3) new companies interested in pursuing VPP.

C. Create one (1) new VPP site.

D. Continue to develop and expand our partnerships with existing SHARP companies.

E. Create two (2) new SHARPS sites.

F. Develop one (1) new construction partnership.

G. Work with two (2) new construction companies interested in pursuing VPPC.

H. Continue to work with existing SPP companies.

Voluntary Protection Partnership

Kentucky's VPP began in the mid-1990s and is similar to the federal Voluntary Protection Program. Like the federal program, the Kentucky effort recognizes employers who have reached a level of excellence in their safety and health programs and removes them from programmed inspection lists. Detailed reviews of records and written programs, and intensive on-site surveys of worksite operations, assure that only companies that have a strong commitment to workplace safety and health and institutionalized safety and health management systems in place, as well as proven success maintaining a safe and healthful workplace, qualify for Kentucky's highest achievement recognition.

It was a very busy year for the VPP program, especially related to training and outreach to new and prospective companies. Kentucky performed two (2) re-certifications at VPP sites. They include Dow Corning Corporation in Carrollton, and International Paper Corporation in Bowling Green. A new VPP site, GE Energy in Louisville, joined VPP in December 2009 and held an official ceremony June 2010. Kimberly Clark Corporation in Owensboro started their venture towards VPP certification with a phase I audit in August, followed by a phase II audit in late October. They should officially join the VPP ranks later in 2011.

The Kentucky VPP program continues to mentor sites that are interested in becoming VPP and who have the commitment and personnel in place, but have not reached the level that qualifies them to apply. Firestone Industrial Products in Williamsburg and Southwire Corporation in Lewisport are two (2) sites Kentucky has assisted for many months in order to reach the level needed to be successful VPP candidates. After much work and many months of mentoring by the VPP office and personnel from existing VPP sites, Firestone Industrial Products is nearly ready to submit its VPP application. Southwire Corporation is working on identified shortcomings and has made huge strides over the past

several months, possibly being in a position to formally submit an application by end of year 2011. Kentucky also mentored Unifirst Corporation in Owensboro, but to a lesser extent.

Kentucky conducted many training classes for our existing VPP sites and other sites working to attain VPP status. In addition to conducting stakeholder meetings, and discussing VPP in general with interested companies, Kentucky offers Auditor I and Auditor II training classes. This training helps management and employees understand the depth of auditing for VPP and assists them in preparing for an audit. Kentucky trained well over 300 people in FY 2010 and it continues to be one of the most requested classes.

Three (3) sites expressed strong interest in VPP that are subject to the Process Safety Management (PSM) standard. They are ISP Chemicals in Calvert City, Westlake Monomers in Calvert City and Catlettsburg Refining, LLC in Catlettsburg. "Pre-assessment" activities have started at all of these sites. "Pre-assessment" is a mandatory process in Kentucky which helps the VPP group to determine strengths and weaknesses at the respective sites. It also determines if a site is ready to submit an application or needs more attention before doing so. While it is an exciting and a valuable learning opportunity if the VPP process comes to fruition at these facilities, it will undoubtedly present a daunting task with a number of manpower issues. Veolia waste water treatment site in Ft. Knox is also a PSM site that we have been working with and is close to submitting an application. However, it is a small site in comparison with the three sites mentioned above with only a simple chlorine process covered by PSM.

After not meeting report deadlines several times, experiencing a massive layoff, changing ownership, and generally not meeting the high standards required of a Kentucky VPP STAR site, Rohm and Haas in Louisville was asked to voluntarily withdraw. They withdrew in October 2009.

Though regrettable, dismissing facilities from the VPP program that can no longer maintain Kentucky's VPP standards maintains the integrity, strengthens the program, and ensures a strong program for the future.

The Kentucky VPP process expects growth in safety and health self-sufficiency and increased efforts at community outreach from its members. While no specific criteria are set for each site to achieve during any one (1) year, there is an expectation that as outside opportunities to mentor others develop, or as they are directed to our STAR companies, they will work with other companies within fifty (50) miles of their facility to further the safety of workers within the Commonwealth. To that end, the Kentucky VPP program has a formalized VPP Mentor Site endorsement and specific criteria to meet in order to obtain, and maintain a certified mentor status. An appended flag for VPP Mentor Certified Sites has been attained by Performance Pipe in Williamstown. The criteria set and maintained in the program require the active facility to participate in the federal Special Government Employee program to ensure exposure to new work environments and problem solving situations as part of their self sufficiency efforts, as well as fostering sites toward VPP and community outreach within fifty (50) miles of their facility.

Fostering improved safety and health performance among other less adept facilities in the Commonwealth is also on the yearly agenda of the VPP STAR Network. The Network takes the names of the worst performing companies in the state with respect to their safety and health recordable rates, and invites them to join the conference to make connections with experts in the field of safety and health that are located within the Commonwealth. Companies are educated about the efforts of the current VPP STAR Network member's safety and health best practices. Companies benefit by discussing relevant OSH issues in their respective settings with OSH leaders in the Commonwealth. This interface and networking helps foster the growth of the VPP Star Network and its constituents for the following

year. It is anticipated that this outreach and networking will motivate each participant to find the resources to improve its safety culture and safety management systems at little or no cost.

SHARP - SPP - Strategic Partnerships

The Safety Health Achievement and Recognition Program (SHARP) and Safety Partnership Program (SPP) programs continue making progress in calendar 2010.

The SHARP's program added two (2) new companies in 2010 and has seven (7) other companies with certifications in progress. As Division of OSH Education and Training consultants continue to be heavily backlogged with emphasis program consultative request, efforts continue to provide mini-assessments to interested companies on SHARP program requirements along with a checklist of things they need to have in place prior to the actual SHARP survey to ensure successful qualification. Companies develop their safety and health programs to the SHARP's required level and then apply. This pre-SHARP's assessment program has been well-received by the companies as each gets assistance and direction in improving its safety and health programs at its own pace with the knowledge of where each needs to be to achieve SHARP status. We are now starting to see increased application for SHARP due to our pre-assessment work in the past.

The SPP program has three (3) companies in the three (3) year program during FY 2010. These companies are starting with very bad safety programs, having rates twice or more the national incident rate for their NAICS. They must commit to continuous and serious effort at safety improvements with regular guidance from the Division of OSH Education and Training. All three (3) companies are showing improvement in their safety performance. Resource requirements limit the number of these type partnerships that can be handled at one time but past performance shows it works well for companies who are serious about making safety improvements.

Kentucky's general industry strategic partnership with the Kentucky Ready Mix Concrete companies was allowed to expire during FY 2010. Due to the death of a key safety committee person

and challenging economic conditions, participation was declining. It was mutually decided to end the partnership. If conditions improve in the future, the partnership could restart.

Construction Partnership Program

The Kentucky Construction Partnership Program (CPP) is offered to general contractors, construction managers, construction associations and construction companies to promote health and safety in the construction industry. The program's goal is to partner with those construction companies that have an existing safety and health management system in place that promotes health and safety but want to work with the Cabinet to improve. These companies have a positive impact on associations and all subcontractors coming to their worksites. There are currently three (3) types of formal partnerships available:

- Association-based;
- Site-based; and
- Training based.

2010 was another year of growth for CPP. New sites as well as new contractors were added. As word has spread about the benefits of the CPP, contractors, universities, as well as safety-based associations, are increasingly interested in working cooperatively with the program. In addition, contractors that have been involved with CPP in the past are seeking partnerships for their new projects.

Current Site-Based Partnerships

1. MOREHEAD STATE UNIVERSITY CAMPUS RECREATION CENTER: The project is new construction of a Student Recreation Center for Morehead State University. The project is valued at \$18 million and the expected completion date is Spring 2011. The project includes three (3) full-size basketball/volleyball courts, an indoor track, strength training and cardio area, two (2) racquetball/squash courts, an indoor competition and leisure swimming pool, meeting rooms and outdoor lighted grass sports fields. In addition to the general contractor, Morehead State University was also a signing partner on this project.

2. EASTERN STATE HOSPITAL PROJECT: The project is new construction of a mental care hospital. The project is valued at \$129 million. The project will consist of a hospital as well as residential type structures located on twenty-eight (28) acres. The project is scheduled to last until December 2012.
3. LIVINGSTON/MCCRACKEN COUNTIES BRIDGE OVER THE TENNESSEE RIVER PROJECT: The project is a \$66 million bridge over the Tennessee River near Paducah, Kentucky. The project will consist of earthwork, paving, structural steel erection, rebar installation and electrical work. The project is anticipated to last until sometime in 2014.
4. EATON DATA CENTER I: The project is the new construction of a 102,000 square foot building in Simpsonville, Kentucky. The project consists of a precast main building, and an office area steel structure. The building contains 2 km generators, three (3) 650 ton chillers, and one (1) 250 ton chiller. The project is scheduled to last until early 2011 with an estimated cost of \$42 million.
5. EASTERN KENTUCKY UNIVERSITY SCIENCE BUILDING: The project is a new construction of a 175,000 square foot Science Building. The first phase of this project will house the Departments of Chemistry and Physics & Astronomy. The project is expected to be completed in February 2011 with an estimated cost of \$64 million. This is one of CPP's most unique partnerships. In addition to the prime contractor, the University was also a signing partner for this project. As a result, students and staff not only accompany the Labor Cabinet when audits are being done at the site, but several trainings for students and staff have been conducted independently of the project.
6. WESTERN WATER RECLAMATION FACILITY: The project is new construction of a twenty (20) million gallon per day waste water recovery facility. The project is valued at \$69 million dollars and is scheduled to be completed by August 2012.
7. EATON DATA CENTER II: The project is the new construction of a 102,000 square foot building in Simpsonville, Kentucky. The project consists of a precast main building, and an office area steel

structure. The building contains 2 km generators, three (3) 650 ton chillers, and one (1) 250 ton chiller. The project is scheduled to last until late 2012 with an estimated cost of \$42 million.

8. ELIZABETHTOWN SPORTS PARK PROJECT: In addition to the general contractor, the City of Elizabethtown is also a signing partner for this project. This project is the development of approximately 150 acres for recreational use, including baseball, softball, soccer, and football fields and their associated utilities, buildings and roadways. The project is scheduled for completion December 2011 at an estimated cost of \$29 million.

Current Association-Based Partnerships

1. WESTERN KENTUCKY CONSTRUCTION ASSOCIATION AND ASSOCIATED GENERAL CONTRACTORS OF AMERICA: On March 12, 1998, the Associated General Contractors of America (AGC) and OSHA signed a partnership charter that mutually recognized the importance of providing a safe and healthful work environment in the construction industry. Building upon the OSHA partnership, in November 2001 the Western Kentucky Construction Association-AGC (WKCA-AGC) and the Kentucky OSH Program originally signed a similar partnership agreement. To advance mutual goals, it was agreed that the need to develop a working relationship that would create mutual trust and respect for the respective roles each organization plays in the construction safety process. The Construction Health and Safety Excellence (CHASE) partnership agreement is the direct result of the 1998 partnership charter. In April 2010 the AGC and the Kentucky Labor Cabinet signed a new agreement extending this Partnership until May 2011. The CHASE Program has nine (9) RED members, three (3) WHITE members, and one (1) BLUE member.

2. ASSOCIATED BUILDERS AND CONTRACTORS, INC. KENTUCKIANA CHAPTER: In the summer of 2010, the Associated Builders and Contractors, Kentuckiana Chapter and OSHA signed a partnership charter with the shared strategies and goals of having an open communication policy between Kentucky OSH and the ABC. This will encourage respect, understanding, help the parties

share their knowledge of the best industry technology, innovations, and work practices that will improve jobsite safety and health performance. They will cooperate in the development and continuous improvement of safety training programs for the construction industry and Kentucky OSH personnel, as well as promote recognition for construction safety excellence throughout the construction industry statewide at every opportunity.

VPPC in Kentucky

Currently there are two (2) companies that fall under Kentucky's VPPC State Plan. This VPPC State Plan is administered through the CPP branch. This is the highest recognized standard for safety and health in the construction industry. They are:

Miller-Valentine
4000 Miller-Valentine Court
Dayton, OH 45401; and

Turner Construction
250 West Court Street Suite 300
Cincinnati, OH 45202.

Future Partnerships

Site Based: Several contractors involved in past partnerships have expressed interest in partnering for projects upcoming in 2011.

VPPC: In 2010 the CPP Division did not meet its goal to take on four (4) new VPPC members.

Kentucky believes that is a result of a difficult financial year. Several companies that expressed interest last year have put off the process until the economy improves.

Another effort to recognize safety and health achievement in Kentucky is the presentation of the Governor's Safety and Health Award. These awards are presented by the agency in recognition of companies reaching a milestone of man-hours worked without a lost workday case. The awards are offered on a graduated scale based on the size of the company. In FY 2010, fifty-one (51) Kentucky companies and their employees were recognized through the Governor's Safety and Health Awards for

efforts to prevent lost workday injuries and illnesses. Companies with up to 125 employees must reach 250,000 man-hours worked without any lost time. In late FY 2007, Kentucky started the “Thoroughbred Award.” This award is for small employers with fifty (50) or fewer employees that have achieved twenty-four (24) months or two (2) consecutive years without a lost time. In FY 2010, a Thoroughbred Award was presented to LSI Industries in Erlanger, Kentucky.

Performance Goal 2.1.3 addresses the implementation of a targeted outreach training plan for 100 percent of new Kentucky OSH standards. The FY 2010 Annual Performance Goal is identical.

The Division of OSH Education and Training continues to offer free outreach training at POP Centers for employers and employees across the Commonwealth addressing Kentucky OSH standards. The Kentucky Labor Cabinet also maintains updated and accurate information on the Kentucky OSH webpage as well as cost free publications for employers and employees. The Division of OSH Education and Training developed a compact disc that contains all the state OSH regulations, federal OSH standards, Kentucky safety and health manuals, posters, conference information, and resource links. The compact disc offers employers a mechanism to register and receive a notice regarding new or amended regulations. The Kentucky OSH Program provides the compact disc free of charge. The Kentucky OSH Program no longer prints the federal regulations. Kentucky now prints a document entitled “*Kentucky Occupational Safety and Health Standards for Construction and General Industry*”. The document contains Kentucky specific OSH general industry and construction regulations that supersede OSHA’s standards.

Performance Goal 2.1.4 relates to Kentucky’s effort to continue to develop and deliver outreach training services that meet 100 percent of targeted strategic goals. The two (2) FY 2010 Annual Performance Goals seek to:

- A. Develop training programs that correspond to the targeted needs identified in previous performance goals; and

B. Make available all standards, regulations, and reference materials in a user friendly manner from the Kentucky OSH webpage and continue to upgrade and provide the most current information.

In addition, the training conducted at the six (6) POP Center training sessions in FY 2010 addressed a myriad of hazards associated with high hazard industries. Courses addressing fall protection, back care, lockout/tagout, excavations, explosive dust, scaffolding, electrical safety, residential and commercial construction exceeded 2400 participants. The POP Center training schedule and courses were posted on the OSH Program website in 2010. Additionally, all changes to Kentucky OSH regulations as well as the full text of Kentucky OSH regulations and reference materials appear at the Kentucky OSH website.

Performance Goal 3.1.1 is to maintain a technology infrastructure that provides a reliable data repository to support Kentucky OSH Program goals and strategies. The FY 2010 Annual performance Goal for 3.1.1 was to maintain all OSHA Integrated Management Information System (IMIS) equipment and software to ensure that data on the information system is accurate, accessible, and current for both the Kentucky OSH Program and OSHA.

In fulfillment of this goal, Kentucky personnel have participated in monthly conference calls hosted by OSHA for Information Technology users. Kentucky implements and maintains all changes mandated by OSHA on the IMIS System. The Division of OSH Compliance and the Division of OSH Education and Training maintain full-time positions to coordinate IMIS computer equipment and IMIS data entry activity. The Division of OSH Compliance requires all compliance officers to enter information on the OSHA OSH-1 form to ensure proper coding of targeted enforcement activity. Compliance officers code all residential and commercial construction activity to better evaluate compliance activity for falls. All compliance officers code amputations and hospitalizations to target

areas for concentrated inspections. Health compliance officers are required to code all expanded standard activity to better evaluate activity dealing with carcinogens.

Also, the Division of OSH Compliance and the Division of OSH Education and Training make necessary corrections to ensure that accurate and reliable information is entered into the NCR system whenever errors are found during the course of the year. Kentucky met this goal.

Performance Goal 3.1.2 aims to develop and maintain a system to maximize the use of human resources. Three (3) FY 2010 Annual Performance Goals were:

- A. Ensure that the Kentucky OSH Program has the capabilities to meet the demand for safety and health training by having two (2) personnel receive either the Construction or General Industry OSHA 10-hour or 30-hour instructor training.
- B. Enhance employee development, reduce employee turnover and increase work productivity in support of Kentucky OSH Program goals and strategies.
- C. Encourage Kentucky OSH staff to acquire certification in the field of occupational safety and health.

In FY 2010, the annual performance goals toward fulfillment of this goal included ensuring the development of a workforce career development plan for entry level employees, ensuring the OSH Program has two personnel who have received either the OSHA Construction or OSHA General Industry 10-Hour or 30-Hour instructor training, and ensuring Kentucky OSH staff acquire professional certification. Kentucky is pleased this goal has been met.

The Division of Education and Training and the Division of OSH Compliance worked with the Personnel Cabinet to create two (2) certified safety positions out of one (1), giving staff two (2) levels of certification. In FY 2010 the OSH Certified Safety Consultant/Compliance Officer position was divided into OSH Certified Safety Consultant/Compliance Officer I and OSH Certified Safety Consultant/Compliance Officer II positions. The OSH Certified Safety Consultant/Compliance Officer I

position was created for Occupational Safety and Health Technician (OHST) and Construction Health and Safety Technician (CHST) certified compliance officers while the OSH Certified Safety Consultant/Compliance Officer II was created for the Certified Safety Profession (CSP) compliance officers. The OSH Certified Safety Consultant/Compliance Officer II position provides an extra internal mobility step for staff.

All managers in the Division of OSH Education and Training received formal leadership training. A training career development plan has been prepared for the Division of Education as well as training for entry level employees. Five (5) Division of OSH Education and Training employees received instructor training to conduct the OSHA Construction Standards 10-Hour and 30-Hour Courses. In addition, three (3) Division of OSH Education and Training employees received instructor training to conduct the OSHA 10-Hour and OSHA 30-Hour courses for general industry. These trainers will ensure the Kentucky OSH Program has the capability to meet training obligations under partnership agreements, as well as outreach efforts for training in both construction and general industry. During FY 2010, the Division of OSH Education and Training maintained three (3) dual Certified Industrial Hygienist-Certified Safety Professional employees, one (1) CIH employee, three (3) CSP employees, one (1) certified Associate Safety Professional (ASP) employee, two (2) OHST certified employees, and one (1) CHST certified employee.

The Office of the Federal-State Coordinator maintained one (1) CSP and one (1) Standards Specialist received a CIH credential in FY 2010.

The Division of OSH Compliance follows OSHA's 2008 TED 01-00-018, Training Program for OSHA Compliance Personnel, and the Division of OSH Education and Training utilizes TED 01-00-018 as guidance for new employees. The Division of OSH Compliance remains committed to developing and maintaining an experienced, diverse staff and continues to encourage professional development and professional certification, such as the CSP and CIH. In addition, since the development of the

Compliance CSP/OHST/CHST positions, a number of staff attained certification with more seeking certification. During FY 2010, the Division of OSH Compliance maintained two (2) OHST certified employees and two (2) more achieved certification. One (1) CSHT certified employee was maintained while seven (7) more achieved certification. The Division of OSH Compliance maintains one (1) CSP employee and another is approved to sit for the CSP examination. Two (2) additional Division of OSH Compliance staff have been approved to sit for the ASP exam. Two (2) industrial hygienists are currently studying for the CIH examination. The Division of OSH Compliance continues to encourage and promote additional personnel who may achieve certification in the safety and health field by maintaining two (2) certification levels for compliance officers, paying for certification preparatory courses, and paying for the certification exam once it has been passed. One (1) Division of OSH Compliance supervisor is a Certified Public Manager and the Health Program Manager is a Certified Fundamentals Manager.

The Division of OSH Compliance continued to send employees to the OSHA Training Institute (OTI) for training. Additionally, the Division of OSH Compliance encourages staff education as well as certification by paying full tuition for employees attending Eastern Kentucky University and Murray State University safety programs. In FY 2010, the Division of OSH Compliance funded three (3) compliance officers' graduate degrees at Eastern Kentucky University. All three (3) sought Masters of Science in Safety, Security, and Emergency Management. As of this date, four (4) compliance officers have completed their Master of Science degrees, two (2) are currently in the program and two (2) more are applying. One (1) industrial hygienist is partially through the program.

One (1) compliance office left the Division of OSH Compliance in FY 2010 for the private sector. At the close of FY 2010, Kentucky had twenty-three (23) safety compliance officer positions, fourteen (14) industrial hygienist positions, and one (1) discrimination investigator position. The Division of OSH Compliance continues to request five (5) new positions in each state budget.

The Division of OSH Compliance suffered the loss of an industrial hygienist in FY 2010 from natural causes. She was employed for nineteen (19) years with a brief stint in the private sector. Her dedication to her job and her commitment to the safety and health of the Commonwealth's workers served an example to all.

SECTION II MANDATED ACTIVITIES

The Occupational Safety and Health Act and 29 CFR 1902 establish a number of mandated activities or core elements for any state plan program. Kentucky's Annual Performance Plan, while involving many of these core elements, does not address every mandated activity. In this section, the mandated core elements of Kentucky's program are addressed.

Unannounced Inspections, Including Prohibition Against Advance Notice Thereof

During FY 2010, the Division of OSH Compliance conducted a total of 1,064 unannounced inspections of work sites under the authority of KRS 338.101. Advance notice of inspections is prohibited and punishable under KRS Chapter 338.991(9).

Employee Involvement in Inspection Process

803 KAR 2:110 requires authorized employee accompaniment during inspections. The Division of OSH Compliance contacts a representative(s) of employee-organized groups upon entry onto a site in order to afford employees participation in the inspection process. Representatives of employee groups participate fully in the inspection process by attending the opening conference, accompanying the inspector and employer on the walkaround, and attending the closing conference. Employee representatives are also allowed to observe employee interviews. If no employee-organized group exists at the facility, employee interviews are conducted.

Following the inspection, 803 KAR 2:130 requires that employee representative(s) be afforded the opportunity to observe any informal conference requested by the employer. 803 KAR 50:010 Section 14 allows the employee organization, or any interested employee, to intervene in any subsequent contest.

First Instance Sanctions Against Employers Who Violate the Act, Including Citations

KRS Chapter 338.141 mandates the issuance of citations for violations of any OSH requirement. The Division of OSH Compliance continued to improve Kentucky's work environment through

enforcement operations, which include first instance citations for violations of workplace safety and health standards and regulations.

The Division of OSH Compliance conducted a total of 1,064 inspections in FY 2010, 868 safety inspections and 196 health inspections. 784 inspections were unprogrammed and break down as follows:

- 325 referrals;
- 252 complaints;
- 128 unprogrammed related;
- Thirty-eight (38) follow-up; and
- Twenty-five (25) accidents.

296 inspections were programmed and break down as follows:

- Ninety-six (96) planned;
- 122 programmed related; and
- Seventy-eight (78) other.

496 inspections were in the construction industry, 299 were in manufacturing, and 269 were other. 1,012 private sector and 52 public sector employers were inspected. The Division of OSH Compliance conducted 868 safety inspections which constitute 81% of total inspections while health conducted 196, representing 19% of total inspections.

Safety averaged 33.6 hours per case with 77.6 average days from opening to citation issuance and health averaged 75 hours per inspection with 93.45 average days from opening to citation issuance. A total of 1,422 violations were issued in FY 2010 with penalties totaling \$2,276,070 as follows:

- 878 violations classified as serious with penalties of \$1,265,424;
- Twenty-three (23) violations classified as willful with penalties of \$618,000;
- Twelve (12) failures to abate with penalties of \$207,400;

Twenty-six (26) violations classified as repeat with penalties of \$120,370; and 483 violations classified as other than serious with penalties of \$64,875.

In FY 2010, the total amount of penalties collected by the Division of OSH Compliance in FY 2009 was \$1,379,445.70.

Seventy-one (71) cases were contested representing 13.5%.

The Division of OSH compliance inspected establishments employing a total of 230,723 employees and the inspections covered 70,686 employees.

The Division of OSH Compliance vacated eighteen (18) violations which represents 1.4% of the violations issued. Additionally, the Division reclassified six (6), or 0.5% of the violations issued.

Penalties issued were retained in sixty-three (63) percent of the violations.

At the time the FY 2010 data was compiled, three (3) 2010 inspections with citations had not been issued. One (1) inspection involves a fatality and two (2) hospitalizations, another (1) involves confined spaces and noise, and a third (1) involves sanitation.

Ensuring Abatement of Potentially Harmful or Fatal Conditions

Hazardous conditions identified by Kentucky compliance officers and consultants are required to be abated. In order to ensure the correction of hazards, KRS 338.991(4) provides specific penalties for any employer who fails to correct a cited violation. In addition, 803 KAR 2:060 establishes that employers must certify that each cited violation has been abated. Follow-up inspections are conducted to verify that potentially harmful conditions have been abated. The Division of OSH Compliance strives to perform at least ten (10) percent of safety and health inspections as follow-up inspections. The safety branch follows up on imminent danger inspections after the employer has received the citations. The majority of these inspections deal with residential fall protection, commercial fall protection, and trenching hazards. Also on the follow-up list are employers who fail to provide the Division of OSH Compliance with abatement documentation.

The Division of OSH Compliance performed thirty-eight (38) follow-up inspections in FY 2010, representing 3.5% of all safety and health inspections. Twelve (12) failure-to-abate violations were issued for a total penalty of \$207,400. One (1) follow-up inspection resulted in four (4) willful serious violations with penalties totaling \$42,000. The abatement period for safety violations greater than thirty (30) days is 7.2% and the abatement period for health violations greater than sixty (60) days was ten (10) percent.

Discrimination rights are explained to complainants when they call the Division of OSH Compliance. Employees interviewed during inspections are also informed of their rights. The Division of OSH Compliance prints discrimination rights on the back of staff business cards which are given to employees during inspections.

The Division of OSH Compliance has the force of Kentucky Revised Statute (KRS) 338.131(1) which gives the executive director who is the Commissioner of Workplace Standards the authority to issue an immediate abatement order in the event of “. . .an imminent danger which reasonably could be expected to cause death or serious physical harm.” This ensures prompt abatement or removal of employees from the hazard. If an employer fails to comply with an abatement order issued under KRS 338.131(1), the Division of OSH Compliance shall apply to the Franklin Circuit Court through its Office of General Counsel for an order to restrain such condition or practice.

Serious hazards identified by Division of OSH Education and Training consultants must also be corrected. Employers who fail to correct serious hazards identified in Division of OSH Education and Training consultative surveys are subject to referrals to the Division of OSH Compliance for inspection.

Prompt, Effective Standard Adoption and Promulgation

On May 4, 2010, the Kentucky OSH Standards Board adopted the “Updating OSHA Standards Based on National Consensus Standards; Personal Protective Equipment, [PPE]” final rule published in the September 9, 2009, *Federal Register*. With this final rule, OSHA updated references to National

Consensus Standards and the PPE sections of its General Industry, Shipyard Employment, Longshoring and Marine Terminal Rules. It deleted references to ANSI Standard Z41.1 1967 which set standards for safety footwear and ANSI Z87.1 1968 which set standards for eye and face protection, both of which represent eye and footwear protection employers are no longer able to locate and purchase. Adoption of this final rule was not required. The amendment became effective in Kentucky on October 1, 2010 and affected 803 Kentucky Administrative Regulations (KAR) 2:300, 2:306, 2:308, 2:316, and 2:318.

On May 4, 2010, the Kentucky OSH Standards Board adopted “Revising the Notification Requirements in the exposure Determination Provisions of the Hexavalent Chromium Standards,” direct final rule published in the March 17, 2010, *Federal Register*. This direct final rule required employers to notify affected employees of all exposure determinations whether they are above or below the permissible exposure limits. The direct final rule confirmation was anticipated in May of 2010 and a six-month time frame was anticipated for adoption. In order to amend the affected Kentucky Administrative Regulations within the requirements of Kentucky Revised Statute 13A, the Board was asked to consider its adoption prior to the confirmation date of the direct final rule. The amendment became effective in Kentucky on October 1, 2010 and affected 803 KAR 2:320, 2:425, and 2:500.

On May 4, 2010, the Kentucky OSH Standards Board adopted an amendment to 803 KAR 2:318, one of the electrical standards. The amendment restores an inadvertent deletion that occurred during a previous amendment. The deleted portion reinstated the procedures for use of a lock equivalent to those outlined in paragraph (b)(2)(iii)(C) of 29 CFR 1910.333. This amendment was effective January 3, 2011.

On August 24, 2010, the OSH Standards Board adopted “Cranes and Derricks in Construction” final rule published in the August 9, 2010, *Federal Register*. This rule added two (2) new Subparts to CFR Part 1926, CC for the cranes and derricks in construction and DD for cranes used in demolition and underground work. This rule affected 803 KAR 2:400, 803 KAR 2:402, 803 KAR 2:411, 803 KAR

2:412, 803 KAR 2:413, 803 KAR 2:414, 803 KAR 2:417, 803 KAR 2:418, 803 KAR 2:419, 803 KAR 2:421, 803 KAR 2:423, 802 KAR 2:430, and the promulgation of two (2) new regulations, 803 KAR 2:505 and 803 KAR 2:550. All were effective January 3, 2011.

On August 24, 2010, the OSH Standards Board also adopted the non-mandatory note to 29 CFR 1926.754, published in the May 17, 2010 *Federal Register*, pertaining to existing Federal Highway Administration regulations.

Kentucky enacted all required final rules within the mandatory six (6) month timeframe.

Allocation of Sufficient Resources

The Kentucky OSH Program continued to match federal funding at the required rate. The state provides significant additional dollars beyond the federal match to meet the Program's needs.

Kentucky's ratio was 64:36 for FY 2010 of state to federal funds.

Counteraction of Imminent Dangers

KRS 338.131 provides enforcement personnel with the authority to order that imminent danger conditions be immediately abated. Such authority includes the enforcement of necessary measures to avoid, correct, or remove the imminent danger and prohibit the presence of individuals where the imminent danger exists. Reports of imminent danger are given the highest priority for inspection by the Division of OSH Compliance.

In FY 2010, the Division of OSH Compliance conducted 230 reported imminent danger inspections and responded to 100 percent of imminent danger reports by initiating an inspection within one (1) working day of notification.

Response to Complaints

Kentucky's statutes ensure that employees and their representatives have a right to notify the OSH Program of perceived workplace violations. KRS 338.121 requires that a special inspection be

conducted upon receipt of such notifications if reasonable grounds exist that there is a violation or danger. The Division of OSH Compliance prioritizes the employee complaints it receives.

All valid, formal complaints are scheduled for workplace inspections. Formal complaints are given priority based upon classification and gravity of the alleged hazard. Formal serious complaints, for example, are inspected within thirty (30) days; however, it is stressed to compliance officers to respond within five (5) days after being assigned the complaint. Four (4) serious complaint inspections were opened greater than 30 days after assignment in FY 2010. They were:

1. [REDACTED] complaint [REDACTED] was received December 9, 2009 and assigned to a supervisor on that same date. The supervisor assigned the complaint to a compliance officer on December 9, 2009. The inspection was opened on January 19, 2010. The Complaint Audit Log indicates the inspection was opened thirty-one (31) working days after the complaint was received; however, the Complaint Audit Log excludes weekends from the calculation of days. As fourteen (14) weekend days occurred between December 9, 2009 and January 19, 2010, the Division of OSH Compliance responded within thirty (30) working days.

2. [REDACTED] . complaint [REDACTED] was originally received as an e-mail complaint forwarded from the OSHA' Nashville, Tennessee area office. Kentucky does not conduct inspections from e-mail complaints unless they allege imminent danger hazards. The Division of OSH Compliance received a signed complaint on March 29, 2010 and assigned it to a supervisor on April 1, 2010. The supervisor assigned the inspection that same day and the compliance officer opened it on April 6, 2010, inspection [REDACTED]. The inspection was opened six (6) working days from receipt of a valid complaint.

3. [REDACTED] complaint [REDACTED] was received on May 19, 2010 and was added to the inspection of complaint [REDACTED] which was assigned to a supervisor on April 14, 2010. The complaint was assigned to an industrial hygienist on that same date. The inspection for

complaint^[REDACTED] was opened on April 22, 2010, eight (8) calendar days from the date the complaint was received. The Division of OSH Compliance received a second complaint on May 19, 2010 which was added to the previous inspection.

4. [REDACTED] complaint^[REDACTED] was received on June 3, 2010 and assigned to a supervisor on June 7, 2010. The supervisor assigned the complaint to a compliance officer on that same date. The compliance officer opened the complaint as inspection^[REDACTED] on July 16, 2010. At present, the Division of OSH Compliance has one (1) compliance officer in the geographic area of the complaint. The compliance officer carries a heavy load of imminent dangers, fatalities, and complaints. The Compliant Audit Log indicates this inspection was opened thirty-one (31) working days after receipt. The log excludes weekend days but includes holidays in the daily calculation. The 4th of July holiday occurred between the time the complaint was received and the date opened. Regardless of the compliance officer's workload, when the July 4 holiday is accounted for, the complaint was opened thirty (30) days from receipt.

5. [REDACTED] complaint^[REDACTED] was received on March 2, 2010 and assigned to a supervisor on March 3, 2010. The supervisor assigned the complaint to an industrial hygienist on March 3, 2010 and inspection^[REDACTED] was opened on March 3, 2010. The date incorrectly entered into the IMIS was the date the complaint was signed, not the date the complaint was received. It was corrected.

6. [REDACTED] complaint^[REDACTED] was received, assigned, and opened on March 29, 2010, inspection^[REDACTED]. The receipt date was inaccurately entered on the complaint form entered into the IMIS. It was corrected.

The Complaint Audit Log indicates safety's average response time to complaints alleging imminent dangers is one (1) day. The Complaint Audit Log indicates safety's average response time to complaints alleging serious hazards is 6.4 days and health's is 7.5. The program's overall average is 6.9 days from date complaint is received to date complaint inspection opened. The Compliant Audit Log indicates safety's average response time to complaints alleging other than serious hazards is three (3) days and health's is 12.7. The program's overall average is 12.3 days from date complaint is received to date the inspection is opened.

Of the 451 complaints received in FY 2010, 198 were handled as letter complaints.

Response to Referrals

The Division of OSH Compliance responded to 325 referrals in FY 2010. Kentucky places the same level of importance to referrals as it does complaints. As provided in paragraph X.N. on Page IX - 8 of 26 in Chapter 9 of Kentucky's Field Operations Manual (FOM), serious complaints must be opened within thirty (30) working days and non-serious complaints within 120 working days. As referrals have the same importance as complaints, Kentucky's Division of OSH Compliance utilizes the same timeline in responding to referrals and stresses a five (5) day response.

Using this criterion, the Division of OSH Compliance met the referral response requirement for serious hazards in all but two (2) cases. They were:

1. [REDACTED] referral [REDACTED] was received November 11, 2009 and assigned to a supervisor on November 30, 2009. The supervisor assigned the referral to an industrial hygienist on December 7, 2009 and the inspection was opened on January 11, 2010, inspection [REDACTED]. The industrial hygienist was experiencing personal and family medical problems at the time.

2. [REDACTED] referral [REDACTED] was received on August 2, 2010 and assigned to a supervisor on August 6, 2010. The supervisor assigned the referral to a compliance officer

on that same date and the inspection was opened on September 15, 2010. September 3, 2010 was a mandatory furlough day in Kentucky so no state employees were allowed to work except in response to reports of imminent danger, catastrophe, or fatality. As the Referral Audit Log indicates this inspection was opened thirty-one (31) working days from the date it was received, when this furlough date is taken into consideration, it was opened within thirty (30) days.

The Referral Audit Log indicates safety's average response time to referrals alleging imminent dangers is 2.41 days and health's is 0.6. The program's overall average is 2.37 days from date referral received to date inspection opened. The Complaint Audit Log indicates safety's average response time to complaints alleging serious hazards is 4.66 days and health's is 5.95. The program's overall average is 4.81 days from date complaint is received to date complaint inspection is opened. The Complaint Audit Log indicates safety's average response time to complaints alleging other than serious hazards is three (3) days and health's is 12.7. The program's overall average is 7.85 days from date complaint is received to date complaint inspection is opened.

It has been reiterated to Division of OSH Compliance staff that serious referrals must be opened within thirty (30) days. If not, a detailed explanation is required in the case file.

Fatality/Catastrophe Investigations

Only imminent danger investigations are given a higher priority in scheduling inspections by the Division of OSH Compliance than fatality/catastrophe investigations. It is the policy of the Division of OSH Compliance to investigate all job-related fatalities and catastrophes as thoroughly and expeditiously as possible. In FY 2010, fifty-seven (57) fatality/catastrophes were reported to the Division of OSH Compliance.

Division of Compliance staff personally contact next of kin at the outset of a fatality investigation and sends a follow-up letter providing contact information. At the conclusion of a fatality investigation, the next-of-kin receives a letter from the Director of the Division of OSH Compliance and

if citations are issued, copies of the citations. If an employer contests a case in which a fatal accident occurred, the attorney assigned to the case from the Office of General Counsel also sends a letter to the next-of-kin with contact information and a request that the next-of-kin contact him or her if he or she wishes to be kept apprised of developments in the litigation.

The Investigation of Discrimination and Employee Protection from Discrimination

KRS 338.121(3) offers protection to employees from reprisals which might result from the exercise of rights afforded by the OSH statutes. A system of citations and penalties, appeals to the OSH Review Commission, and reinstatement authority by the Commissioner while final determination is pending before the Review Commission, distinguish the Kentucky anti-discrimination effort. In addition, 803 KAR 2:240 allows any employee who believes he or she has been discriminated against, to file a complaint within 120 days of the alleged violation, as opposed to the thirty (30) days allowed by federal law. The Division of OSH Compliance is responsible for the enforcement of the state's anti-discrimination provisions. During FY 2010, the Division of OSH Compliance received 129 discrimination complaints and opened fifty-one (51) new cases of alleged OSH discrimination. Ninety-eight (98) cases were screened and referred to other agencies or not accepted. Twenty-nine (29) of those cases were completed during this fiscal year with an average of 82.26 days per case. One (1) case was settled without penalties, twenty-six (26) were dismissed with no violations, two (2) are still open, and two (2) were contested. Penalties totaling \$13,000 were issued.

When complainants call, they are informed of their discrimination rights, as are employees when interviewed during inspections. The Division of OSH Compliance also prints discrimination rights on the back of its business cards which are given to employees during inspections.

Complainants are informed when she or he calls the office of her or his discrimination rights and employees interviewed during inspections are also informed of their rights. The Division of OSH

Compliance also prints discrimination rights on the back of its business cards which are given to employees and employers during inspections.

Ensuring Employees Access to Health and Safety Information

KRS 338.161(2) and 803 KAR 2:060 require employers to post notices informing employees of the protections and obligations provided for them in the law, including the proper contact for assistance and information. Kentucky regulations also provide for the availability of copies of the law and all regulations through the Kentucky Labor Cabinet. Employers who have obtained copies of these materials are required to make them available to employees or their authorized employee representatives. Failure to comply with posting requirements and information sharing provisions are citable offenses which may carry penalties.

Ensuring Employee Access to Information on their Exposure to Toxic or Harmful Agents

Kentucky adopted 29 CFR 1910.1020, which assures employee access to information on exposure to toxic materials. Employers who fail to comply with these requirements are subject to citations and monetary penalties. In addition, Kentucky has an additional regulation, 803 KAR 2:062, entitled "Employers' Responsibility Where Employees are Exposed to Toxic Substances." This regulation requires employers to monitor areas of exposure to potentially toxic substances and to notify employees who have been or are being exposed to toxic materials. Monitoring records are to be maintained and made available to employees, former employees, or employee representatives.

In FY 2010, the Division of OSH Compliance conducted twenty-four (24) inspections relating to silica, chrome 6, formaldehyde, lead, and asbestos, resulting in three (3) repeat violations, thirty-eight (38) serious violations, and thirteen (13) other than serious violations. Penalties totaling \$84,126 were issued for the fifty-four (54) violations.

The Division of OSH Compliance conducted two (2) chemical NEP inspections included in six (6) process safety-related inspections resulting in fifty (50) serious violations with penalties totaling \$69,825.

Coverage of Public Employees

KRS 338 “Occupational Safety and Health of Employees” establishes definitions for employer and employee which do not exclude public employers and public employees. The exclusions to KRS Chapter 338 cover only employees of the United States government and places of employment over which federal agencies other than OSHA have exercised statutory authority. In addition, written opinions of the Kentucky Office of the Attorney General support the Kentucky Labor Cabinet’s position that public employees are included in the Kentucky OSH Program’s jurisdiction. Therefore, Kentucky’s public employers and employees are subject to the same requirements, sanctions, and benefits as Kentucky’s private sector employers and employees. Consequently Kentucky statutes, regulations, and policies make no distinction between public and private sector employers and employees. During FY 2010, the Division of OSH Compliance conducted fifty-two (52) inspections of public sector work sites, including programmed inspections and responses to public employee complaints. This calculates to five (5) percent of the total number of Division of OSH Compliance inspections.

Services offered by the Division of OSH Education and Training are available to state and local public agencies in the same manner and to the same degree as private employers.

Recordkeeping and Reporting

KRS Chapter 338.161 “Statistical records – Posting of notices” requires that employers keep, preserve, and make available to the Kentucky OSH Program and the Secretary of the U.S. Department of Labor or the Secretary of the U.S. Department of Health and Human Resources, records relating to occupational safety and health as may be prescribed by regulation. Kentucky promulgated a regulation, 803 KAR 2:180, which specifically addresses occupational injury and illness recordkeeping, as well as

reporting of fatalities or multiple hospitalization accidents. Kentucky's requirement is identical to OSHA's rule. In addition, Kentucky's rule requires employers to report any work-related incident resulting in the in-patient hospitalization of one (1) or two (2) employees. The reporting requirement is limited to hospitalizations that occur within seventy-two (72) hours of the incident. Employers are also required to report any amputation suffered by an employee from any work-related incident. Hospitalizations of one (1) or two (2) employees and amputations must be reported to the Kentucky OSH Program within seventy-two (72) hours after the employer, his agent, or another employee is informed of such a condition.

The Division of OSH Compliance has implemented an inspection scheduling system to prioritize reported accidents and amputations. This allows compliance resources to be focused on serious hazards in the workplace. In addition, the Division of OSH Compliance is collecting information obtained from the reported accidents that will help identify specific industry sectors where serious accidents are currently occurring in the workplace. In FY 2010, the Division of OSH Compliance received 145 hospitalization reports. Eighty-five (85) inspections were conducted with ninety-five (95) serious and eighteen (18) other than serious violations issued for a total penalty of \$281,400. Fifty-two (52) amputations were reported in FY 2010. Forty-eight (48) inspections were conducted with seventy-five (75) serious, and twenty (20) other-than-serious violations issued for a total penalty of \$230,625. Total penalties issued for amputation and hospitalization violations are \$512,025.

Education, Training, and Consultation Services

The Kentucky General Assembly, in enacting the Commonwealth's occupational safety and health laws, clearly expressed in its Statement of Purpose and Policy, found at KRS 338.011, that the means of preventing workplace injuries and illnesses were to include education, training, and consultation services. The Legislature created a Division of Education and Training for Occupational Safety and Health to help serve this purpose.

Since 1973, the Division of OSH Education and Training has offered a full range of services, including cost-free on-site consultation, technical assistance, training programs, and publications.

The division also has a full range of partnership and recognition programs including:

1. The Kentucky VPP which is similar to OSHA's VPP.
2. The SPP offers long term assistance to smaller employers who have a history of high injury/illness rates and high workers' compensation costs.
3. The CPP focuses specifically on partnering with contractors and builders to address the unique issues of the construction industry.
4. The Kentucky SHARP mirrors the federal SHARP by encouraging small high hazard employers to operate exemplary safety and health management systems.
5. The Governor's Safety and Health Award Program recognizes employers who have reached certain milestones without a lost work time injury or illness.

Thus, the Kentucky OSH Program, through the Division of OSH Education and Training, offers a full range of education, training, and consultation services to employers and employees in the Commonwealth.

SECTION III NOTEWORTHY ACCOMPLISHMENTS

Many daily activities of the Kentucky OSH Program resulted in accomplishments which were not easily measured. The impact of the on-site presence of OSH personnel; the hazards identified and corrected through inspection or consultation; and the injuries, illnesses and fatalities that were prevented, while critically important, are ones that do not easily lend themselves to be singularly classified as outstanding accomplishments. Nevertheless, the day-to-day efforts of Kentucky OSH field and office personnel should not go unrecognized. During FY 2010, there were events, activities, and results that warrant attention as outstanding accomplishments.

Voluntary Compliance Program

Kentucky's VPP program recognizes employers who have reached a level of excellence in their safety and health programs and removes them from programmed inspection lists. Detailed reviews of records and written programs, as well as intensive onsite surveys of worksite operations, assure that only companies that have a strong commitment to workplace safety and health and institutionalized safety and health management systems in place, as well as proven success maintaining a safe and healthful workplace, qualify for Kentucky's highest achievement recognition.

Construction Partnership Program

The Division of OSH Education and Training continues to focus on the construction industry by promoting CPP, maintaining Association-Based Partnerships, Training-Based Partnerships and Site-Based Partnerships. Kentucky continues promoting VPPC which enables employers in the construction industry to participate in the program's premiere construction

recognition program. The overall objective of VPPC is to reduce injuries, illnesses, and fatalities in the construction industry through increased construction employer participation.

Construction Compliance Inspections

During FY 2010, Kentucky conducted a total of 606 construction inspections as identified by OSH-1 SIC codes. The Division of OSH Compliance conducted 149 construction inspections in SICs starting with fifteen (15), 49 in SICs starting with sixteen (16), and 408 in SICs starting with seventeen (17). Kentucky has continued commitment to construction activities by conducting fifty-two (52) percent of all inspections conducted in FY 2010 within the construction industry sector.

As reported earlier in this report, the Division of OSH Compliance has implemented the construction scheduling system provided by the University of Tennessee, which has produced excellent results. Although a state budget shortfall compels the Division of OSH Compliance to maintain present staffing levels and in spite of economic challenges, the Division of OSH Compliance continued an emphasis on construction.

In conjunction with a local compliance emphasis program, Kentucky's state specific regulation 803 KAR 2:412 specifically addresses residential construction fall protection. The regulation, which became effective on January 6, 2006, defines residential construction in Kentucky as construction work on a stand alone single family dwelling, duplex, three-plex, or four-plex structure. Employees engaged in residential construction activities working ten (10) feet or more above a lower level who are exposed to unprotected sides and edges, leading edges, hoist areas, form work and reinforcing steel, or are engaged in roofing work on roof slopes three (3) in twelve (12) or less, must be protected by guardrail systems, safety net systems, personal fall arrest systems, or a specific alternative measure established in the regulation. In FY 2010, the Division of Compliance conducted eighty-six (86) inspections in residential construction

coded as N 20 RESIDENTIAL and issued 127 violations. The majority of the violations concerned lack of fall protection, 29 CFR 1926.501, and unsafe scaffolds, 29 CFR 1926.451.

From the 606 construction inspections conducted in FY 2010, the Division of OSH Compliance identified 516 hazards. Of the 516 construction hazards identified, the majority were serious violations, demonstrating a focus where serious hazards exist. The Division of OSH Compliance issued \$596,875 in total construction penalties for 516 violations in FY 2010. Commercial construction inspections are coded as N 20 COMMERCIAL.

Compliance Emphasis on Serious Hazards

The Division of OSH Compliance maintains an emphasis on addressing serious hazards. Imminent dangers receive the highest priority. Referral and complaint hazards are evaluated using the same criteria. The Division of OSH Compliance issued 878 serious violations in FY 2010 with penalties totaling \$1,265,425. Additionally, twenty-three (23) willful violations and some of the twenty-six (26) repeat violations were classified as serious.

Combustible Dust

The Kentucky Labor Cabinet entered into an Interagency Agreement in 2005 with the Office of Housing, Building and Construction, Division of Fire Prevention (State Fire Marshal). Under the agreement, during the inspection of industrial facilities by the State Fire Marshal in which the potential for combustible dust hazards may exist, the State Fire Marshal will inform management of education and technical assistance services which are available from the Kentucky OSH Program's Division of Education and Training. If there are safety and health issues, the State Fire Marshal will make a referral to the Division of OSH Compliance.

If the Kentucky OSH program becomes aware of the existence of fire and safety issues, it will notify the State Fire Marshal. Both the State Fire Marshal and the Division of OSH Compliance will cooperate in the investigation of all fires and explosions involving combustible

dust. The Kentucky Labor Cabinet and State Fire Marshal are cooperating to identify facilities and conduct joint investigations, when possible, where combustible dust hazards exist.

The Division of OSH Compliance conducted four (4) inspections involving combustible dust during FY 2010 resulting in three (3) serious and two (2) other than serious violations.

Notification of Asbestos Abatement/Demolition/Renovation or Ten (10) Day Notice

The Division of OSH Compliance entered into an agreement with the Division of Air Quality in the Department for Environmental Protection of the Energy and Environment Cabinet in which the Division of OSH Compliance will be alerted of any or all asbestos removals conducted in the Commonwealth. Employers are required to notify the Division of Air Quality ten (10) days in advance of any job involving asbestos removal.

Occupational Poison Alerts

The Division of OSH Compliance receives notices of injuries involving occupational-related toxins and poisons from The Kentucky Regional Poison Center of Kosair Children's Hospital. These notices have made the Division of OSH Compliance aware of events that might have otherwise been overlooked. Many have resulted in citations and penalties. This informal arrangement and notice provides a mechanism to protect employees from future exposures.

Professional Development

During FY 2010, the Division of OSH Education and Training maintained three (3) dual Certified Industrial Hygienist-Certified Safety Professional employees, one (1) CIH employee, three (3) CSP employees, one (1) certified Associate Safety Professional (ASP) employee, two (2) OHST certified employees, and one (1) CHST certified employee.

The Office of the Federal-State Coordinator maintained one (1) CSP and one (1) Standards Specialist received a CIH credential in FY 2010.

The Division of OSH Compliance follows OSHA's 2008 TED 01-00-018, the Training Program for OSHA Compliance Personnel. The Division of OSH Education and Training utilizes TED 01-00-018 as guidance for new employees. The Division of OSH Compliance remains committed to developing and maintaining an experienced, diverse staff and continues to encourage professional development and professional certification, such as the CSP and CIH. In addition, since the development of the Compliance CSP/OHST/CHST position, a number of compliance officers have attained certification and more are in the process.

During FY 2010, the Division of OSH Compliance maintained two (2) OHST certified employees and two (2) more were awarded certification. One (1) CHST certified employee was maintained while seven (7) more were awarded certification. The Division of OSH Compliance maintains one (1) CSP who has been approved to sit for the CIH certification exam. One (1) more has been approved to sit for the CSP exam while two (2) others have been approved to sit for the ASP exam. Two (2) industrial hygienists are currently studying for the CIH examination. The Division of OSH Compliance continues to encourage and promote additional personnel who may achieve certification in the safety and health field by maintaining a certification level for inspectors, paying for certification preparatory courses, and paying for the certification exam once it has been passed. One (1) Division of OSH Compliance safety supervisor is a Certified Public Manager and the Health Program Manager is a Certified Fundamentals Manager.

The Division of OSH Compliance continued to send employees to OTI for training. Additionally, the Division of OSH Compliance encourages staff education as well as certification by paying full tuition for employees attending Eastern Kentucky University and Murray State University in their safety programs. In FY 2010, the Division of OSH Compliance funded three (3) safety compliance officers' graduate degrees at Eastern Kentucky University. All three (3) sought Masters of Science in Safety, Security, and Emergency Management. As of

this date, four (4) compliance officers have completed their Master of Science degrees, two (2) others are currently in the program and two (2) more are applying. One (1) Industrial Hygienist is partially through the program.

One (1) Division of OSH Compliance safety compliance officer left the Division during FY 2010 for the private sector. At the close of FY 2010, Kentucky had twenty-three (23) safety compliance officer positions, fourteen (14) industrial hygienist positions, and one (1) discrimination investigator position. The Division of OSH Compliance continues to request five (5) new positions in each state budget.

Focused OSH Public Speaking / Presentations

In addition to the numerous presentations performed in FY 2010 by the Division of OSH Education and Training, the Kentucky OSH Program continues to serve as a resource for associations, employers, organizations, etc. requesting specialized and insightful speakers addressing various OSH-related topics. The Director of the Division of OSH Compliance, Counsel for the Kentucky OSH Review Commission, and a compliance officer presented at *Kentucky's 26th Annual Governor's Safety and Health Conference and Exposition* informing employers of inspection procedures as well as their obligations and rights during, and following, the inspection.

The Director of the Division of OSH Compliance presented at the second Associated General Contractors Annual Construction Day Conference informing employers and employees of Kentucky's new penalty calculation procedure. A safety supervisor presented at the Farmers RECC in London.

Several OSH staff participated in six (6) state wide seminars informing employers and employees of the Labor Cabinet's services and divisions.

Attendance and positive feedback demonstrate that Kentucky OSH Program staff participation at such events is beneficial for the Labor Cabinet, employers, and employees.

Standards Interpretation and Development

The Health Standards Specialist attained CIH certification in April of 2010 and is pursuing CSP certification. The Health Standards Specialist provided approximately 219 written OSH interpretations during FY 2010. The Safety Standards Specialist provided approximately 234 written OSH interpretations during that period. Additionally, hundreds of telephone inquiries received responses from both standards specialist in FY 2010. Promulgation of several regulations, which affected more than twenty-five (25) Kentucky Administrative Regulations, was completed by both Standards Specialists on behalf of the Kentucky OSH Standards Board and the Labor Cabinet. The new Cranes and Derricks in Construction final rule, 29 CFR Part 1926-Subpart CC, occupied a considerable amount of time on the part of the Safety Standards Specialist working with Division of OSH Education and Training consultants, attending training, and participating in outreach training.

National Conference and Exposition Support

At the request of OSHA, the Kentucky OSH Program represented OSHA at the October 2010 national Planet GIE+EXPO and Hardscape North America conference and exposition in Louisville. According to conference organizers, the event is the 14th largest trade show in the United States. There were approximately 20,000 conference participants and approximately 950 booths. Labor Cabinet staff - an OSH Standards Specialist, the OSH Federal-State Coordinator, and a dual CIH/CSP consultant - staffed a booth over a three (3) day period where they responded to participants' questions and distributed OSH material provided by OSHA and the Cabinet. The Federal-State Coordinator and the OSH Standards Specialist represented OSHA at

the daily “Breakfast of Champions” events. The OSH Federal-State Coordinator participated in a panel session entitled “Safety & Training Case Studies.”

The conference and exposition proved to be a good exposure event for OSHA and the Cabinet with such a large number of people present.

KYOSH IMPACT

The Labor Cabinet’s OSH Program was on the road in FY 2010 in the Incident Mobile Post and Consultation Training vehicle, dubbed KYOSH IMPACT, an incident response-outreach vehicle. KYOSH IMPACT is a Class A state of the art multi-purpose motor coach specifically constructed to support the Division of OSH Compliance and the Division of Education and Training. KYOSH IMPACT, made possible in 2009 through a one-time federal award, is equipped with satellite service, surveillance equipment, internal and external monitors, workstations, and a host of other devices that serve the Kentucky OSH Program, employers, and employees throughout the Commonwealth. KYOSH IMPACT was deployed in 2010 to twenty-two (22) events from one end of the state to the other participating in outreach efforts affecting over 12,600 people.

Additional Efforts

The Kentucky OSH Program received a one (1) time federal award in FY 2010 to purchase GPS units for field staff and developed media that could be utilized by staff to disseminate specific OSH information. Kentucky purchased seventy-eight (78) GPS units and developed two (2) professionally produced videos. The videos address OSH Rights and Responsibilities and Division of Education and Training services. The videos will allow the Kentucky OSH Program to extend the reach of Kentucky’s services and provide information to a larger audience.