

Appendix B
Michigan State Plan
FY 2010 Enhanced FAME Follow-up Report Prepared by Region V
Status of FY 2009 Findings, Recommendations, and Corrective Actions

Rec #	Findings	Recommendations	Corrective Action Plan	State Action Taken	Status
09-1	MIOSHA did not enter abatement verification into IMIS System. Instead it is entered into an Excel spreadsheet	MIOSHA should enter abatement verification into the IMIS system as this is a Mandated Measure	The federal EFAME determined that the Excel spreadsheet used by MIOSHA to track abatement is monitored closely and ensures abatement documentation is received. The report stated that “. . . while this system is different from OSHA’s, it appears to be an effective tracking tool.” Entering abatement verification information into the IMIS would be redundant and reduce efficiency.	MIOSHA will enter abatement information when the OSHA Information System (OIS) rolls out.	Continuing
09-2	MIOSHA penalty calculation policy has resulted in low average penalty assessments. MIOSHA’s initial penalty, per serious violation, is \$692.37, which is below the national reference data by 51.9%.	MIOSHA should follow their penalty calculation policy with respect to classification of serious violations.	MIOSHA’s initial penalty, per serious violation, is 51.9% of the national reference data which is actually 48.1% below the national data. In April and June of 2010, MIOSHA issued a revised FOM which adopts penalty assessment policy established by Federal OSHA. Such changes include size reduction based on the number of employees nationwide and adoption of the OSHA policy for assessing penalties for willful violations. Staff has been trained on these procedures. MIOSHA is already seeing penalties increase. MIOSHA provides staff training on hazard classification, gravity assessment and penalty calculation on an ongoing basis. Ongoing training and policy review is occurring and anticipated to continue through FY 2011.	Training is being conducted in April, July and August (construction) for all staff on this issue.	Continuing

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09-3	The complaint files, formal and nonformal, did not include a mechanism to track actions taken while handling the file.	Ensure a tracking mechanism, such as a Diary Sheet, is put in place and used effectively.	Although MIOSHA does not use a Diary Sheet, tracking mechanisms and procedures are in place to capture the case file information to create a chronology if needed.	While MIOSHA currently are not using any form of Diary sheet, samples were shared with the Supervisors during the onsite visit. MIOSHA plans on implementing this process by end of the current FY.	Continuing
09-4	MIOSHA did not always follow their policy and procedure manual. In one case, a complaint inspection was not conducted at a facility employing less than 10 employees.	Provide refresher inspection training to include small employer exemptions/nonexemptions.	This finding refers to a specific isolated incident, which has been addressed. MIOSHA does follow the policy. Only one case did not follow procedure, the error was caught by MIOSHA, and an inspection was conducted prior to the audit.	All employees are aware and trained on OSHA policy and procedures.	Completed
09-5	MIOSHA maintained the initial letters to the next of kin in a separate binder.	MIOSHA should maintain the next of kin letters in the case file.	MIOSHA now includes a copy of the initial letter to the next of kin in the case file.	MIOSHA includes a copy of initial letter to next of kin in the case file.	Completed
09-6	While MIOSHA recognized hazards and issued citations, not all of the hazards were appropriately classified per their FOM.	Ensure all staff is retrained on hazard classification and penalty assessment guidelines for inspections for fatalities. Training will be provided in April 2011 and throughout FY 2011.	Although MIOSHA provides staff training on hazard classification, gravity assessment, and penalty calculation on an ongoing basis, staff will be retrained on hazard classification and penalty assessment guidelines.	Training is being conducted in April, July and August (construction) for all staff on this issue.	Continuing
09-7	Documentation was not found in the file that copies of citations and/or ISAs were sent to the unions.	Ensure that all inspection actions are documented and included in the case file.	MIOSHA provides copies of citations and/or ISAs to union representatives when requested. To ensure employee participation during inspections, the MIOSH Act mandates walk-around pay for employee representatives. These	MIOSHA will ensure contact and documentation of interaction with union representatives.	Completed

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			activities are documented on the Inspection Guideline sheet that becomes part of the case file. We also attempt to contact union representation to discuss an ISA before expediting. Because of time limitations, we do not delay the process. MIOSHA provides significant opportunities for employees and their representatives to participate in all aspects of our inspections.		
09-8	While MIOSHA had a hazard classification and penalty assessment system that was similar to Federal OSHA, they did not follow it in all cases. Hazard classification did not follow the guidelines established in MIOSHA's FOM. Penalty assessment, severity/probability and adjustment factors did not follow established MIOSHA guidance documents in all cases.	Ensure all staff is retrained on hazard classification and penalty assessment guidelines for inspections.	See Actions for Findings 2 and 6 above.	Training is being conducted in April, July and August (construction) for all staff on this issue.	Continuing
09-9	There was a lack of documentation that noted that the employee or employee representative had been contacted regarding the final Informal Settlement Agreement.	MIOSHA should note within the case file when an employee or employee representative has been contacted	MIOSHA follows the guidelines provided in the FOM. Copies of citations and ISAs are sent to unions when requested. See Action for Finding 7 above.	MIOSHA notes within the case file when an employee or employee representative has been contacted.	Completed
09-10	There was no documentation to support or explain why changes were made to the violations and penalties in some case files.	Changes that are made to violations and penalties through the first appeal level must be documented in the case file.	MIOSHA will review our process for ensuring that changes to citations made in the first-level appeal process are appropriately documented in the case file. Review will be completed and changes implemented by March	Training has been completed and process implemented. MIOSHA expects to conduct a verification audit of process in the third quarter of FY 11.	Continuing

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			31, 2011.		
09-11	While MIOSHA had a hazard classification and penalty assessment system that was similar to Federal OSHA, they did not follow it in some case files. Hazard classification did not follow the guidelines established in MIOSHA's FOM. Penalty assessment, severity/probability and adjustment factors did not follow established MIOSHA guidance documents in some case files.	Ensure all staff is retrained on policy for on hazard classification and penalty assessment guidelines.	See Actions for Findings 2 and 6 above	Training is being conducted in April, July and August (construction) for all staff on this issue.	Continuing
09-12	MIOSHA does not use IMIS management reports.	To prevent duplicative work, MIOSHA should use IMIS management reports to track all case file activities.	MIOSHA does use certain IMIS reports routinely. However retrieving some data from the IMIS system can be cumbersome and takes more time when it is needed quickly. MIOSHA uses an equivalent tracking system to IMIS that is readily available and accessible on a daily basis.	Awaiting OIS implementation.	Continuing
09-13	Review of the cases revealed that MIOSHA's Employee Discrimination Section has adopted their own forms, letters, and Final Investigative Report (FIR) rather than using the forms provided by the OSHA Whistleblower Program. Case file organization does not follow DIS 0-0.9. However, the	Follow DIS 0-0.9 to ensure consistency with case file organization and contents, including forms, letters and Final Investigative Reports (FIRs).	Although the EFAME indicates that our current forms and process are adequate, we will review DIS 0-0.9 for possible improvements to our process and forms. The EFAME indicated ". . . the outcome of the cases reviewed were appropriate." MIOSHA will compare current forms, letters and Final Investigative Reports (FIRs)	Based on information provided during on-site MIOSHA currently reviewing all Federal forms and letters. Currently plan to implement changes in third quarter.	Continuing

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	outcomes of the cases reviewed were appropriate.		to see whether any changes to existing documents are needed by the end of FY 2011.		
09-14	While MIOSHA has improved in timely completion of 11(c) investigations, they completed only 68% in 90 days.	MIOSHA should continue to improve case management to ensure completion of all cases in a timely manner	MIOSHA has made significant improvements in timeliness and continues to work on improving efficiency. Efforts to improve timeliness are ongoing.	MIOSHA implemented significant improvements to 11(c) process flow for timeliness and efficiency of case management.	Continuing
09-15	MIOSHA's current policy recognizes the need to obtain medical information during VPP evaluations. However, it did not include procedures for obtaining a WAO.	Continue revision to VPPPPM that will address WAO order procedures. Train staff on procedures and ensure WAOs are obtained.	Revisions have been made to the MVPP Policy and Procedure Manual. All Consultation Education and Training Division staff involved in evaluations will be re-trained on this instruction and its application to MVPP evaluations. Training will occur by the end of June 2011.	Staff have been trained on MVPP procedures and ensure WAOs are obtained.	Completed
09-16	In 35% of the MVPP files, it was noted that the MVPP team observed an excessively high number of 90 day items.	Review with the MVPP Team Leader the need to assess those sites with a high number of 90 day items to ensure that all MVPP principles are in place.	This finding has been reviewed with the MVPP Managers and MVPP Specialist. A new policy has been implemented for companies that receive a large number of hazards during an MVPP evaluation. . Action completed, no further action required.	A new policy is in force for companies that receive a large number of hazards during an MVPP evaluation.	Completed
09-17	Approval letters to the unions, as appropriate, were not consistently sent in all cases.	Provide refresher training to ensure that approval letters are sent to the union as appropriate and a copy is included in the file.	MVPP Managers and staff support staff have been instructed to include the union contact on MVPP approval letters. Since this report, all approval letters have been sent to unions. Action completed, no further action is required.	All MVPP approval letters are now sent to unions.	Completed

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09-18	MIOSHA's staffing levels are below the currently approved benchmarks. MIOSHA has considered recalculation to lower its benchmark levels as part of the SIEP in each of the past three years.	The State should continue to work with OSHA, regarding benchmarks, and continue to increase staffing levels to the extent feasible.	The current benchmarks were established approximately 20 years ago and the industry mix in Michigan has dramatically changed since that time.	Awaiting data from Federal OSHA to conduct Special Study.	Pending