

Federal Annual Monitoring and Evaluation (FAME) Report

State of Michigan

Michigan Occupational Safety and Health Division

October 1, 2009 to September 30, 2010

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I. Executive Summary

The Fiscal 2010 State Plan Evaluation Report focused on the State's responses to the recommendations in the Fiscal Year (FY) 2009 Enhanced Federal Annual Monitoring and Evaluation Report (EFAME) and their progress in achieving the actions specified in their final approved Corrective Action Plan (CAP).

The FY 2010 EFAME follow-up report was not a comprehensive report due to the CAP being submitted and approved in December 2010.

On February 15, 2011, the Lansing Area Office conducted the on-site FAME review of the Michigan Occupational Safety and Health Administration (MIOSHA) State Plan. The on-site activity included a case file review. The case file review included topics such as, but not limited to: classification of violations, assessment of penalty, abatement assurance, and fatality investigations. Concerns with classification of violations and assessment of penalties still need to be addressed. While the number of hazards documented remained high, the per cent classified as serious remains low. MIOSHA continues to work on these issues.

At the time of the on-site monitoring visit, there were a total of 65 positions funded under the 23(g) grant. The current benchmark for MIOSHA is 56 Safety Compliance Officers and 45 Health Compliance Officers assigned to field offices throughout the State. At the time of this review, MIOSHA was not meeting the benchmarks for staffing and has requested assistance from OSHA's National Office through the Regional Office for reevaluating the benchmarks. To date, the National Office has not provided the necessary information for this re-evaluation.

The FAME also assesses MIOSHA's progress towards achieving their annual performance goals established in their FY 2009 Annual Performance Plan (APP), and to review the effectiveness of the programmatic areas related to enforcement activities. This report incorporates baseline special evaluations for MIOSHA's 23(g) enforcement program.

The APP results, reported by MIOSHA in the State OSHA Annual Report (SOAR), indicate that the program has made significant advancements towards achieving its three main strategic goals. Evaluation of goal achievement or significant progress toward goal accomplishment has been reviewed, and the results are identified in this report.

The MIOSHA State Plan completed many of the issues found in the CAP. A discussion of these issues is in Section III.

MIOSHA's overall implementation of its enforcement program is viewed as positive. MIOSHA met or exceeded 21 of 27 (78%) of the goals established in the FY 2010 Performance Plan. Most noteworthy is Performance Goal 1.1A-3: Reduction of the rate of workers' injuries and illnesses in plastics and rubber products manufacturing in the State's fatality rate for FY 2010 by 33.6% exceeding the Goal of 20%. MIOSHA also exceeded Goal 2.2: Increase by 50 each year the number of MIOSHA Training Institute (MTI) certificate holders by marketing the MTI to targeted groups. In FY 2010, over 2,600 trainees attended the MTI with 121 receiving MTI Certification.

MIOSHA continued to promulgate safety and health standards. Twenty-one standards were in various steps towards issuance in FY 2010. Those that became effective include: Masonry Wall Bracing and Chromium (VI) General Industry and Construction. Topics still in the Advisory Committee include: Lifting and Digging – Crane Operators; Ergonomics in General Industry; Air Contaminants in Construction; and Refuse Packer Units.

The following legislative actions could affect the program:

- SENATE BILL No. 14 to repeal the MIOSHA effective March 1, 2012 program was introduced on January 19, 2011 and referred to Committee.
- SENATE Bill 20 was introduced in January, 2011. This Bill would prohibit MIOSHA from promulgating an ergonomics standard until one is issued by Federal OSHA. MIOSHA would still be able to address ergonomic issues as Federal OSHA does by issuing citations under their “General Duty Clause.” This Bill passed and was signed by the Governor on March 23, 2011.

While the MIOSHA program has been affected by state and federal budget issues and furlough days have been taken, MIOSHA did not deobligate any funds in FY 2010.

In December 2010, 30 MIOSHA employees took the incentive retirement package offered by the state. This left openings in management, compliance and administrative positions. MIOSHA is currently filling these positions, but this process has been going slowly. Even with these changes, MIOSHA expects to meet the FY2011 established goals.

As a result of Executive Order 2011-4, MIOSHA will become a part of the new Department of Licensing and Regulatory Affairs led by Director Steven H. Hilfinger effective April 25, 2011.

The on-site review made the following recommendations: (See Sections III and VIII for more information.)

Recommendation 10-01: Ensure that both the initial NOK letter stating that MIOSHA is conducting an investigation and the final closeout letters are maintained in the file.

Recommendation 10-2 formerly 09-1: MIOSHA should enter abatement verification into the Integrated Management Information System (IMIS) as this is a Mandated Measure.

Recommendation 10-3 formerly 09-2: MIOSHA needs to follow their penalty calculation policy with respect to classification of serious violations.

Recommendation 10-4 formerly 09-3: Ensure a tracking mechanism, such as a Diary Sheet, is put in place and used effectively.

Recommendation Finding 10-5 formerly 09-6: Ensure all staff are retrained on hazard classification and penalty assessment guidelines for fatalities.

Recommendation 10-6 formerly 09- 8: Ensure all staff are retrained on current hazard classification and penalty assessment guidelines for inspections.

Recommendation 10-7 formerly 09-10: Changes that are made to violations and penalties through the first appeal level must be documented in the case file.

Recommendation 10-8 formerly 09-11: Ensure all staff are retrained on policy for hazard classification and penalty assessment guidelines.

Recommendation 10-9 formerly 09- 12: To prevent duplicative work, MIOSHA should use IMIS management reports to track all case file activities.

Recommendation 10-10 formerly 09-13: Follow DIS 0-0.9 to ensure consistency with case file organization and contents, including forms, letters and Final Investigative Reports (FIRs).

Recommendation 10-11 formerly 09-18: The state should continue to work with OSHA, regarding benchmarks, and continue to increase staffing levels to the extent feasible.

MIOSHA will respond in writing to the EFAME's findings and recommendations.

II. Introduction

Background and Profile

Section 18 of the Occupational Safety and Health Act of 1970 encourages States to develop and operate their own job safety and health programs. Federal OSHA approves and monitors State Plans and provides up to 50 percent of an approved Plan's operating costs. Michigan is one of 27 states and American Territories approved to operate its own safety and health enforcement program. Among other things, states that develop these Plans must adopt standards and conduct inspections to enforce those standards.

When established, the Plan identified the Michigan Department of Labor and the Department of Public Health as the agencies to be responsible for administering the Plan throughout the state. Currently, the Department of Energy, Labor and Economic Growth (DELEG) administers MIOSHA. The Program became effective on July 1, 1975. MIOSHA includes: Administration, Construction Safety and Health Division, Consultation Education and Training Division, General Industry Safety and Health Division, Management and Technical Services Division, and the MIOSHA Appeals Division. The Management and Technical Services Division is responsible for standards adoption, information technology and laboratory operations. The General Industry Safety and Health Division is responsible for compliance program administration through conducting enforcement inspections in general industry workplaces. The Employee Discrimination Section is also included in the General Industry Safety and Health Division. The Construction Safety and Health Division (CSDH) is responsible for compliance program administration through conducting enforcement inspections in construction industry workplaces.

The MIOSHA Program extends its protection to private, public, and municipal workers within the state. MIOSHA does not have jurisdiction over federal agencies, maritime workers, household domestic workers, and mine workers.

At the time of the on-site monitoring visit, there were a total of 65 positions funded under the 23(g) grant. The current benchmark for MIOSHA is 56 Safety Compliance Officers and 45 Health Compliance Officers assigned to field offices throughout the state. At the time of this review, MIOSHA was not meeting the benchmarks for staffing and has requested assistance from OSHA's National Office through the Regional Office for reevaluating the benchmarks. To date, the National Office has not provided the necessary information for this re-evaluation.

Budget

The federal share of the FY 2010 23(g) grant was \$9,893,100. The state over matched the grant, 100% state funded money, with \$1,753,000 additional monies. The total budget for FY 2010 was \$21,499,200. In June of 2010, the state applied for and was awarded \$147,000 one-time funding to purchase additional laboratory equipment. MIOSHA also was awarded an additional \$60,000 for field equipment, which was matched by the state. Private sector consultation is provided by the Agency under a 21(d) Cooperative Agreement, while public sector consultation is provided under the 23(g) grant.

Organization

MIOSHA operates under an Operational Status Agreement with federal OSHA. Stanley Pruss was the Director for DELEG and the State Designee until his retirement on July 23, 2010. Effective July 26, 2010, the Designee was Andrew S. Levin. The Director of MIOSHA is Douglas Kalinowski, and the Deputy Director is Martha Yoder. MIOSHA includes: Administration, Construction Safety and Health Division, Consultation Education and Training Division, General Industry Safety and Health Division, Management and Technical Services Division, and the MIOSHA Appeals Division. The Management and Technical Services Division is responsible for standards adoption, information technology and laboratory operations. The General Industry Safety and Health Division is responsible for compliance program administration through conducting enforcement inspections in general industry workplaces. The Employee Discrimination Section is also included in the General Industry Safety and Health Division. CSHD is responsible for compliance program administration through conducting enforcement inspections related to construction. The MIOSHA Appeals Division represents the Agency in contested cases.

Differences from Federal OSHA Standards

MIOSHA can and does promulgate standards which may be more stringent or more specific than those of federal OSHA. The Management and Technical Services Division is responsible for standards adoption. Examples of standards which are more stringent include Fire Fighting, Automotive Services, and Telecommunication Towers.

During FY 10, MIOSHA continued to move forward with the promulgation of an ergonomics standard. In February 2011, the Michigan Senate and House introduced a bill which would prevent MIOSHA from moving forward with an ergonomics standard. This Bill is expected to be passed and signed into law.

III. Assessment of State Actions and Performance Improvements in Response to Recommendations from the 2009 EFAME

- **Finding 10-2 formerly 09-1:** MIOSHA did not enter abatement verification into the IMIS System. Instead, it is entered into an Excel spreadsheet.
- **Recommendation 10-2 formerly 09-1:** MIOSHA should enter abatement verification into the IMIS system, as this is a Mandated Measure.
- **Update 10-2 formerly 09-1:** MIOSHA will enter abatement information when the OSHA Information System (OIS) rolls out.

- **Finding 10-3 formerly 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%.
- **Recommendation 10-3 formerly 09-2:** MIOSHA should follow their penalty calculation policy with respect to classification of serious violations.
- **Update 10-3 formerly 09-2:** Training is being conducted in April, July and August

(construction) for all staff on this issue.

- **Finding 10-4 formerly 09-3:** The complaint files, formal and nonformal, did not include a mechanism to track actions taken while handling the file.
- **Recommendation 10-4 formerly 09-3:** Ensure a tracking mechanism, such as a Diary Sheet, is put in place and used effectively.
- **Update 10-4 formerly 09-3:** While MIOSHA currently is not using any form of Diary sheet, samples were shared with the Supervisors during the on-site visit. MIOSHA plans on implementing this process by the end of the current FY.

- **Finding 10-5 – formerly 09-6:** While MIOSHA recognized hazards and issued citations, not all of the hazards were appropriately classified per their Field Operations Manual (FOM).
- **Recommendation Finding 10-5 formerly 09-6:** Ensure all staff is retrained on hazard classification and penalty assessment guidelines for fatalities.
- **Update 10-5 formerly 09-6:** Training is being conducted in April, July and August (construction) for all staff on this issue.

- **Finding 10-6 formerly 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.
- **Recommendation 10-6 formerly 09-8:** Ensure all staff is retrained on hazard classification and penalty assessment guidelines for inspections.
- **Update 10-6 formerly 09-8:** Training is being conducted in April, July and August (construction) for all staff on this issue.

- **Finding 10-7 formerly 09-10:** There was no documentation to support or explain why changes were made to the violations and penalties in some case files.
- **Recommendation 10-7 formerly 09-10:** Changes that are made to violations and penalties through the first appeal level must be documented in the case file.
- **Update 10-7 formerly 09-10:** Training has been completed and a process has been implemented. MIOSHA expects to conduct a verification audit of process in the third quarter of FY 11.

- **Finding 10-8 formerly 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.
- **Recommendation 10-8 formerly 09-11:** Ensure all staff is retrained on the policy for hazard classification and penalty assessment guidelines.
- **Update 10-8 formerly 09- 11:** Training is being conducted in April, July and August (construction) for all staff on this issue.

- **Finding 10-9 formerly 09-12:** MIOSHA does not use IMIS management reports.
- **Recommendation 10-9 formerly 09- 12:** To prevent duplicative work, MIOSHA should use IMIS management reports to track all case file activities.
- **Update 10-9 formerly 09- 12:** Awaiting OIS implementation.
- **Finding 10-10 formerly 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 outcomes of the cases reviewed were appropriate.
- **Recommendation 10-10 formerly 09-13:** Follow DIS 0-0.9 to ensure consistency with case file organization and contents, including forms, letters and FIRs.
- **Update 10-10 formerly 09-13:** Based on information provided during the on-site, MIOSHA is currently reviewing all federal forms and letters. They currently plan to implement changes in the third quarter.
- **Finding 10-11 formerly 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.
- **Recommendation 10-11 formerly 09-18:** The state should continue to work with OSHA, regarding benchmarks, and continue to increase staffing levels to the extent feasible.
- **Update 10-11 formerly 09-18:** Awaiting data from federal OSHA to conduct Special Study.

Completed FY 2009 Findings and Recommendations

- **Finding 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.
- **Recommendation 09-4:** Provide refresher inspection training to include small employer exemptions/nonexemptions.
- **Update 09-4:** Completed
- **Finding 09-5:** MIOSHA maintained the initial letters to the next of kin in a separate binder.
- **Recommendation 09-5:** MIOSHA should maintain the next of kin letters in the case file.
- **Update 09- 5:** Completed
- **Finding 09-7:** Documentation was not found in the file that copies of citations and/or Informal Settlement Agreements (ISAs) were sent to the unions.
- **Recommendation 09-7:** Ensure that all inspection actions are documented and included in the case file.
- **Update 09-7:** Completed

- **Finding 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.
- **Recommendation 09-9:** MIOSHA should note within the case file when an employee or employee representative has been contacted.
- **Update 09-9:** Completed

- **Finding 09-14:** While MIOSHA has improved in timely completion of 11(c) investigations, they completed only 68% in 90 days.
- **Recommendation 09-14:** MIOSHA should continue to improve case management to ensure completion of all cases in a timely manner.
- **Update 09-14:** Completed

- **Finding 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 Written Access Order (WAO).
- **Recommendation 09-15:** Continue revision to the Voluntary Protection Plan Policy and Procedures Manual (VPPPPM) that will address WAO order procedures. Train staff on procedures and ensure WAOs are obtained.
- **Update 09-15:** Completed

- **Finding 09-16:** In 35% of the Michigan Voluntary Protection Program (MVPP) files, it was noted that the MVPP team observed an excessively high number of 90 day items.
- **Recommendation 09-16:** 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.
- **Update 09-16:** Completed

- **Finding 09-17:** Approval letters to the unions, as appropriate, were not consistently sent in all cases.
- **Recommendation 09-17:** Provide refresher training to ensure that approval letters are sent to the union as appropriate and a copy is included in the file.
- **Update 09-17:** Completed

IV. State Progress in Achieving Annual Performance Goals

Through its SOAR, MIOSHA has provided information that supports positive performance in the accomplishment of meeting their five-year Strategic Plan. Through effective resource utilization, Partnership development, outreach activities, and an overall commitment to performance goal achievements, the majority of goals have been met or exceeded. Information provided by MIOSHA has been reviewed and analyzed to assess its accuracy in meeting Performance Plan goals and the overall accomplishment of the second year of their five-year Strategic Plan.

The following summarizes the activities and/or accomplishments for each of the Fiscal Year 2010 performance goals.

Strategic Goal #1: Improve workplace safety and health for all workers, as evidenced by fewer hazards, reduced exposures, fewer injuries, illnesses and fatalities.

Performance Goal #1.1A-1-13: Reduce the rate of worker injuries and illnesses by 20% in high hazard industries by the end of the five-year plan, which is 2013.

Results: See table below

Discussion: MIOSHA focused on 13 different industries over the five-year plan. Once the goal has been met, the industry may be dropped from the APP. The results are shown in the table below. At the end of the second year, MIOSHA has already met or exceeded six industry goals and has made progress towards meeting the five-year goal for the others.

Goal #	Industry	Baseline	Results	Comments
1.1A-1	Beverage and Tobacco Product Manufacturing	9.2	13.3	Increase of 44.6% - 5 year goal not met
1.1A-2	Wood Products Manufacturing	8.0	6.0	Decrease of 25% - 5 year goal met
1.1A-3	Plastics and Rubber Products Manufacturing	8.3	5.5	Decrease of 33% - 5 year goal met
1.1A-4	Nonmetallic Mineral Product Manufacturing	10.0	5.9	Decrease of 41% - 5 year goal met
1.1A-5	Primary Metal Manufacturing	8.4	6.3	Decrease of 25% - 5 year goal met
1.1A-6	Fabricated Metal Product Manufacturing	8.9	6.5	Decrease of 27% - 5 year goal met
1.1A-7	Machinery Manufacturing	6.3	5.2	Increase of 17% - 5 year goal not met
1.1A-8	Transportation Equipment Manufacturing	8.2	6.7	Decrease of 18.3% - 5 year goal not met
1.1A-9	Recyclable Material Merchant Wholesaler	4.6	3.4	Decrease of 26% - 5 year goal met
1.1A-10	Merchant Wholesalers, Nondurable Goods	5.6	4.5	Decrease of 19.6% - 5 year goal not met

1.1A-11	Landscaping Services	N/A	N/A	**
1.1A-12	Hospitals	9.0	8.5	Decrease of 5.6% - 5 year goal not met
1.1A-13	Nursing and Residential Care Facilities	9.0	10.4	Increase of 15.6% - 5 year goal not met

** Goal 1.1A-11 – Although Michigan specific BLS injury/illness data is not available for Landscaping Services, MIOSHA has conducted 10 seminars and 66 inspections in this industry. A total of 58 serious citations have been issued.

Performance Goal 1.2: Reduce by 20% the rate of worker injuries, illnesses, and fatalities in general industry workplaces experiencing high rates or with targeted hazards or exposures not covered by Emphasis 1.1. **(8% reduction for 2010)**

Results: Both goals were met.

Discussion: The Part 1 of the goal was to reduce the incidence rate, total recordable cases (TRC) per 100 full-time workers. MIOSHA exceeded this goal. A 22.5% reduction to 5.5 was obtained. Part 2 of the goal was to reduce the number of fatalities. This goal was met. General industry fatalities for calendar year 2008 were 22 (baseline) compared to 14 in calendar year 2009. This is a reduction of 30%.

Performance Goal 1.3A: Decrease fatalities in the construction industry by 20%. **(8% in 2010)**

Results: MIOSHA exceeded this goal.

Discussion: A five-year calendar year average, 10.86, was used as the baseline. The new five-year (rolling) average is 9.28, which is a 14% decrease. Enforcement activity, outreach and partnerships were conducted in this industry.

Performance Goal 1.3B: Reduce injuries and illnesses in the construction industry by 20%. **(8% in 2010)**

Results: This goal was exceeded.

Discussion: The new five-year (rolling) average is 2.26, which is a 24% decrease. Enforcement activity, outreach and Partnerships were conducted in this industry.

Performance Goal 2.1: Safety and Health Management Systems (SHMSs) will be promoted during all MIOSHA contacts. General industry and construction establishments that are subject to a MIOSHA visit (programmed/comprehensive inspection or consultation hazard survey) will have a SHMS evaluation.

Results: The goal was met.

Discussion: MIOSHA promoted the safety and health management system on 100% of the MIOSHA visits conducted. Multiple press releases, media advisories and seminars were issued/conducted to further promote SHMSs.

Performance Goal 2.2: Increase by 50 the number of MIOSHA Training Institute (MTI) certificate holders by marketing the MIOSHA Training Institute to targeted groups over five years.

Results: MIOSHA exceeded their targeted goal.

Discussion: In FY 2010, MIOSHA issued 121 certificates. The goal was exceeded by 71 certificates. In FY 2010, 2,699 students attended, which was a 49.8% increase from the baseline.

Performance Goal 2.3: Over five years, the following cooperative programs will increase participation by 15 new MVPP awards: 10 new MSHARP awards; 50 new CET (Bronze, Silver, Gold, & Platinum) Awards; 30 new Michigan Challenge Programs; 10 new Alliances; and seven new Partnerships.

Results: MIOSHA met three of the five goals.

Discussion: MIOSHA continued to promote their cooperative programs through press releases, media advisories, MIOSHA News and seminars. The results of their activities are noted below.

	Thru FY 2010 Goal	FY 2010 Results	Comments
MVPP	6	8	Met goal
New CET	20	21	Met goal
Michigan Challenge	12	11	Did not meet goal
Alliances	4	1	Did not meet goal
Partnerships	1	1	Met goal

Performance Goal 2.4: Provide safety and health awareness during every intervention. Baselines: 2.0 DART; 4.9 TCR; and 99% “Useful” on the Customer Service Card Survey.

Results: MIOSHA met this goal.

Discussion: In FY 2010, the Michigan DART of 2.0 and TRC of 4.2 (BLS, 2009) equals a 16.7% and 14.3% decrease, respectively, for year two. In FY 2010, MIOSHA received 970 Comment/Suggestion Cards with a 98.7% “Useful” on “How would you rate your overall experience with MIOSHA?”

Performance Goal 3.1A: Internal – Implement strategies that nurture collaboration among all MIOSHA team members to enhance effective communication and staff development.

Results: MIOSHA met this goal.

Discussion: The MIOSHA Cross-Cultural Team administered a survey in April 2010. Response to the survey was light. The next Organization Culture Inventory (OCI) survey is scheduled for 2013.

Performance Goal 3.1B: External – 95% of employers and workers who provide customer service feedback rate their overall MIOSHA intervention(s) as useful in identifying and correcting workplace safety and health hazards.

Results: MIOSHA met this goal.

Discussion: MIOSHA received 996 (up from 720 in FY 09) Comment/Suggestion Cards during Fiscal Year 2010. Results included the following.

- 98.7% “Useful” on “How would you rate your overall experience with MIOSHA?” (970/983)
- 99.7% “Yes” on “Did you find the staff to be knowledgeable about employee safety and health issues?” (973/976)
- 99.0% “Yes” on “Did the staff explain how to correct the safety and health hazards they identified?” (926/935)

Performance Goal 3.2A: Respond to 97% of complaints within 10 working days for enforcement division.

Results: MIOSHA exceeded their goal by 1.5%.

Discussion: MIOSHA conducted 465 out of 472 complaints within 10 days (98.5%).

Performance Goal 3.2B: Continue to maintain initiation of investigations of program-related fatalities and catastrophes within one working day of notification for 100% of occurrences to prevent further injuries or deaths.

Results: MIOSHA met this goal.

Discussion: MIOSHA initiated all fatalities and catastrophe investigations (28) within one day and met this goal.

Performance Goal 3.2C: Decrease average number of calendar days from opening conference date to citation issuance date by 10 percent to protect workers in a more timely manner.

Results: One out of four groups met the goal.

Discussion: MIOSHA targeted a 10% reduction for all four compliance programs units. The results for each unit are noted in the table below.

	FY 2008 Baseline	FY 2013 Goal	FY 10 Results	Comments
General Industry Safety	65.28	58.75	41.49	36.5% decrease
General Industry Health	67.70	60.93	71.52	5.6% increase
Construction Safety	43.32	38.99	45.43	4.7% increase
Construction Health	60.6	54.54	56.53	7.1% decrease

Performance Goal 3.2D: Establish a priority and deadline for all standards assigned for promulgation. Promulgate 100% of standards required by OSHA within six months and 80% of the other standards within deadlines established by an annual standards promulgation plan.

Results: MIOSHA met this goal.

Discussion: In FY 2010, all OSHA standards were promulgated within the required six months.

Performance Goal 3.3: Assess the information systems necessary to collect performance data, acquire related IT equipment, and provide appropriate hardware and software training for all agency programs.

Results: MIOSHA met this goal.

Discussion: MIOSHA purchased 18 laptops to replace older/outdated equipment. All field staff are outfitted with SecureID. Training on Outlook, Excel and PowerPoint was conducted.

V. Monitoring Methodology

A review of the MIOSHA workplace safety and health program was conducted February 15, 2011. Nine inspection case files from the first quarter of FY 2011 were reviewed. The team consisted of an Area Director and an Industrial Hygienist.

This case file audit review concentrated on penalty, classification and abatement assurance. Two in-compliance fatality investigations were reviewed for completeness and support for the conclusion that no citation was justified. One fatality with citations was reviewed for penalty, classification, and abatement.

In addition to reviewing the above cited case files, the study team focused on reviewing data gathered from all MIOSHA inspections conducted from January 1, 2010 to December 31, 2010, including an assessment of MIOSHA's enforcement program based on Federal/State IMIS

comparison data for FY 2010 as well as the State Activities Mandated Measure (SAMM) and State Information Report (SIR).

Throughout the entire process, MIOSHA was cooperative, shared information and ensured staff was available to discuss cases, policies, and procedures. Also, MIOSHA staff members were eager to work with the evaluation team.

VI. FY 2010 State Enforcement

FY 2010 State Enforcement

The FY 2010 state/federal data comparisons (Appendix C) using the official agency closeout data and the end-of-year SAMM (Appendix D) and SIR (Appendix E) reports for each state are included in the appendix of this report. The official closeout reports were used as the basis for the analysis to ensure consistency, to the extent possible in all FAME reports. FY 2010 data was used for the SIR. The report includes the source of all data cited.

Complaints:

MIOSHA uses Instruction GISHD-COM-06-3R1, Complaint Processing, for all general industry complaints and “Complaint Instructions” dated 9/24/2009 for construction complaints. Their process is similar to federal OSHA’s. MIOSHA supervisors take all complaints: written, phone and fax. The supervisor then reviews the complaint to determine if an on-site or off-site inspection will be conducted. The complaint is reviewed by the lead worker, who researches the complaint to determine if there are any outstanding inspections or if the site is on their priority list. If a nonformal investigation is conducted, it is completed by the supervisor. If a formal inspection is necessary, the complaint is assigned to an enforcement division manager and entered into IMIS and the MIOSHA Excel spreadsheet.

MIOSHA accepted and processed e-complaints filed through the www.osha.gov website and from their state website www.michigan.gov/miosha.

During FY 2010, MIOSHA received 1355 complaints. Of the 1355 complaints 458 (34%) were formalized and handled by inspection. There were 897 complaints, which were initially handled by phone and fax investigations; however, 35 of those were ultimately handled by inspection.

Mandated Activities

Activities, mandated under the Occupational Safety and Health Act, are considered core elements of the MIOSHA program. The accomplishment of these core elements is tied to achievement of MIOSHA’s strategic goals. Many mandated activities are “strategic tools” used to achieve outcome and performance goals.

“Mandated activities” include program assurances and state activity measures. Fundamental program requirements that are an integral part of the MIOSHA program are assured through an annual commitment included as part of the 23(g) grant application. Program assurances include:

- Unannounced targeted inspections including prohibition against advance notice;
- First instance sanctions;
- A system to adjudicate contestations;
- Ensuring abatement of potentially harmful or fatal conditions;
- Prompt and effective standards setting and allocation of sufficient resources;
- Counteraction of imminent dangers;
- Responses to complaints;
- Fatality/catastrophe investigations;
- Ensuring employees have:
 - protection against and investigation of discrimination,
 - access to health and safety information,
 - information on their rights and obligations under the Act, and
 - access to information on their exposure to toxic or harmful agents;
- Coverage of public employees;
- Recordkeeping and reporting; and
- Voluntary compliance activities.

Mandated activities are tracked on a quarterly basis using the SAMM Report, which compares state activity data to an established reference point. Additional activities are tracked using the Interim SIR.

Significant improvement was seen in these mandated activities in Fiscal Year 2010.

- Complaint inspections were conducted within an average of 4.7 days, significantly lower than the goal of nine days.
- Complaint investigations were conducted within an average of one day, significantly lower than the goal of two days.
- MIOSHA Safety average number of days from opening conference to citation issuance was 7% below the federal average.
- MIOSHA average lapse time from receipt of contest to first level of decision was 27% below the federal average.

Assessment of State Performance of Mandated Activities

State Activity Mandated Measure (SAMM)

Appendix D includes the SAMM for Michigan covering the period October 1, 2009 through September 30, 2010. The following is a summary of state performance on the major issues covered in the SAMM for the private sector.

Measure		State Data	Reference Data	Comment
1. Average number of days to initiate complaint inspections		4.73	9	Acceptable
2. Average number of days to initiate complaint investigations		0.62	2	Acceptable
3. Percent of complaints where complainants were notified on time		100%	100%	Acceptable
4. Percent of complaints and referrals responded to within one day		100%	100%	Acceptable
5. Number of denials where entry was not obtained		0	0	Acceptable
6. Percent of S/W/R violations verified	Private	0%	100%	MIOSHA continues to not enter abatement information into the NCR. This was an issue identified in the FY 2009 EFAME.
	Public	0%		
7. Average number of calendar days from opening conference to citation issuance	Safety	43.9	47.3	Acceptable
	Health	67.0	61.9	Lapse time remains slightly above National Average.
8. Percent of programmed inspections with S/W/R violations – safety	Safety	48.65%	58.4%	This issue was identified in the FY 2009 EFAME.
	Health	32.15%	50.9%	This issue was identified in the FY 2009 EFAME.
9. Average violations per inspection with violations	S/W/R	1.74	2.1	This issue was identified in the FY 2009 EFAME.
	Other	2.3	1.2	Acceptable
10. Average initial penalty per serious violation – private sector only		\$605.30	\$1,360.4	This issue was identified in the FY 2009 EFAME.
11. Percent of total inspection in public sector		4.0%	4.0%	Acceptable
12. Average lapse time from receipt of contest to first level of decision		158.69	217.8	Acceptable
13. Percent of 11c investigations completed within 90 days		80.16%	90%	MIOSHA continues to work to improve this number.
14. Percent of 11c complaints that are meritorious		11.11%	21.2%	This issue was identified in the FY 2009 EFAME.
15. Percent of meritorious 11c complaints that are settled		86.71%	86.0%	Acceptable

State Information Report (SIR)

Appendix E includes the SIR for MIOSHA covering the FY 2010. The following is a summary of state performance on the major issues covered in the SIR

Michigan SIR FY 2010

		12 months			
		Fed	State	Comments	
C - Enforcement Private Sector	1. Programmed Inspection	Safety	65.1	91.1	Acceptable
		Health	35	57.7	Acceptable
	2. Programmed Inspection with Violations %	Safety	69.1	63	Acceptable
		Health	55.4	51.2	Acceptable
	3. Serious Violations (%)	Safety	81	37.7	This was an EFAME issue in 2009.
		Health	70.2	44.7	This was an EFAME issue in 2009.
	4. Abatement Period for Viols %	Safety % > 30 Days	17.2	26.2	Acceptable
		Health % > 60 Days	70.2	4.5	Acceptable
	5. Average Penalty	Safety OTS	894.3	253.9	This was an EFAME issue in 2009.
		Health OTS	835.8	253.9	This was an EFAME issue in 2009.
	6. Inspections per 100 hours	Safety	5.5	7.1	Acceptable
Health		1.9	1.8	Acceptable	
7. Violations Vacated %		4.7	0.8	Acceptable	
8. Violations Reclassified %		4	0.8	Acceptable	
9. Penalty Retention %		63	52.9	Acceptable	
		Private	Public		
D. Enforcement Public Sector	1. Programmed Inspections %	Safety	91.1	75.2	Acceptable
		Health	57.7	16.7	Acceptable
	2. Serious Violations %	Safety	37.7	25.7	Acceptable
		Health	44.7	46.2	Acceptable
		12 months			
		FED	State	Comments	
E. Review Procedures	1. Violations Vacated %		21.9	11.4	Acceptable
	2. Violations Reclassified %		11.7	12	Acceptable
	3. Penalty Retention %		58.1	61	Acceptable

VII. Complaints About State Program Administration (CASPA)

Two CASPAs were received in FY 2010.

CASPA #1

Allegation: MIOSHA did not conduct a complete investigation of a complaint. Proper policies and procedures were not followed.

Region V Findings: The inspection in question was still open. The complainant was notified that until the investigation was closed, a CASPA could not be filed.

Region V Recommendation: No further action taken.

CASPA #2

Allegation: MIOSHA did not conduct a thorough investigation of a complaint.

Region V Findings: A review of the inspection case file and MIOSHA policies and procedures determined that the complaint inspection had been conducted following current MIOSHA policies and procedures.

Region V Recommendations: No further action is necessary.

VIII. FY 2010 Findings and Recommendations

During the FY 10 on-site review, one additional finding and recommendation was documented.

Finding 10-01: Three fatality case files were reviewed. As recommended in FY 09, the NOK letters were included in the file. It was noted that MIOSHA was sending either the initial letter notifying the victim's family of the investigation or the final letter with a copy of the citations. Both letters were not found in any of the files reviewed.

Recommendation 10-01: Ensure that both the initial NOK letter stating that MIOSHA is conducting an investigation and the final closeout letters are maintained in the file.

IX. Major New Issues

SENATE BILL No. 14 to repeal the MIOSHA effective March 1, 2012 program was introduced on January 19, 2011 and referred to Committee. The National Federation of Independent Businesses (NFIB) has spoken out in support of the MIOSHA program.

While the MIOSHA program has been affected by state and federal budget issues and furlough days have been taken, MIOSHA did not deobligate any funds in FY 2010.

In December 2010, 30 employees retired due to a state incentive program. MIOSHA is currently working to fill these positions.

In January, because of the November election, a new Governor was inaugurated. The agency that houses MIOSHA may change as the state goes through a re-organization.

MIOSHA is developing and hopes to implement an internal audit program similar to federal OSHA's program. Region V information has been shared with MIOSHA to facilitate the development of the program.

SENATE Bill 20 was introduced in January. This Bill would prohibit MIOSHA from promulgating an ergonomics standard until one is issued by federal OSHA. MIOSHA would still be able to address ergonomic issues as federal OSHA does by issuing citations under their "General Duty Clause." This Bill passed and was signed by the Governor.

X. Other

MIOSHA includes outreach activities as a part of their Annual Performance Plan. Examples of these activities include the following.

Coffee with MIOSHA. August 16, 2010: provided an informal opportunity for employers and workers to meet with MIOSHA representatives to ask questions, obtain information on program services and resources, learn how to navigate the MIOSHA web page, and apply for a scholarship to attend MIOSHA Training Institute courses. A total of 35 coffee shops throughout Michigan (25 at BIGGBY sites and 10 independent shops) participated.

Safety Pays Initiative. March 23, 2010: MIOSHA kicked off a "Safety Pays" campaign with a theme of "Protect Workers...Pay Yourself." Providing a safe and healthy work environment is the right thing to do and it's a sound business decision - especially in today's challenging economic times. The costs of reacting to workplace injuries and illnesses far exceed the costs of preventing them from happening in the first place.

The "Safety Pays" campaign is part of MIOSHA's "Protecting Workers in Tough Economic Times" initiative, launched on May 7, 2009. This initiative focuses on how a comprehensive safety and health management system can help employers protect their workers and their bottom line.

Protecting Workers in Tough Economic Times. As mentioned above, on May 7, 2009, MIOSHA launched an initiative to help employers protect workers during tough economic times. Businesses today are struggling to survive in the most precarious economic conditions we have seen in our lifetime. When facing the challenging times of today, now is not the time to cut corners. The costs of reacting to workplace injuries and illnesses far exceed the costs of preventing them from happening in the first place.

The MIOSHA Program recognizes the difficulties that employers and employees are facing and will do all that we can to help address workplace safety and health issues. MIOSHA offered the significant changes listed below to help employers comply with MIOSHA requirements.

- **Penalty Reduction** – An additional 10 percent penalty reduction may be applied for prompt abatement.

- Penalty Payment Plan – An extended payment plan allowed employers the opportunity to pay the citation penalty in installments rather than one lump sum.
- Focused Inspections – Inspections in most targeted general industry workplaces focused on the primary hazards of the industry, instead of the traditional “wall-to-wall” approach.
- OTS Violations Not Cited – Other-than-Serious (OTS) violations relating to focused hazards were not cited if the violation was abated in the presence of the inspector.
- Waiver of FOIA Fees – Waiver of FOIA fees for employers up to \$100 for a copy of their file
- Prehearing Options – Three alternative locations to prehearings conducted in Lansing were available.
- Inspection Deferrals – Employers working with the Consultation Education and Training (CET) Division may receive a deferral from a MIOSHA enforcement routine inspection.
- Good Faith Credits – New “Good Faith Credits” for penalty reductions have been implemented.
- MTI Training Scholarships –\$50,000 in safety and health training scholarships were available for MTI courses in FY 2010.
- Increase Publication Limits – The CET Division increased the limits on free copies of popular printed material, like permits, stickers, and posters.
- Access to Standards – All MIOSHA standards are now searchable and downloadable from our website, and our new “A-Z Index” makes locating standards easier.
- Free Video Loan Library – The CET Video Library is transitioning from VHS to DVDs and has 76 DVD titles on a wide range of safety and health topics available on a free-loan basis.

Take a Stand Day. On May 5, 2010, the sixth annual “Take a Stand Day” was a great success. “Take a Stand Day” provides an opportunity for employers to receive a special one-on-one consultation with NO CITATIONS and NO PENALTIES. A total of 194 requests were received in the CET Division and assigned to MIOSHA staff – both enforcement and consultation staff. This event provides all MIOSHA staff an opportunity to “connect with industry.”

Sloan Award for Workplace Flexibility and Effectiveness. MIOSHA was named a winner of the 2010 Alfred P. Sloan Award for Business Excellence in Workplace Flexibility for the third year, distinguishing the agency as a leading practitioner of workplace flexibility in Michigan and across the nation.

The Alfred P. Sloan Awards for Business Excellence in Workplace Flexibility are part of the When Work Works project, an ongoing initiative of Families and Work Institute, the Institute for a Competitive Workforce (an affiliate of the U.S. Chamber of Commerce), and the Twiga Foundation. The Sloan awards were open to organizations in Michigan with more than 10 employees that had been in business for at least one year. Applicants were reviewed in a rigorous two-step process, first comparing the employer’s application

to nationally representative data from Families and Work Institute's National Study of Employers, and then corroborating the employer responses through a survey of employees.

Appendix A
Michigan State Plan
FY 2010 Enhanced FAME Follow-up Report Prepared by Region V
Summary of New and Continuing Findings and Recommendations

Rec #	Findings	Recommendations	Related FY 09 Rec #
10-1	Three fatality case files were reviewed. As recommended in FY 09, the NOK letters were included in the file. It was noted that MIOSHA was sending either the initial letter notifying the victim's family of the investigation or the final letter with a copy of the citations. Both letters were in none of the files reviewed.	Recommendation 10-01: Ensure that both the initial NOK letter stating that MIOSHA is conducting an investigation and the final closeout letters are maintained in the file.	new
10-2	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.	09-1
10-3	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 needs to follow their penalty calculation policy with respect to classification of serious violations.	09-2
10-4	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.	09-3
10-5	While MIOSHA recognized hazards and issued citations, not all of the hazards were appropriately classified per their FOM.	Ensure all staff are retrained on hazard classification and penalty assessment guidelines for fatalities.	09-6
10-6	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	Ensure all staff are retrained on current hazard classification and penalty assessment guidelines for inspections.	09-8

Appendix A
Michigan State Plan
FY 2010 Enhanced FAME Follow-up Report Prepared by Region V
Summary of New and Continuing Findings and Recommendations

Rec #	Findings	Recommendations	Related FY 09 Rec #
	adjustment factors did not follow established MIOSHA guidance documents in all cases.		
10-7	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.	09-10
10-8	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 are retrained on policy for hazard classification and penalty assessment guidelines.	09-11
10-9	MIOSHA does not use IMIS management reports.	To prevent duplicative work, MIOSHA should use IMIS management reports to track all case file activities.	9-12
10-10	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 outcomes of the cases reviewed were appropriate.	Follow DIS 0-0.9 to ensure consistency with case file organization and contents, including forms, letters and Final Investigative Reports (FIRs).	09-13
10-11	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.	09-18

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

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
09-3	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 activities are documented on the	MIOSHA will ensure contact and documentation of interaction with union representatives.	Completed

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
			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 31, 2011.	Training has been completed and process implemented. MIOSHA expects to conduct a verification audit of process in the third quarter of FY 11.	Continuing

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
09-11	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 outcomes of the cases reviewed were appropriate.	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) to see whether any changes to existing documents are needed by the end of FY 2011.	Based on information provided during on-site MIOSHA currently reviewing all Federal forms and letters. Currently plan to implement changes in third quarter.	Continuing
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	MIOSHA implemented significant improvements to 11(c) process flow for timeliness and efficiency	Continuing

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
			timeliness are ongoing.	of case management.	
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
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

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

	MI	State Plan Total	Federal OSHA
Total Inspections	5,208	57,124	40,993
Safety	4,451	45,023	34,337
<i>% Safety</i>	85%	79%	84%
Health	757	12,101	6,656
<i>% Health</i>	15%	21%	16%
Construction	3,304	22,993	24,430
<i>% Construction</i>	63%	40%	60%
Public Sector	211	8,031	N/A
<i>% Public Sector</i>	4%	14%	N/A
Programmed	4,442	35,085	24,759
<i>% Programmed</i>	85%	61%	60%
Complaint	490	8,986	8,027
<i>% Complaint</i>	9%	16%	20%
Accident	26	2,967	830
Insp w/ Viols Cited	3,443	34,109	29,136
<i>% Insp w/ Viols Cited (NIC)</i>	66%	60%	71%
<i>% NIC w/ Serious Violations</i>	63.7%	62.3%	88.2%
Total Violations	14,153	120,417	96,742
Serious	5,361	52,593	74,885
<i>% Serious</i>	38%	44%	77%
Willful	24	278	1,519
Repeat	567	2,054	2,758
Serious/Willful/Repeat	5,952	54,925	79,162
<i>% S/W/R</i>	46%	46%	82%
Failure to Abate	38	460	334
Other than Serious	8,163	65,031	17,244
<i>% Other</i>	58%	54%	18%
Avg # Violations/ Initial Inspection	4	3.4	3.2
Total Penalties	\$3,374,543	\$ 72,233,480	\$183,594,060
Avg Current Penalty / Serious Violation	\$ 396.50	\$ 870.90	\$ 1,052.80
Avg Current Penalty / Serious Viol- Private Sector Only	\$ 395.50	\$ 1,018.80	\$ 1,068.70
% Penalty Reduced	56.5%	47.7%	40.9%
% Insp w/ Contested Viols	7.5%	14.4%	8.0%
Avg Case Hrs/Insp- Safety	14.4	16.2	18.6
Avg Case Hrs/Insp- Health	22.1	26.1	33
Lapse Days Insp to Citation Issued- Safety	33	33.6	37.9
Lapse Days Insp to Citation Issued- Health	48.4	42.6	50.9
Open, Non-Contested Cases w/ Incomplete Abatement >60 days	126	1,715	2,510

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

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

NOV 12, 2010
 PAGE 1 OF 2

State: MICHIGAN COMBINED

RID: 0552600

MEASURE	From: 10/01/2009 To: 09/30/2010	CURRENT FY-TO-DATE	REFERENCE/STANDARD	
1. Average number of days to initiate Complaint Inspections	2373 4.73 501	73 3.17 23	Negotiated number for each State	
2. Average number of days to initiate Complaint Investigations	27 .62 43	21 3.00 7	Negotiated number for each State	
3. Percent of Complaints where Complainants were notified on time	474 100.00 474	38 100.00 38	100%	
4. Percent of Complaints and Referrals responded to within 1 day -ImmDanger	0 .00 1	0 0 0	100%	
5. Number of Denials where entry not obtained	0	0	0	
6. Percent of S/W/R Violations verified				
Private	0 .00 5117	0 .00 5117	100%	
Public	0 .00 145	0 .00 145	100%	
7. Average number of calendar days from Opening Conference to Citation Issue				
Safety	136073 43.90 3099	16159 39.12 413	2624646 47.3 55472	National Data (1 yr)
Health	29689 67.01 443	4253 83.39 51	750805 61.9 12129	National Data (1 yr)

*MI 11.12

**PRELIMINARY DATA SUBJECT TO ANALYSIS AND REVISION

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

NOV 12, 2010
 PAGE 2 OF 2

RID: 0552600

MEASURE	From: 10/01/2009 To: 09/30/2010	CURRENT FY-TO-DATE	REFERENCE/STANDARD
8. Percent of Programmed Inspections with S/W/R Violations			
	1939	259	93201
Safety	48.65 3986	56.55 458	58.4 159705
	136	10	10916
Health	32.15 423	40.00 25	50.9 21459
9. Average Violations per Inspection with Violations			
	6181	791	428293
S/W/R	1.74 3538	1.63 483	2.1 201768
	8170	1019	240266
Other	2.30 3538	2.10 483	1.2 201768
10. Average Initial Penalty per Serious Violation (Private Sector Only)	3272275 605.30 5406	428675 650.49 659	509912690 1360.4 374823
11. Percent of Total Inspections in Public Sector	211 4.00 5274	14 4.86 288	625 4.0 15598
12. Average lapse time from receipt of Contest to first level decision	42 1.05 40	169 169.00 1	3826802 217.8 17571
13. Percent of 11c Investigations Completed within 90 days	101 80.16 126	10 90.91 11	100%
14. Percent of 11c Complaints that are Meritorious	14 11.11 126	1 9.09 11	1461 21.2 6902
15. Percent of Meritorious 11c Complaints that are Settled	12 85.71 14	1 100.00 1	1256 86.0 1461

*MI 11.12

**PRELIMINARY DATA SUBJECT TO ANALYSIS AND REVISION

Appendix E - State Information Report (SIR)

SIR Q4 SIR26 01007 093255 PROBLEMS - CALL Yvonne Goodhall 202 693-1734

1101007

U. S. D E P A R T M E N T O F L A B O R
O C C U P A T I O N A L S A F E T Y A N D H E A L T H A D M I N I S T R A T I O N
I N T E R I M S T A T E I N D I C A T O R R E P O R T (S I R)

PAGE 1

CURRENT MONTH = SEPTEMBER 2010

STATE = MICHIGAN COMBINED

PERFORMANCE MEASURE	----- 3 MONTHS-----		----- 6 MONTHS-----		-----12 MONTHS-----		-----24 MONTHS-----	
	FED	STATE	FED	STATE	FED	STATE	FED	STATE
C. ENFORCEMENT (PRIVATE SECTOR)								
1. PROGRAMMED INSPECTIONS (%)								
A. SAFETY	5298	754	11403	1862	21912	3768	43788	7547
	62.4	90.4	63.8	91.3	65.1	91.1	65.9	91.2
	8493	834	17860	2040	33647	4135	66434	8275
B. HEALTH	488	95	1094	191	2232	393	4202	739
	30.6	52.8	33.7	55.4	35.0	57.7	35.1	54.7
	1597	180	3249	345	6378	681	11960	1352
2. PROGRAMMED INSPECTIONS WITH VIOLATIONS (%)								
A. SAFETY	4663	707	9421	1448	17649	2689	34350	5368
	72.7	69.0	71.2	65.8	69.1	63.0	67.1	62.6
	6413	1024	13232	2202	25525	4267	51214	8581
B. HEALTH	451	65	880	130	1756	234	3238	448
	57.8	56.0	53.9	57.0	55.4	51.2	53.4	51.3
	780	116	1632	228	3168	457	6066	874
3. SERIOUS VIOLATIONS (%)								
A. SAFETY	17341	1119	33678	2396	62211	4772	117447	9410
	81.6	36.9	81.5	37.4	81.0	37.7	80.1	37.3
	21261	3034	41304	6412	76839	12652	146593	25238
B. HEALTH	3233	122	6183	231	11743	471	21554	972
	69.6	42.2	70.5	41.9	70.2	44.7	69.6	46.7
	4645	289	8776	551	16725	1053	30947	2081
4. ABATEMENT PERIOD FOR VIOLS								
A. SAFETY PERCENT >30 DAYS	3054	320	6515	819	12732	1550	25040	2971
	15.0	21.7	16.3	26.7	17.2	26.2	17.7	25.8
	20398	1477	39855	3068	74010	5926	141219	11504
B. HEALTH PERCENT >60 DAYS	255	1	633	12	1406	46	2977	159
	5.6	.4	7.3	2.4	8.5	4.5	9.6	7.3
	4548	281	8681	503	16580	1023	30862	2191

U. S. D E P A R T M E N T O F L A B O R
OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION
INTERIM STATE INDICATOR REPORT (SIR)

CURRENT MONTH = SEPTEMBER 2010

STATE = MICHIGAN COMBINED

PERFORMANCE MEASURE	----- 3 MONTHS-----		----- 6 MONTHS-----		-----12 MONTHS-----		-----24 MONTHS-----	
	FED	STATE	FED	STATE	FED	STATE	FED	STATE
C. ENFORCEMENT (PRIVATE SECTOR)								
5. AVERAGE PENALTY								
A. SAFETY								
	587112	17190	1106734	31970	2038916	51795	3500911	106685
OTHER-THAN-SERIOUS	837.5	324.3	803.1	296.0	894.3	253.9	967.6	252.8
	701	53	1378	108	2280	204	3618	422
B. HEALTH								
	249175	1700	434447	3950	732953	9400	1039303	18075
OTHER-THAN-SERIOUS	817.0	340.0	801.6	329.2	835.8	348.1	842.2	296.3
	305	5	542	12	877	27	1234	61
6. INSPECTIONS PER 100 HOURS								
A. SAFETY	9778	902	20529	2267	38849	4776	76136	9548
	5.8	5.4	5.7	6.6	5.5	7.1	5.5	7.2
	1679	168	3593	344	7112	673	13925	1327
B. HEALTH	1864	202	3844	393	7547	809	14276	1631
	2.1	1.9	2.0	1.8	1.9	1.8	1.8	1.8
	908	104	1940	223	3898	447	8070	890
7. VIOLATIONS VACATED %	1123	13	2474	57	5103	120	10425	313
	3.7	.3	4.3	.7	4.7	.8	5.0	1.1
	29962	3857	57441	7735	108213	14975	207527	29580
8. VIOLATIONS RECLASSIFIED %	844	26	1978	60	4276	125	9196	240
	2.8	.7	3.4	.8	4.0	.8	4.4	.8
	29962	3857	57441	7735	108213	14975	207527	29580
9. PENALTY RETENTION %	15767907	381260	30073309	748875	57457651	1751416	111052615	4240006
	64.5	55.7	63.9	48.1	63.0	52.9	62.8	57.9
	24439885	684215	47032897	1556300	91194322	3308650	176868726	7326085

U. S. D E P A R T M E N T O F L A B O R
 OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

PAGE 3

CURRENT MONTH = SEPTEMBER 2010

INTERIM STATE INDICATOR REPORT STATE = MICHIGAN COMBINED
 ----- 3 MONTHS----- ----- 6 MONTHS----- ----- 12 MONTHS----- ----- 24 MONTHS-----
 PRIVATE PUBLIC PRIVATE PUBLIC PRIVATE PUBLIC PRIVATE PUBLIC

PERFORMANCE MEASURE

D. ENFORCEMENT (PUBLIC SECTOR)

1. PROGRAMMED INSPECTIONS %

	PRIVATE	PUBLIC	PRIVATE	PUBLIC	PRIVATE	PUBLIC	PRIVATE	PUBLIC
A. SAFETY	754	14	1862	45	3768	118	7547	259
	90.4	63.6	91.3	71.4	91.1	75.2	91.2	75.5
	834	22	2040	63	4135	157	8275	343
B. HEALTH	95	0	191	5	393	8	739	37
	52.8	.0	55.4	19.2	57.7	16.7	54.7	33.3
	180	12	345	26	681	48	1352	111

2. SERIOUS VIOLATIONS (%)

	PRIVATE	PUBLIC	PRIVATE	PUBLIC	PRIVATE	PUBLIC	PRIVATE	PUBLIC
A. SAFETY	1119	13	2396	38	4772	103	9410	286
	36.9	31.7	37.4	30.6	37.7	25.7	37.3	25.5
	3034	41	6412	124	12652	401	25238	1120
B. HEALTH	122	21	231	29	471	49	972	97
	42.2	61.8	41.9	52.7	44.7	46.2	46.7	43.9
	289	34	551	55	1053	106	2081	221

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

CURRENT MONTH = SEPTEMBER 2010

COMPUTERIZED STATE PLAN ACTIVITY MEASURES

STATE = MICHIGAN COMBINED

PERFORMANCE MEASURE	----- 3 MONTHS-----		----- 6 MONTHS-----		----- 12 MONTHS-----		----- 24 MONTHS-----	
	FED	STATE	FED	STATE	FED	STATE	FED	STATE
E. REVIEW PROCEDURES								
1. VIOLATIONS VACATED %	610 22.5 2709	35 11.9 294	1134 23.2 4888	52 10.7 487	2052 21.9 9366	127 11.4 1110	3827 23.0 16668	323 12.3 2624
2. VIOLATIONS RECLASSIFIED %	306 11.3 2709	35 11.9 294	585 12.0 4888	60 12.3 487	1100 11.7 9366	133 12.0 1110	2217 13.3 16668	279 10.6 2624
3. PENALTY RETENTION %	4940512 65.3 7563023	76588 58.8 130350	7526155 62.3 12074308	123837 51.7 239470	12856359 58.1 22143463	386624 61.0 633585	23378285 58.4 40052611	970698 60.4 1607020

Appendix F – State OSHA Annual Report (SOAR)

Available Separately

Appendix G – Acronyms

APP	Annual Performance Plan
ATS	Automated Tracking System
BIGGBY	Coffee shops similar to Starbucks
BLS	Bureau of Labor Statistics
CAP	Corrective Action Plan
CASPA	Complaints About State Program Administration
CET	Consultation Education and Training
CIS	Consumer and Industry Services (former name for one of the State Departments that housed the MIOSHA program)
CPL	OSHA Compliance directive
CSHD	Construction Safety and Health Division
CSHO	Compliance Safety and Health Officer
DART	Days Away, Restricted, and Transfer
DELEG	Department of Energy Labor and Economic Growth
DLEG	Department of Labor and Economic Growth
DVD	Digital Versatile Disc
EFAME	Enhanced Federal Annual Monitoring and Evaluation
FAME	Federal Annual Monitoring and Evaluation
FIR	Final Investigation Report
FOIA	Freedom of Information Act
FOM	Field Operations Manual
FPC	Federal Program Change
FY	Fiscal Year
GISHD	General Industry Safety and Health Division
IMIS	OSHA’s Integrated Management Information System
MAO	Medical Access Order
MIOSHA	Michigan Occupational Safety and Health Administration
MSEA	Michigan State Employees Association
MTSD	Management and Technical Services Division
MTI	MIOSHA Training Institute
MVPP	Michigan Voluntary Protection Program (exemption program within MIOSHA)
MVPPPM	Michigan Voluntary Protection Programs; Policies and Procedures Manual
NCR	OSHA database
NFIB	National Federation of Independent Businesses
NOK	Next of Kin

OCI	Organizational Culture Inventory
OSE	Office of State Employer
OSHA	Occupational Safety and Health Administration
OTI	OSHA Training Institute
OTS	Other than serious
P.A.	Public Act
SAMM	State Activity Mandated Measures
SIEP	State Internal Evaluation Plan
SIR	State Information Report
SOAR	State OSHA Annual Report
SOAHR	State Office of Administrative Hearings and Rules
S/W/R	Serious, Willful, Repeat
TCIR	Total Case Incidence Rate
TCR	Total Case Rate (calculated injury and illness rate)
TRC	Total Recordable Cases
UAW	United Auto Workers Union
VHS	Video Home System
WAO	Written Access Order