

Federal Annual Monitoring and Evaluation (FAME)

Indiana

October 1, 2010 to September 30, 2011

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I. EXECUTIVE SUMMARY

A. Summary of Report

The purpose of this report is to assess the State's progress towards achieving their performance goals established in their Fiscal Year (FY) 2011 Annual Performance Plan and to review the effectiveness of programmatic areas related to enforcement activities, including a summary of an onsite evaluation. The guidance used in the development of this report was based on Occupational Safety and Health Administration's (OSHA) collective experience in conducting the FY 2009 evaluations, the FY 2010 follow-up reviews, and feedback provided from Federal and State participants. This report assesses the current performance of the Indiana Department of Labor (IDOL).

A comparison of the FY 2009 case file reviews and the FY 2011 reviews shows a marked improvement in overall documentation of case files by the compliance safety and health officers (CSHO). Specifically, in 98% of the complaint inspections, it was found that the complaints were adequately addressed in the file with supporting documents, pictures, notes, programs, and sampling.

The number of Indiana Occupational Safety and Health Administration's (IOSHA) backlogged contested cases with the Board of Safety Review (BSR) has decreased from 200 cases five years ago to 15 open cases. The Village Pantry inspection, in which an employee was shot during a robbery, has in part resulted in legislative hearings for stronger workplace violence protection. IOSHA has also received the Region V William Q. Wiehrdt Award for customer services.

The case file review of IOSHA's inspections found several items of concern. A review of the final penalties found a 50% reduction on all serious, repeat, and willful violations. However, it should be noted that the program views penalty reduction as a trade-off to get larger employer commitments for the use of consultative services or to make State or national changes in case settlements. Also, 28% of abatements verified by IOSHA were found to be inadequate. This was due to insufficient abatement information, incorrect abatement, or items of abatement missing in a file. In 3% of cases, not all apparent violations were cited. These violations related to electrical hazards and the lack of energy control programs.

In 32% of inspection files reviewed, adequate documentation of employee statements was lacking. There were no statements, notes or memos indicating that employees were questioned. Due to Indiana having a public access law which allows employee statements to be obtained in their entirety, the CSHOs are now informing employees and witnesses of this law and obtaining permission to place the employee or witness name on their statement. There is currently legislation proposed to address protecting employees who are interviewed from having their names released when a public request for documents is made.

Three out of five annual performance goals for enforcement in the Indiana Department of Labor Performance Plan were not met.

Finally, during the case file review of the Discrimination Program, it was found that Federal OSHA would not have arrived at the same conclusion in a non-merit case, based on documentation present in the file.

As part of the special study, six groups representing workers and employers were solicited for comment regarding their satisfaction with the operation of the program. Two responses have been received. Neither response indicated any negative items of concern.

At the time of the report, all corrective actions on the FY 2010 FAME report had been completed. However, the FY 2011 FAME found that three recommendations from FY 2010 continue to be issues for corrective action.

While there are issues that need to be addressed, Indiana continues to work in a positive manner to improve their program. With the exception of staffing levels, the State continues to meet its 23(g) Enforcement Program's operational requirements.

B. State Plan Introduction

The Indiana Department of Labor administers the Indiana Occupational Safety and Health (IOSH) Program. The IOSH plan was approved on February 25, 1974 and certified on October 16, 1981. On September 26, 1986, Indiana OSHA received final approval. The State Plan Designee is Lori Torres, Commissioner of the Indiana Department of Labor. The Manager of the State's OSHA program is Jeff Carter, Deputy Commissioner for IOSHA. Indiana OSHA includes the Occupational Safety and Health (OSH) Compliance Division, which is responsible for Compliance Program administration through conducting enforcement inspections (General Industry and Construction), adoption of standards, and operation of other OSHA-related activities. Also administered by the IDOL is the INSafe program, the State's 21(d) funded safety and health Consultation Project, which provides free consultation services upon request to help employers prevent workplace injuries, illnesses and fatalities through identification and correction of safety and health hazards.

For FY 2011 the State's 23(g) enforcement grant included State and Federal funds totaling \$4,376,000, which were 50% Federal funds. The State operates a 21(d) Consultation Program for the private sector called INSafe. Consultation for the public sector, local, and State government entities utilizes funds under the 23(g) enforcement grant. The State's current enforcement staff consists of 23 Safety Inspectors and 18 Industrial Hygienists, with a total staff of 52. Two of the Safety CSHOs and one Industrial Hygienist are designated to conduct whistleblower investigations.

Indiana operates a "mirror" Enforcement Program, as State law does not allow for the Agency to be more stringent than Federal OSHA, and OSHA requires the State to be at least as effective as the Federal Program.

According to IC 22-8-1.1-17.5, "The Commissioner may not adopt or enforce any provision used to carry out the enforcement of this chapter that is more stringent than the corresponding Federal

provision enforced by the United States Department of Labor under the Occupational Safety and Health Act of 1970.”

Generally, the State adopts all standards and program changes identically, with the exception of those standards and changes that are not within their jurisdiction. The State does not operate jurisdiction over Maritime, United States Postal Service, or the Federal government. Under their Whistleblower Program, they administer the Section 11(c) of the Occupational Safety and Health Act, which is one of 21 Whistleblower statutes.

According to the Indiana Department of Labor (IDOL) website, “The mission of the Indiana Department of Labor is to advance the safety, health, and prosperity of Hoosiers in the workplace.”

The State’s Occupational Safety and Health Strategic Plan for FY 2007 to FY 2011 established 10 strategic goals. The IDOL submitted an amended Strategic Plan in FY 2009, and during FY 2011, this plan was extended to FY 2012.

One difference unique to the Indiana Program that is important to note is that Whistleblower complaints investigated by IOSHA that are determined to be violations are required to be filed in State Court by the 120th day (see IC 22-8-1.1-38.1(b)). After this date, IOSHA is barred from going forward with a merit complaint. Because of the 120 day limit, it is important that complaints are properly dual-filed with Federal OSHA.

Safety and health cases that are not resolved through the informal conference process are heard by the Indiana Board of Safety Review (BSR). The creating legislation is found at IC22-8-1.1-30.1 and the enabling legislation for the BSR is found at IC 615 IAC. The Board is an independent Administrative Review Board housed within IDOL and is governed by the Indiana Administrative Orders and Procedures Act (AOPA), which is found at IC 4-21.5-3.

This report was prepared under the direction of Nick Walters, Deputy Regional Administrator, U.S. Department of Labor, Occupational Safety and Health Administration (OSHA).

C. Data and Methodology

A review of the Indiana OSHA workplace safety and health program was conducted from January 23, 2012 to February 29, 2012, with eight days spent onsite. A report was made of all complaints and cases which were closed between October 1, 2010 and September 30, 2011. From this report, 96 inspections and investigations and eight fatality/catastrophe inspections were randomly selected. This random selection was composed of seven fatality inspections, one catastrophe inspection, 45 complaint inspections, 27 programmed planned inspections, two other inspections, three referral inspections, one monitoring inspection and 10 non-formal, valid investigations were reviewed. A review was also made of all the files for the 17 new and recertified sites in the Voluntary Protection Program, three Alliances and eight Partnerships, which existed between October 1, 2010 and September 30, 2011.

In addition to reviewing the above cited case files, the study team reviewed data gathered from all Indiana OSHA inspections conducted from October 1, 2010 to September 30, 2011, including general statistical information, complaint processing, and inspection targeting. Indiana data contained in the Integrated Management Information System (IMIS), which is OSHA's database system used by the State to administer its Program and by the State and Federal OSHA to monitor the Program, were examined. Compliance with legislative requirements regarding contact with families of fatality victims, training, and personnel retention was assessed.

The review also included interviews with 14 of Indiana's management and compliance staff. As part of the special study, six groups representing workers and employers were solicited for comment regarding their satisfaction with the operation of the Program. Groups representing workers included the United Steelworkers (USWA) Local 12775, Iron Workers Local 395, United Auto Workers (UAW) District 3, and Laborers International Union of North America. Groups representing Indiana businesses included the Indiana Chamber of Commerce and Indiana Manufacturers Association.

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

D. Special Study Findings and Key Recommendations

The top two findings and recommendations are placed below.

1. Finding 11-6: While employee interviews were almost always indicated as being performed, 27 of 86 files did not contain documentation showing employee interviews were performed.
Recommendation: Employee interviews should always be documented to provide proof of employee exposure.
2. Finding 11-9: Federal OSHA reviewed a case, which appeared to be a merit case as opposed to IOSHA's finding of non-merit. Case file documentation reviewed supported that the preponderance of evidence favored the complainant.
Recommendation: Review the elements of a merit case per the Whistleblower Investigations Manual, DIS 0-0.9.

A list of all other recommendations and suggestions is included in Appendix A of this report. After review, the State will need to develop a response and/or a plan of action where appropriate for each recommendation.

II. MAJOR ISSUES

IOSHA's average current serious penalty per violation was found to be 59% lower than Federal OSHA's current violations. One of the differences may be attributed to Federal OSHA's change in their penalty policy.

Staffing continues to be problematic for IOSHA. The current benchmark for safety and health compliance officers is 70. They currently have 41 safety and health compliance officers, which is

only 59% of benchmark. IOSHA has taken the position that benchmark levels are in need of a total reassessment and has petitioned OSHA for its review.

The database shows that in FY 2011 IOSHA performed 1349 inspections; in the previous Fiscal Year, IOSHA performed 2349. Officials reported that inspection numbers were impacted by staff turnover, complex investigations, and increased training activities that took inspectors out of the field.

Abatement verification continues to be an issue with only 72% of serious, willful, and repeat violations being verified.

III. STATE RESPONSE TO FY 2010 FAME RECOMMENDATIONS

Recommendation 10-1: Provide all witnesses with information that clearly explains their rights, especially with regard to confidentiality prior to all interviews. Ensure employees and witnesses who are interviewed are provided the opportunity to decide if their name or other personal information should be included as part of their interview documentation or statement.

State Action 10-1: Witness names are written on a form and witnesses are given the option to sign. Indiana Access to Public Records law is explained to witnesses. CSHOs now make detailed notes should a witness decline to sign. There is still a method for introducing the statement in a court action.

Status Update 10-1: This item is complete except for any legislative changes that may result from this review.

Recommendation 10-2: IOSHA should obtain verification for all files where abatement is required.

State Action 10-2: Abatement tracking and review has been assigned to a single individual and has been added to that individual's performance expectations.

Status Update 10-2: This item remains open.

Recommendation 10-3: All appropriate entries should be made on the OSHA-7 and an updated OSHA-7 should be maintained in the file. These entries should be performed in accordance with OSHA Instruction 03-06 (IRT 01), OSHA Instruction (03-06 (ADM 01), and the IMIS Enforcement Data Processing Manual. All notification letters should be sent.

State Action 10-3: The Duty Officer position has been made a permanent fixture. The Duty Officer has been provided training on OSHA-7 requirements and is monitored by the System Administrator on a regular basis.

Status Update 10-3: This item has been completed.

Recommendation 10-4: While the OSHA Field Inspection Reference Manual CPL 2.103 does not allow for Compliance Safety and Health Officers (CSHOs) to make their own decisions about what supporting documentation is needed to document a hazard, documentation is not required to be present to support that a hazard does not exist. It is recommended that documentation in the file be included to show that all complaint items have been evaluated. When addressing complaints about exposure to contaminants, an explanation should be provided when sampling was not conducted.

State Action 10-4: The Duty Officer has been instructed and now includes all complaint items on the complaint. All complaint items are addressed in the response letter to the complainant.

Status Update 10-4: This item has been completed.

Recommendation 10-5: A paper copy of the electronic documents should be placed in every file. Files should be orderly and all documents bound.

State Action 10-5: Indiana OSHA will continue to use paper and electronic media. Files are audited for completeness and clerical staff maintains order of files. All IOSHA staff has the required software applications.

Status Update 10-5: This item has been completed.

Recommendation 10-6: Better documentation proving exposure should have been provided to support citations. One file reviewed indicated that all the citations were deleted due to lack of employee exposure documentation.

State Action 10-6: Staff has been instructed that complete documentation is critical and now prepares complete and thorough documentation on employee interviews.

Status Update 10-6: This item remains open.

Recommendation 10-7: Supervisors must consistently review the IMIS reports to track abatement and update the IMIS in a timely manner.

State Action 10-7: Tracking reports continue to be generated and distributed on a monthly basis. Supervisors have been provided extensive training on report usage.

Status Update 10-7: This item has been completed.

Recommendation 10-8: Require employers to follow procedures for petition for modification of abatement (PMA) and ensure that IMIS is timely updated to reflect any extensions granted.

State Action 10-8: Directors and Supervisors have been instructed that no PMA shall be granted informally and all PMAs must be timely and in writing. The Administrative Assistant now generates PMA form letters and maintains a tickler file. Legal Department is developing a PMA policy.

Status Update 10-8: This item remains open

Recommendation 10-9: IOSHA must establish a system for the proper handling and review of IMIS management reports. Consideration should be given to the importance of the report when determining the frequency with which it is generated and distributed (weekly, bi-weekly, or monthly).

State Action 10-9: Tracking reports continue to be generated and distributed on a monthly basis. Supervisors have implemented tracking reports in their schedules. Report usage has been added to performance expectations on Performance Profiles.

Status Update 10-9: This item has been completed.

Recommendation 10-10: IOSHA must begin using IMIS reports to identify and assign establishments requiring follow-up inspections.

State Action 10-10: Supervisors have been provided extensive training on report usage. Report usage has been added to performance expectations on Performance Profiles.

Status Update 10-10: This item has been completed.

Recommendation 10-11: Review classification of electrical and fire hazard violations in both Construction and General Industry to ensure consistency with the Field Operations Manual and within IOSHA.

State Action 10-11: This has been reviewed with all staff at an All IOSHA Staff Meeting.

Status Update 10-11: This item has been completed.

IV. ASSESSMENT OF STATE PERFORMANCE

The case file review has shown that IDOL has spent time and effort in improving the Enforcement Program since the previous case file review in FY 2009. Interviews with employees reflect that the previous findings were addressed and improvements were done throughout. The case files reflected these improvements throughout all of the files.

A. Enforcement

1. Complaints

During the period October 1, 2010 through September 30, 2011, 227 complaints were inspected by Indiana. Forty-five complaints, which resulted in an onsite inspection, were randomly selected to be reviewed as part of this evaluation. In addition, 10 complaints resulting in a phone and fax type investigation were randomly selected for review. The evaluation process included interviews with the Deputy Commissioner, Directors, Supervisors, Compliance Safety and Health Officers, Complaint Duty Officer, and the Assistant to the Deputy Commissioner. The interviews supported the evaluation team's case file review findings.

IOSHA handles the intake of complaints through a Duty Officer. Previously this was a rotational and light duty position, but it is now a permanently assigned position to one person. The current Duty Officer in this position was trained by the former person who held the position.

The Complaint Duty Officer works at a specific assigned desk with a dedicated phone and fax to receive complaints. Complaints can be made through the IOSHA internet complaint form, the Federal OSHA internet complaint form, mail, email, phone, or fax. The Duty Officer is provided the information on each complaint. The Duty Officer maintains an individual phone log. The log contains the name of the person, telephone number, and a brief indication regarding the reason for the phone call. When the Duty Officer is absent, another employee is asked to cover the phones.

There were 520 total complaints filed. There were 293 complaint investigations and 227 complaint inspections.

The average time to initiate a complaint investigation for all complaints was 8.38 days. Ten non-formal, valid complaints were reviewed. All the complaint files reviewed were initiated in a timely manner. In all files, a letter and a list of the alleged hazards, which is called an OSHA-7 form, were sent to the employer. All the files contained adequate abatement. All files contained a letter to the complainant explaining the results of the phone and fax investigation with the

exception of three files. These complaints did not contain a letter due to a lack of an address for the complainant.

The average time to initiate an inspection for all complaint inspections was 12.36 days. From the case file review, it was noted that 28 of the 41 (68%) complaints reviewed were over the 10 days agreed upon to initiate a complaint inspection. For the 41 cases reviewed, the average number of days to initiate an inspection was 15.7 days. Four of the cases were delayed due to the cases being handled as non-formal, valid complaints. Two of the cases had a significantly amount of time elapse, which was 71 days and 48 days prior to the initiation of the inspections due to their being handled as non-formal complaints. Further delays were caused by an unusually large number of fatalities. Two of these fatalities, which occurred on August 13, 2011, at the Indiana State Fair due to the stage collapse, required a large amount of time to investigate. Also, there were personnel issues during this time period, which included retirements, separations of employment, and medical leave. There were few fully trained CSHOs present to handle the work load. While new personnel had been hired, they could not be utilized due to their lack of appropriate training. Indiana OSHA also addressed this by hiring additional people to fill open vacancies.

In 40 of the 41 (98%) complaint inspections, all complaint items were adequately addressed. The narratives clearly explained what was found during the inspections. Evidence in the file supported these findings. However, one complaint inspection found the CSHO stated that the complaint items were present, as well as additional unexplained violations. For some unknown reason, the CSHO consulted with the union and with their permission elected not to issue citations for the violations. The CSHO instead granted the company 90 days to correct the items. It is unknown if the corrections took place as no documentation of corrective actions were contained in the file.

In 41 of the 41 (100%) complaint inspections, letters were sent to the complainants with the results of the inspection. The average number of days from the closing conference until the letters were sent to the complainants was 33.1 days. This is deemed to be timely. It was determined that policies and procedures were followed during these inspections.

Two files were classified as "Other." The first file was initiated due to a related complaint with another employer. The employees at this location made a complaint about asbestos. The CSHO chose not to sample because ample sampling data was provided by the employer who performed the asbestos removal. The OSHA-7 form was not present in the file from the related complaint, but this is not required. There was a second inspection that was not reviewed. Sampling may have occurred during this inspection. The second file was a related unprogrammed health construction inspection. It also did not have an OSHA-7 present in the file.

Three files were classified as referrals. Referrals can be made by other government agencies at the Local, State and Federal levels, health agencies, media reports, accident reports, or referral through the OSHA 11(c) discrimination process. These files can also be handled through the complaint process.

In 45 of the 45 (100%) diary sheets, actions performed on the inspections were specified. The required forms, documents, photos, notes, and records of injuries and illnesses were also found to be present in the files. While all files showed interviews were performed, interviews were not always documented or names were removed. The majority of files contained fully documented interviews. Interviews will be fully addressed in the section entitled “Employee and Union Involvement.”

All 45 of the files contained loose documents. Prior to the files being sent to the Supervisors for review, all the documents were secured. Examples of the documents found to be loose were expedited informal settlement agreements, informal settlement agreements, letters, petitions for modification of abatement, and payment documents. However, the failure to properly secure documents in the file will be fully addressed in the section entitled “Targeting and Programmed Inspections.”

Sampling, penalties, citations, abatement, contests, and settlements will be addressed with all 86 files.

Findings and Recommendations

Finding 11-1: Indiana OSHA exceeded the agreed upon time of 10 days to initiate a complaint inspection.

Recommendation 11-1: It is recommended that Indiana OSHA utilize the use of administrative controls to ensure that staffing levels are maintained and that complaint inspections are initiated within the agreed 10 day period.

2. Fatalities/Catastrophes

During the period from October 1, 2010 through September 30, 2011, there were 41 fatalities/catastrophes which were investigated by Indiana OSHA. Eight fatality/catastrophe files were reviewed as part of this evaluation, which was comprised of seven fatality files and one catastrophe. In addition to the case file reviews, the evaluation process included interviews with the Deputy Commissioner, Directors, Supervisors, CSHOs, and Assistant to the Deputy. The interviews supported the evaluation team’s case file review findings.

The process for conducting fatality investigations begins with the Duty Officer, who takes the reported information via phone call and completes the initial OSHA-36 form (Fatality/Catastrophe Report). The Duty Officer prints out and saves the OSHA-36 as final. The Duty Officer creates a physical file and records the associated form numbers on the diary sheet and gives the file to a supervisor for assignment. The Duty Officer also sends an electronic copy of the OSHA-36 via e-mail to a distribution list that includes the Commissioner, the Deputy Commissioner, and the Directors.

During non-working hours, there is a designated call list to alert staff of any fatalities that occur. The staff member who takes this call will contact a CSHO to go to the location of the fatality and open an inspection. The remaining procedures are the same as those during normal working hours.

The Deputy Commissioner contacts representatives of Region V when it is determined that the fatality warrants alerting the Region.

Many of the Compliance Officers primarily work outside the main office. Therefore, the supervisor assigns the case to a CSHO and forwards the electronic OSHA-36 to them via e-mail. The supervisor also mails the physical case file with the diary sheet and printed OSHA-36 to the CSHO's home.

The CSHO is responsible for completing the investigation and appropriate inspection forms, which includes the OSHA-170 (Accident Investigation Summary). Forms are completed via laptop computer using the CSHO Applications program, saving the data and inspection forms to a 3 ½ inch floppy disk, assembling the case file with any forms, photos, documentation, etc., and mailing the disk and completed case file back to the supervisor. The CSHO collects the next of kin information and e-mails this to the assistants for the Deputy Commissioner and Commissioner. The assistants to the Deputy Commissioner and Commissioner are responsible for preparing and sending out the initial fatality investigation notification letter to the next of kin (signed by the Deputy Commissioner), as well as next of kin contact information to the AFL-CIO. This information is used by the AFL-CIO for the Worker Memorial in April each year.

After receiving the case file and floppy disk from the CSHO, the Supervisor is then responsible for: (1) transferring the appropriate case file forms to the NCR via the floppy disk and saving these as final; (2) reviewing the case file and any proposed citations; and (3) giving the case file to the appropriate Director with any proposed Safety Orders (citations) for final review and signature. The State has a Fatality Review where the Deputy Commissioner, Director, and Supervisor meet to discuss the fatality investigation findings and any proposed citations prior to their issuance. This meeting allows the management team to discuss any findings and issues related to the case before citations are issued or the case is closed without issuing any citations. Another letter is then sent to the next of kin with the findings of the investigation.

The appropriate Supervisor is responsible for the final review of abatement and closing of case files. The appropriate Director handles any informal conferences and signs any informal settlement agreements for the State.

From October 1, 2010 through September 30, 2011, there were 41 total fatalities/catastrophes during this time period. In the previous year, FY 2010, there were 39 fatalities. Eight of these case files were randomly selected for a case file review.

Eight of eight (100%) of the fatality/catastrophe inspections were opened within one day of the fatality information receipt by the State. In eight of eight (100%) of the files, OSHA-36 and OSHA-170 forms were in all the files as well as all other required documentation. All documentation was printed.

Two of the eight (25%) files were found to be in-compliance, with no citations issued. The first in-compliance inspection had been determined to be a suicide. This should have been coded as no inspection. The second in-compliance inspection was found to be in-compliance due to the

lack of an applicable OSHA or consensus standard. The fatality resulted from the lack of protection from moving equipment, while the deceased and three other employees pushed a truck used to pull 18 wheelers. Material handling equipment capable of safely moving the truck should have been used. No explanation was made about why the citation was not issued. Multiple 5(a)(1) general violations have been issued on employers who allowed employees to be in areas where they could be run over by heavy equipment.

In seven of eight (88%) files, the case files were well organized and tabbed with documents secured in the files prior to citation issuance. In eight of eight (100%) files, once the files were sent by the CSHO for review, the citations, correspondence, abatement documentation, and agreement were placed in the folders unsecured and were not organized, which could result in important case file documentation being lost or misplaced.

In eight of eight (100%) files, the forms, documents, photos, programs, and interviews were all found to be present.

In seven of seven (100%) files, the required initial and final next of kin letters were sent. Indiana does a good job in sending an initial and final fatality investigation letter and sympathy card to the next of kin of fatality victims.

In seven of eight (88%) files, the files did not include IMMLANG (code designed to allow the Agency to track fatalities among Hispanic and immigrant workers) documentation. None of the files indicated that Spanish or some other language was being spoken as a first language. The CSHOs indicated a belief that IMMLANG only had to be marked if there are employees, whom spoke English as a second language, were involved in the fatality or catastrophe.

The cases contained excellent documentation and appropriate violations were issued related to the fatality. Willful and repeat violations were issued where indicated. In the cases where citations were issued, the documentation was generally very complete and supported the citations.

While sampling was performed in the fatality/catastrophe investigations, the results of all sampling performed during the 86 inspections reviewed will be addressed in “Targeting and Programmed Inspections.”

Findings and Recommendations

Finding 11-2: The OSHA-1 did not indicate if English was a second language for the employees involved in a fatality or catastrophe.

Recommendation 11-2: IMMLANG should be marked in the OSHA-1 form as either yes or no per the Field Operations Manual.

3. Targeting and Programmed Inspections

A review was conducted of IOSHA’s targeted/programmed inspection systems for general industry and construction. The review included IMIS Inspection, Enforcement Statistics, and

individual case file reviews. The evaluation process included interviews with the Deputy Commissioner, Directors, Supervisors, and Compliance Officers (CSHOs).

In FY 2011, the Agency conducted targeted inspections in general industry using the Site Specific Targeting (SSTAR) for safety inspections. The Agency also conducted expanded inspections, as appropriate, under the Diacetyl (popcorn), Amputations, Silica, Grain Handling, Recordkeeping, Hexavalent Chromium, Severe Violators Enforcement Programs, and Lead, although they did not generate a targeting list for these types of inspections. In FY 2011 the Agency conducted targeted inspections in the construction industry using the UTENN targeting system. They also had the University of Tennessee set some parameters for an additional new targeting system that targeted residential construction in addition to commercial sites.

The Agency uses the UTENN targeting program to schedule programmed construction inspections for commercial sites. The fall, scaffold, and excavation Emphasis Programs are used to the extent that some CSHOs code them when they conduct an inspection with these types of hazards identified. However, the Agency does not specifically target these inspections as part of these Emphasis Programs. If these types of hazards are observed by a CSHO while driving by a construction site, the CSHO will normally report these hazards to the Duty Officer, which would result in a referral inspection.

Each supervisor receives his section of the list to be assigned. Individual assignments are delivered to each CSHO. The CSHO goes to the site, does an opening conference, walkaround, and a review of recordkeeping and programs. The CSHO interviews employees. The CSHO will note any hazards and hold a closing conference to review their findings.

There were 27 programmed inspections selected for review. These were safety and health inspections in construction and general industry. Overall, these were found to be well done. The documentation was good and photos were present. Narratives were well written and explanatory. When violations were found to be present, they were well documented. Hazard identification appeared to be appropriate.

Nine of 86 (10%) case files, most of which appeared to be programmed inspections, contained programs. The Deputy Commissioner explained that due to a shortage of storage space for files, they have chosen not to always include programs unless these programs were being cited. All of these nine files did indicate that the programs were viewed. One of 27 (4%) case files failed to have any documentation beyond the narrative. This was a program planned inspection, which contained the narrative and no documentation regarding the walkaround, programs, photos, or interviews. The OSHA 1 form did indicate that interviews or a walkaround had been performed by the CSHO. It is left to the CSHO to determine what documents are placed in the file. They are only required to show that a hazard does not exist.

In FY 2011 the Agency conducted 1178 total programmed inspections, including 1119 safety and 59 health targeted inspections. The programmed inspections represented approximately 88 percent of the total inspections (1340) conducted. A total of 822 inspections of the 1178 programmed inspections were in-compliance. For programmed inspections, there were 1.78

violations per inspection. There were 1.4 serious, willful or repeat violations per programmed inspection. Serious, willful, and repeat violations represented 78% of all programmed violations issued.

Sampling is performed by direct reading instruments, screening instruments, noise monitoring, equipment, and air monitoring instrumentation.

Sampling data was reviewed for all 86 case files. Twenty-two of 86 (26%) reviewed case files contained sampling data. In 22 of 22 (100%) files, the equipment was calibrated and correct sampling procedures were used. Only one of the 22 (5%) files had the required letter sent with sampling results to the employer. Two of the 22 (9%) files did not contain the required OSHA forms. It was noted that this only occurred on the screening samples, which should have used the OSHA-98 Screening Report. IOSHA explains that they only send sampling results to an employer if an overexposure to a contaminant occurs. However, the case file review produced evidence of overexposures in four case files to different contaminants and only one letter was sent. All four exposures resulted in violations being issued and the severity of the exposures for each position overexposed was listed in the violation.

Findings and Recommendations

Finding 11-3: In 91% of the cases where sampling had been conducted, the results had not been provided to the employer.

Recommendation 11-3: Ensure that a copy of all sampling results is sent to the employer.

4. Citations and Penalties

During the period October 1, 2010 through September 30, 2011, 587 of 1340 (44%) inspections contained citations with an average initial penalty for serious violations of \$1,316. Eighty-six inspections were randomly selected to be reviewed as part of this evaluation. The evaluation process included interviews with the Deputy Commissioner, Directors, Supervisors, Compliance Safety and Health Officers, Complaint Duty Officer, and the Assistant to the Deputy Commissioner. The interviews supported the evaluation team's case file review findings.

Citations and penalties are assessed by IOSHA whenever a violation is found. As previously indicated, IOSHA operates a "mirror" program with regard to standards such as the 29 CFR 1904, Laws and Regulations for Recordkeeping, 29 CFR 1910, Laws and Regulations for General Industry, and 29 CFR 1926, Laws and Regulations for Construction. Violations are issued to employers who fail to comply with these laws and regulations. IOSHA also utilizes the General Duty Clause, which essentially states it is a violation for an employer to expose employees to a recognized serious safety or health hazard. If an applicable OSHA Occupational Safety and Health law or regulation does not exist, then IOSHA can apply the General Duty Clause to address the violation.

IOSHA utilizes knowing, repeat, serious, and non-serious violation types. These are equivalent to Federal OSHA's willful, repeat, serious, and other-than-serious violation types.

IOSHA determines penalties in the same manner as Federal OSHA. IOSHA utilizes a gravity-based penalty system evaluating the severity of the hazard and the probability that an exposure will occur. A new penalty policy was deployed by Federal OSHA on August 20, 2010. For an example of the penalty changes, view the table below.

COMPARISON GRAVITY-BASED PENALTY (GBP)

Penalty (serious violations)	IOSHA GBP	Federal OSHA GBP
Higher/Greater	\$5000 or \$7000	\$7000
Medium/Greater	\$3500	\$6000
Low/Greater	\$2500	\$5000
High/Lesser	\$2500	\$5000
Medium/Lesser	\$2000	\$4000
Low/Lesser	\$1500	\$3000

The CSHO gathers the evidence and determines the violations present, along with the penalties. When issuing citations not related to fatalities and catastrophes or significant cases, the case is first reviewed by the Supervisor and then is sent to the Director for signature and final approval.

Sixty-four of the 86 (74%) case files reviewed contained violations. A review of the files showed that 63 of 64 (98%) files contained adequate documentation to support the violations. The one file without adequate documentation for all the violations had the unsupported violation vacated at the informal conference. All willful and repeat citations viewed contained adequate documentation. Grouping was found to be appropriate.

Two of 64 case files failed to correctly address the hazards. In the first case file, a picture was taken of an electrical hazard where inappropriate conduit was used. The second case failed to issue a violation for the lack of appropriate energy control procedures. In this second case, the employer had a written program and lockout/tagout procedures that were limited to how employees could acquire locks from storage to perform lockout with the permission of their supervisor and lockout had been performed. However, the CSHO did not issue a citation regardless of the employer admitting lockout had been performed. This is not appropriate regardless of who does the lockout. There was no information verifying who was working on the equipment after it was put in lockout.

Sixty-four of 64 case files reviewed contained violations that appeared correctly classified. The notification of violations were properly reviewed by IOSHA and completed. All penalties were collected.

The average penalty per initial violation is \$1316 for IOSHA, as compared to \$1680 for Federal OSHA. IOSHA's average current penalty for serious violations after case settlement actions is \$874, as compared to \$2133 for Federal OSHA, which is 59% lower than the Federal OSHA penalty.

5. Abatement

The evaluation process included the review of 64 inspections with abatement and interviews with the Deputy Commissioner, Directors, and Supervisors. The interviews supported the evaluation team's case file review findings.

The verification of abatement is the responsibility of the Supervisor assigned to the inspection. Regardless of whether the file is settled through the expedited informal settlement agreement (EISA), informal settlement, or goes through contest, the Supervisor is required to verify the abatement.

All abatement periods were of the proper length. Eight of 64 (13%) reviewed case files exceeded initial abatement periods. Two of those eight (25%) contained written requests from the employers requesting additional abatement time, also known as a petition for modification of abatement (PMA). IOSHA responded to the first request by emailing a response granting additional time. They failed to ensure interim protection was present. In addition, IOSHA did not send the letters to ensure the employers posted their request for change, though none of the employees were opposed to this request. IOSHA did not respond to the second company's PMA request. This company sent two additional letters requesting a response and outlining their plan to abate the violation. This file contains no response and IOSHA marked the file as abated after receiving the last request for a response.

Sixty-three of 64 (1.6%) reviewed case files contained abatement. The file lacking abatement, however, was marked verified. The Supervisor was directed to close the case without the abatement. Forty-six of 64 (72%) cases contained adequate abatement. The lack of adequate abatement was primarily related to acceptance of a written statement that the violation was corrected, with no proof of this correction being provided. The abatement in one file showed two pictures that supported ineffective guarding on two machines. Abatement provided for lack of guarding was not adequately reviewed for appropriate abatement.

IOSHA has 21 cases with open abatement greater than 60 days. The combined total average of all other States and Puerto Rico is 76 cases greater than 60 days.

One monitoring file was present. A monitoring inspection is usually conducted to ensure abatement is being accomplished or that interim protection is in place while abatement is being accomplished. No violations were found during the monitoring inspection and the inspection containing the violations was found to be abated shortly after the monitoring inspection.

According to the IMIS data, no follow-up inspections occurred during FY 2011. IMIS was consulted and an inspection was found where a follow-up should have occurred.

Findings and Recommendations

Finding 11-4: Two companies requested a PMA. IOSHA failed to follow the PMA procedure.

Recommendation 11-4: IOSHA should perform the PMA procedure per the Field Operations Manual.

Finding 11-5 (formerly 10-08): In 28% of case files reviewed, inadequate abatement was contained.

Recommendation 11-5 (formerly 10-08): IOSHA should ensure that all abatement is present and adequate. Two primary issues were noted, a missing abatement item and an item was noted as corrected on the abatement certificate.

Finding 11-6 (formerly 10-02): One inspection was found from the previous year on IMIS where a follow-up should have occurred under the severe violator enforcement program (SVEP), but did not take place.

Recommendation 11-6 (formerly 10-02): Follow-ups should be performed per SVEP.

6. Employee and Union Involvement

Eighty-six files were reviewed for employee and union involvement. Only 20 of 86 (23%) case files indicated that employees were represented by a union.

IOSHA appeared to have adequate procedures to address employee and union involvement in the inspection process. IOSHA has developed its own forms to ensure that employees are represented and the appropriate contact information is acquired. Opening and closing conference sign-off sheets have also been developed. If there are union representatives present, it is noted on these sheets. This information was also placed in the OSHA-1 Inspection Form.

The State of Indiana has a law entitled the Indiana Access to Public Records Law. Due to this law, CSHOs have been instructed that the names of employees interviewed are to be recorded on a form, copious notes are to be taken, and employees are to be given the option of signing their interviews. If employees refuse to sign, there is still an option to introduce the statement in a court action. Indiana is currently attempting to protect the employee statements from release through legislative action.

Although IOSHA has current issues with its Access to Public Records Law, there are adequate policies and procedures to address employee and union involvement.

Eighty-four of 86 (98%) reviewed case files indicated that employees were interviewed. Fifty-nine of 86 (69%) reviewed case files contained employee interviews or notes from employee statements that withheld their identity.

Fifteen of 20 (75%) reviewed case files indicated a union representative was involved throughout the inspection. With the exception of one, all cases indicated the union was involved in some aspect of the inspection. In every file, the union was given the notice of violations at a minimum.

As part of the special study, several groups representing workers and employers were solicited for comment regarding their satisfaction with the operation of the program. Groups representing workers included the United Steelworkers (USWA) Local 12775, Iron Workers Local 395, United Auto Workers (UAW) District 3, and Laborers International Union of North America. Groups representing Indiana businesses included the Indiana Chamber of Commerce and Indiana

Manufacturers Association. At present, only two responses have been received. One indicated a lack of information, and the other indicated that IOSHA is doing a very positive job.

Findings and Recommendations

Finding 11-7: While employee interviews were typically indicated as being performed, 27 of 86 files did not contain documentation showing employee interviews were performed.

Recommendation 11-7: Employee interviews should always be documented to provide proof of employee exposure.

B. Review Process

1. Informal Conferences

Sixty-four reviewed case files contained violations. Of these 64 case files, one case file was contested, 43 case files applied for the expedited informal settlement agreement (EISA), and 20 case files requested an informal conference.

For qualifying companies, IOSHA operates a penalty reduction program termed the EISA. For companies not involved in a fatality or catastrophe, the companies are offered EISA if they are current on penalties, have five or less higher/greater violations, and total penalties of not more than \$7500. The company has 15 business days to exercise this option, at which time they will receive a penalty reduction of 35%.

Informal conferences are usually conducted by the Director of Industrial Compliance and the Director of Construction. They use an informal conference report, an IOSHA form, to record their actions during the informal conference and make any comments. During the informal conference, citations can be upheld, modified, reclassified, or deleted. Items which were not grouped may be grouped at this time. All of this can result in modification of a penalty. The employer may also be granted a 30% reduction in penalty for agreeing to additional training.

Forty-three case files reviewed indicated EISA was requested. One of 43 companies was denied the use of EISA due to not exercising this option by the due date.

There were 20 case files reviewed that used the informal conference process. All informal conferences were requested in a timely manner. All case files reviewed resulted in a reduction of penalty. The reviewed case files were reduced between 20% and 100%. One case file was reduced 100%. This file indicated that the company fixed the violations and for an unknown reason the violations were all deleted. While the informal conference sheet was always used to express the reason for the changes to the violations, it did not contain enough details to be clear as to why reductions, grouping, reclassifications, and vacating of the violations were done. Four of 20 (20%) did not contain reasons which documented the changes to the violations. Eleven of 20 (55%) reviewed case files contained vacated or classified items. Vacated and reclassified items and penalty reductions appeared to be appropriate in 18 out of 20 (90%) reviewed case files.

For all files, the average serious penalty is initially \$1315.91 and was reduced to \$874.40. All penalty amounts were found to be reduced by 49.9%.

Many modifications were a result of grouping of the violations or penalty reductions allowed by procedures, such as a company requesting additional training beyond that required by the violations.

Findings and Recommendations

Finding 11-8 (formerly 10-06): All reasons for modification of the case files during the informal conference were not documented.

Recommendations 11-8 (formerly 10-06): All reasons for modification of a case file should be documented whenever vacating or reclassifying violations or reducing the penalties.

2. Formal Review of Citations

One contested case file was provided from the random selection of case files, however, 30 total decisions were made by the Indiana Board of Safety Review (BSR), which were also provided and reviewed.

For cases that are not resolved through the informal conference process, appeals are heard by the Indiana Board of Safety Review. The Board is an independent Administrative Review Board housed within the IDOL. The Board consists of five members, including two from labor, two from industry, and one safety and health professional. Appeals of Board decisions are performed by the appropriate County Circuit or Superior Trial Court.

In a fatality case reviewed, which was contested in March of 2011, the notification of violations was issued by IOSHA on March 14, 2011. The final decision was an agreed entry performed on June 16, 2011. Ninety-four days lapsed from issuance to decision. One violation was reclassified from knowing to serious. The penalty was reduced from \$77,000 to \$42,000. The case reviewed was performed in accord with Federal precedence and defense appeared to be adequate. The decisions appeared to be appropriate.

Of the 30 contested cases, it was found that 25 cases resulted in agreed entries with the respondent companies. The majority of these cases resulted in reduced penalties. The second most common result was reclassified violations. The least used in the agreed entries was the deletion of violations. Three contests were withdrawn by the respondents and upheld in their entirety. One contest was withdrawn and an EISA was performed. A final case, an \$189,000 asbestos case, was upheld in its entirety on October 23, 2008. It was very well argued and defended by the State. The company was unable to place any supportive arguments. A hearing upheld the determination on September 28, 2010, and was affirmed on January 19, 2011. The company did file an appeal, but the time to file an appeal had expired.

During FY 2011, no timely appeals were made to the Indiana Superior Court. Due to the Indiana Access to Public Records Law, the case decisions are transparent and available for public review. The BSR has an average of 373 days from contest until a first level decision occurs.

During FY 2011, IOSHA vacated 7% of their violations. Federal OSHA also vacated 7% of their violations. IOSHA reclassified 5.7% of their violations, while Federal OSHA reclassified 4.8%.

C. Standards Adoption and Plan Changes

1. Standards Adoption

Only three applicable standards were required to be adopted during FY 2011. All three were dealt with by the State in a timely manner. Under the State of Indiana rules and procedures, the process for the adoption of Federal standards occurs automatically and becomes effective 60 days after the effective date of Federal standards. The Commissioner or their Designee is the person responsible for enforcing the Federal standards 60 days after they become effective. 100% were adopted on time.

Federally Initiated Standards Log Summary for IN Report

01/10/2012

<i>Federal Standard Number</i>	<i>Subject</i>	<i>Intent to Adopt</i>	<i>Adopt Identical</i>	<i>Date Promulgated</i>	<i>Effective Date</i>
,1910,1926,1915 2010 39	Hexavalent Chromium	YES	YES	07/14/2010	08/15/2010
,1926.754 2010 40	Safety Standards for Steel Erection	YES	YES	05/18/2010	07/17/2010
,1926(various) 2010 41	Cranes and Derricks	YES	YES	11/09/2010	01/08/2011

2. Federal Program/State Initiated Changes

All Federal Program changes, which were adopted by the State, were done in a timely manner. The State is not required to adopt all Federal changes. The State adopted one National Emphasis Program (NEP), which was Primary Metals, in FY 2011. There were no State-initiated changes.

A new penalty policy was deployed by Federal OSHA on August 20, 2010, through an Agency memorandum. IOSHA was not required to make equivalent changes. IOSHA states that there is no evidence that larger penalties will result in increased compliance. IOSHA disagrees with penalty increases due to economic reasons between various segments of the country and the Midwest. IOSHA states they continue to experience improved injury/illness rates despite lower penalties. IOSHA also feels that their penalty rates are competitive with Federal OSHA penalties.

**Federal Program Change
Summary for IN Report**

01/06/2012

Directive Number	Title	Adoption Required	Intent Required	Intent to Adopt	Adopt Identical	State Adoption Date
CPL-02(10-06) 2011 400	SST-10	NO	YES	YES	YES	01/01/2011
CPL-02(10-07) 2011 401	Recordkeeping NEP	NO	YES	YES	YES	11/28/2010
CPL-02-01-049 2011 402	PPE Shipyard Employment	NO	YES	NO	N/A	N/A
STD-03-11-002 2011 403	Compliance Guidance for Residential Construction	NO	YES	YES	YES	02/28/2011
CPL-02-01-050 2011 422	PPE in General Industry	NO	YES	YES	YES	04/30/2011
CPL-03(11-01) 2011 423	NEP Microwave Popcorn Processing Plants	YES	YES	YES	YES	07/01/2011
CPL-02-00-150 2011 442	Revision to Field Operations Manual	YES	YES	YES	NO	Pending*
CPL-02-01-051 2011 443	Confined Spaces in Shipyards	NO	YES	NO	N/A	N/A
CPL-03-00-013 2011 444	NEP Primary Metals	YES	YES	YES	YES	08/01/2011
CPL-02-00-151 2011 445	Commercial Diving Operations	NO	YES	NO	N/A	N/A

* The adoption date for the Revision to the Field Operations Manual is contingent on codification of Indiana Standards into the Manual

D. Variances

Four variances were offered. One variance allowed the use of specially designed and fitted wooden steps, which should not exceed a total height of 24 inches on JLG and Skyjack scissor lifts. This was done to aid employees in avoiding obstructions. INSafe oversaw the first usage and fall protection was utilized. The rule disallows the use of makeshift barrels and boxes, which would also render the usage of the railings on the scissor lifts less effective.

Three variances involved two companies at one location and one of these same companies at another location. The variance requested that fully planked or decked floors or nets be maintained at 32 feet and 37 feet instead of the required 30 feet.

While the variances appear to violate regulations, the variances offered evidence as to why these would be temporarily more effective or more easily achieved.

E. Public Employee Program

The IDOL operates a Program that covers public sector employees. During FY 2011, there were 35 enforcement inspections of public sector entities. Public sector inspections represented 2.71% of the State's inspection activity.

Safety Orders issued to public sector entities contain an invoice with penalties indicating that, if the hazards are corrected in a timely manner, the Deputy Commissioner has the authority to waive associated penalties.

F. Discrimination Program

1. Investigative File Review

Appropriateness of State findings and decisions

Forty-six cases were completed during this period. Thirty-three percent or 15 cases were reviewed. Of the 46 cases completed, 9% or four cases were withdrawn, 61% or 28 cases were dismissed, and 30% or 14 cases were merit/settled. The cases reviewed were selected at random based on case type and determination for each of the three Whistleblower Investigators. Of the 15 cases reviewed, three were settled, eight were dismissed/non merit, and four were withdrawn. There were zero persons reinstated and \$13,901 in back wages was awarded to complainants.

A review of the case files revealed that IOSHA's Whistleblower Protection Program has adopted their own forms rather than use the forms provided by the OSHA Whistleblower Program. The one exception is that IOSHA has adopted the use of the Final Investigative Report (FIR). In all case files reviewed, case file organization did not follow DIS 0-0.9. Various cases were missing copies of administrative documents.

In two of the 15 case files reviewed, the evidence supports a different determination than the one issued by IOSHA. In the first case, the evidence in the case file shows that the complainant presented a prima facie complaint. The nexus included timing and animus. The evidence did not sustain the respondent's defense that complainant poked, threatened, and swore at a Supervisor. Respondent asserts they conducted their own fact-finding investigation into this incident, but if it was a written document, then the case file does not contain a copy. Further, testimony by one witness present during the incident, who also participated in respondent's fact-finding investigation, failed to corroborate respondent's defense. Other than the manager and the complainant, he was the only witness present. In fact, this witness confirmed the story that the complainant presented. This complaint appears to have merit. In the second case, there is no settlement agreement in the case file. The settlement consisted of the respondent agreeing not to contest the complainant's unemployment and sent a letter to unemployment noting this. This should have been classified in the IMIS as withdrawn and not as settled other.

In most cases, interviews, regardless of party (i.e., complainant, management, and labor witnesses), were either conducted in person and a signed statement was obtained or the interview was recorded and memorialized with a memo to file. The interviews appropriately addressed either the prima facie elements or tested the respondent's defense.

IOSHA hand-delivers respondents' notification letters, explains the purpose of the investigation, and provides respondents with a copy of the case activity worksheet.

IOSHA has adopted the Final Investigative Report (FIR) since the last audit period. The FIRs reviewed showed an adequate analysis of the prima facie elements and tested respondent's defense.

2. Program Management

The Whistleblower Team Leader indicated that IOSHA Whistleblower Investigators use the Federal directives DIS 0-0.9 and 29 CFR Part 1977 for guidance during their investigations and for case file management. They do not appear to use any other directives related to their Whistleblower Program.

Timeliness of Investigation and Response

For this time period, the average number of days to complete cases was 61 days. IOSHA uses the Region 5 Whistleblower Intake worksheet. Complainants are contacted timely for screening by the assigned Investigator and, in most cases, a signed statement is obtained or the screening is recorded and memorialized with a memo to file. Complainants are informed of their right to dual-file with OSHA, which is evident by the correspondence in the case files. IOSHA does not keep a record of any type for the complaints they screen out, therefore, a review on screened out complaints was not conducted.

It is important to note that under IOSHA, merit Whistleblower complaints are required to be filed in State Court within 120-days of the file date. After this date, IOSHA is barred from going forward with a merit complaint. Investigators are required to have their Final Investigative Reports to the Deputy Commissioner by day 60 and in the event it is not, an explanation is required. Complaints that appear to have a merit finding must be referred to the Attorney General's office by day 90, so the Attorney General's office has time to review the complaint and meet the 120-day State Court filing requirement. Based on their 60 and 120 day rules, it is important that complainants are informed of their right to dual-file with OSHA.

Other Issues Noted

Data entered into the WB IMIS Web System was compared to the information contained in the case files. About 20% of the case files reviewed showed at least one discrepancy between the data entered into the WB IMIS and the dates contained in the case file. However, this is a reduction of about 20% from the last audit period. The discrepancies were in the areas of filing date, FIR date, and disposition date. The audit also revealed minimal use of the case comment, tracking information, and adverse employment action sections.

Comparison Discrimination Statistics

Fiscal Year	Cases Received	Cases Completed	% Timely Completed	Average Days to Complete	Pending Cases	% Pending Cases Over Age
2007	83	87	75%	68	14	0%
2008	62	66	92%	58	10	10%
2009	66	64	97%	58	12	0%
2010	45	46	102%	61	10	0%
% Change	32% decrease	28% decrease	5% increase	5% increase	17% decrease	No Change

3. Resources

The Discrimination Program consists of three employees that conduct investigations. There is a Team Leader who works out of the Indiana State Plan Office and two investigators that work out of their homes. All three employees conduct investigations. Assignments are made by the Team Leader who sends an electronic complaint to the assigned investigator(s). When investigations are completed, the remote investigators return the case files to the IOSHA office. The number of staff is adequate based on the timeliness of files. The staff has received regular and all required training from the OSHA Regional Office and the OSHA Training Institute (OTI).

Findings and Recommendations

Finding 11-9: Every case file reviewed failed to show compliance in the area of case file organization.

Recommendation 11-9: Follow Whistleblower Investigations Manual, DIS 0-0.9 for case file organization to ensure consistency with case file organization, contents, and tabbing.

Finding 11-10: Federal OSHA reviewed a case which appeared to be a merit case, as opposed to IOSHA's finding of non-merit. While the case presented an issue of probable dispute from review, every effort should be made to effectively evaluate all investigative information obtained. File review supported that the preponderance of evidence favored the complainant.

Recommendation 11-10: Review the elements of a merit case per the Whistleblower Investigations Manual, DIS 0-0.9.

G. Complaints About State Program Administration (CASPA)

During FY 2011, one CASPA was received. The complainant contended that not all of their safety and health complaints were addressed and the employees were still exposed to a hazard. The review showed that the complaints were properly addressed, but there was an incorrect determination in one item, which resulted in employees still being exposed to a hazard. It was recommended to IOSHA that they contact the company and have the company abate the hazard.

IOSHA made a timely response to the CASPA and addressed all the items. It was determined from the review that IOSHA had failed to categorize a complaint item as a hazard. Follow-up was never provided by IOSHA. One of one (100%) of CASPAs was found to be valid.

Findings and Recommendations

Finding 11-11: No follow-up response was provided by IOSHA on the CASPA.

Recommendation 11-11: Follow-up actions on a CASPA should always be provided in writing.

H. Voluntary Compliance Programs

A review was conducted of the Agency's Voluntary Compliance Program activities for FY 2011, which included all Partnerships, Alliances, new, and recertified Voluntary Protection Programs (VPP). The Agency has adopted and follows Federal OSHA's directives associated with these programs.

Voluntary Protection Program

The Voluntary Protection Program is operated by two full time IOSHA employees. They perform almost all of their reviews utilizing Special Government Employees (SGE). IOSHA utilizes approximately 40 SGEs. The VPP program follows the same policies and procedures that Federal OSHA follows.

The VPP reports are kept as paper files at the IOSHA office. There is also a complete electronic copy. The IOSHA VPP follows the Federal OSHA Program, with the exception of obtaining medical access orders (MAO) prior to entering an establishment. Annual and onsite evaluations of the VPP sites were performed. The State of Indiana does not have an MAO. Instead, they use an alternative procedure in which they send a notification to the company of their intent to view injury and illness data. The company is asked to post the notification. This notification provides a means for any employee objections. This meets the intent of the MAO.

There were 17 companies which were recertified or newly certified in the VPP. All 17 of these files were requested for review. However, the evaluation team only received the files of 13 of these companies. The VPP evaluation was found to be appropriately done with the companies, and all procedures were performed in a timely manner. The enforcement incentives were equivalent to those of Federal OSHA.

Alliances and Partnerships

These programs are performed by Indiana Consultation, INSafe. IOSHA is a signatory on the Alliance and Partnership agreements and they receive reports from the verification and/or onsite visits performed by Consultation. IOSHA does this so as not to have any conflicts of interest when inspecting the establishments. It also would limit the inspectors that could visit a facility if there was a complaint, fatality, or catastrophe because of this conflict of interest.

There were three Alliances and eight Partnerships during FY 2011. All the Partnerships and Alliances adequately addressed the core elements. IOSHA followed required policies and procedures for these programs, with exception of completing the required annual evaluations.

The Alliances and Partnerships had no annual evaluations completed. The annual verification was being performed.

Findings and Recommendations

Finding 11-12: Annual evaluations of Alliances and Partnerships were not performed.

Recommendation 11-12: INSafe should perform annual evaluations per directive policies and procedures.

I. Public Sector On-site Consultation Program

INSafe conducted 21 onsite consultation visits in the public sector during FY 2011. Thirty-two serious hazards were identified and 100% of the serious violations were verified as abated. Due to these visits, 516 workers were removed from serious risk. The grant projected, in FY 2011, which 27 safety visits would be performed, but only 16 safety visits were performed. In FY 2011, 12 health visits were projected to be performed, but only six health visits were performed.

J. Program Administration

1. Training

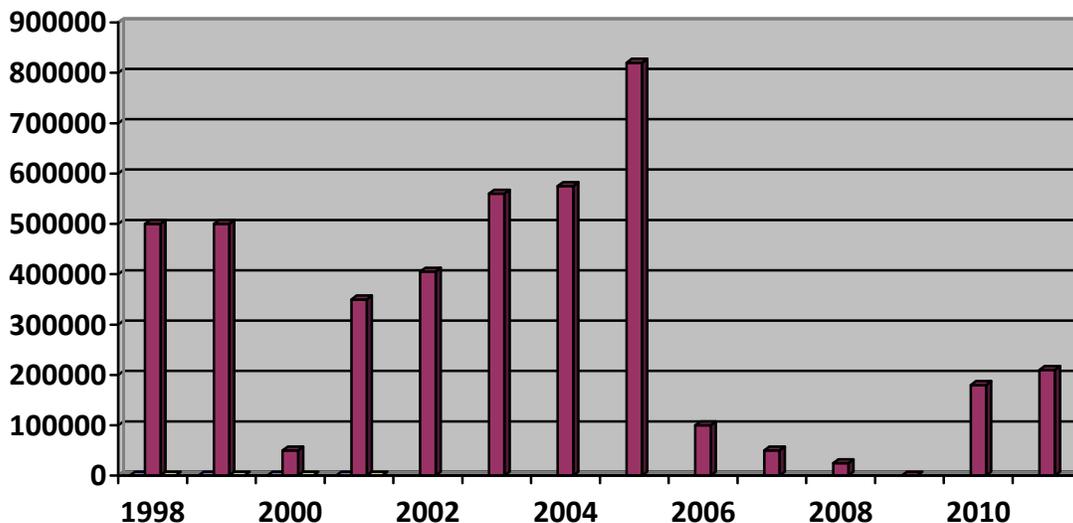
IOSHA has implemented staff training initiatives consistent with improved employee development. During FY 2011, alongside acquiring the required training for all new hires as courses became available, it was determined from training documents that staff had received at least 13 other courses, which were received by a number of employees. These course offerings included, but were not limited to courses in Laser Safety, OSHApedia, Cranes and Rigging Safety, Industrial Ventilation, and Safety and Health in Grain Handling Operations. The Agency has experienced an influx of new hires and has utilized OTI training quickly and efficiently to get CSHOs field ready as soon as possible. The program has vigorously approached staff training since being confronted with budget constraints during the previous Fiscal Year that suspended necessary training activities. Considerable effort has been put forth to provide technical training that supports program readiness to address issues of technical expertise. Indiana has adopted OSHA's directive for CSHO training, TED 01-00-018 *Initial Training Program for OSHA Compliance Personnel*, and supplemented staff training where opportunities have been presented. The program has also encouraged staff to seek professional certifications to further enhance individual expertise. The program has also implemented a policy of paying for test fees, prep fees, and a \$500 award for those successfully earning certification. IOSHA continues to work with other safety and health entities that provide training courses.

2. Funding

State and Federal funds allocated to the IOSHA 23(g) program in FY 2011 was \$4,376,000. As presented in the chart below, in FY 2011 Indiana deobligated \$210,000. Deobligation of program

funds has been a consistent action over time. However, in FY 2009, Indiana was able to utilize all funds associated with the 23(g) grant.

Indiana 23(g) Lapse History



3. Staffing

IOSHA enforcement program management is the responsibility of the Deputy Commissioner for IOSHA. The Deputy Commissioner is assisted by two Directors (General Industry and Construction) and several Supervisors that handle day-to-day activities necessary for required programmatic actions. The construction department field training officer has the responsibility of overseeing completion of all citation abatement issues.

Indiana has concluded that its existing benchmark levels are in need of re-evaluation from OSHA. As a result, the Commissioner has petitioned to OSHA for an updated benchmark database that is more in line with their view of needed staffing levels. The State believes that changes to its industrial base (fewer high hazard manufacturing operations) and improved inspection efficiency support their need for a benchmark change. The request for a change in required staffing levels is also due to legislative actions incurred regarding budget issues. This has continued to create problems for increasing staffing levels. The State also points out that modest budget increases experienced over time (less than 1% per year over the last decade) greatly influences their need for a change. IOSHA's request for Federal OSHA's review of benchmark staffing levels is currently pending.

The latest information reported by the AFL-CIO "Death on the Job report" indicates that based on the current benchmark staffing level of 71 inspectors for Indiana, it would take approximately 68 years to inspect all job sites. The State's current benchmark of 70 inspectors is considerably lower than the recommended benchmark of 271 by the ILO. The ILO benchmark for labor inspectors is one inspector per 10,000 workers. In Indiana, the ratio is one inspector for every

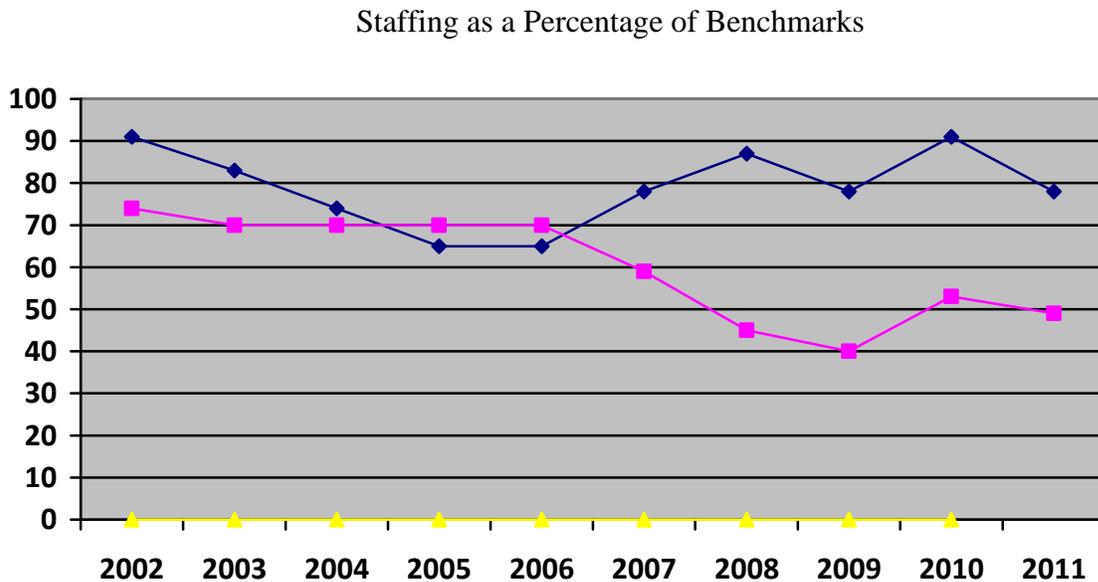
38,103 workers. At the time of this review, Indiana reported that its program was operating with 41 Compliance Safety and Health Officers, which is 29 below the benchmark of 70.

During FY 2011, the program made a number of managerial changes to address performance efficiency. The industrial side now has three supervisors and a director. The Construction department has two supervisors, one director and a field training officer who also has added administrative duties. While Indiana has not moved close enough to filling their required benchmark numbers, an improving economy may further impact increasing staff levels as staff members seek other economic opportunities. In 2007 IOSHA increased pay for Construction and Industrial Hygiene positions by \$6000 to assist with retention and recruiting of personnel. While this action has helped to some extent, staff turnover is still seen as an issue of concern. The Indianapolis Area Office continues to monitor staffing issues with the program and stresses the need of maintaining required benchmark staffing levels.

		FY 2008	FY 2009	FY 2010	FY 2011
Safety	Benchmark	47	47	47	47
	Positions Allocated	47	47	47	47
	Positions Filled	24	19	25	23
	Vacancies	23	24	22	24
	Percent of Benchmarks Filled	51%	40%	53%	49%
		FY 2008	FY 2009	FY 2010	FY 2011
Health	Benchmark	23	23	23	23
	Positions Allocated	23	23	23	23
	Positions Filled	21	18	21	18
	Vacancies	3	4	2	5
	Percent of Benchmarks Filled	91%	78%	91%	78%

**The AFL-CIO report indicates the current benchmark for Indiana is 71. The actual benchmark as indicated by 29CFR1952.320 is 47 safety and 23 health inspectors for a total of 70 inspectors.

Staffing as a Percentage of Benchmarks



IH- represented above by Diamond

Safety-represented above by Square

While Indiana has not been able to hire staff close to required benchmark levels during the course of FY 2011, issues of staff turnover still remain as an on-going theme that needs to be addressed. The delivery of operation plans for enforcement activities are seen as being impacted by this issue. In the face of operational limits and constraints placed on the program, IOSHA has utilized hiring authority to fill vacancies to the extent possible. As budgetary dollars allow, trying to keep pace with meeting benchmark demands is something program officials are trying to do.

Findings and Recommendations

Finding 11-13: While IOSHA currently allocates compliance staff levels that meet the required benchmark of 70 positions; only 41 enforcement positions are filled.

Recommendation 11-13: IOSHA should continue to try and fill all allocated benchmark positions while pursuing a modification of benchmark level with OSHA.

4. Information Management

IOSHA utilizes the Integrated Management Information System (IMIS) database in order to manage their program and data. Indiana has a designated System Administrator. According to the System Administrator, all IMIS support is obtained through the OMDS Help Desk. Information technology issues not related to IMIS are handled by the Department of Information Technology (DIT) through the State of Indiana.

The System Administrator indicated that several IMIS reports are generated and distributed to the management team on a monthly basis, including:

Unsatisfied Activity on the 15th of each month

Select Violation Abatement Report on the 15th of each month

Complaint Tracking Report on the 1st of each month

Citations Pending Report on the 15th of each month

Open Inspections on the 1st of each month

Case Lapse Time Reports (reviewed by QMS Director) on the 1st of each month

Interviews with Directors, Supervisors, and Administrators also indicate that each of them utilizes a manual tracking system to supplement the IMIS system. IOSHA has created a process flow for the files based on this manual system, and each position is trained on where they are in the flow and the assigned tasks which must be completed.

While IOSHA continues to have abatement as an outlier, it is noted that there were only 21 cases awaiting abatement verification over 60 days.

5. State Internal Evaluation Program (SIEP)

Indiana OSHA uses a SIEP, which focuses on six areas of the program, including:

Inspection Activity

Adequacy and Timeliness of Abatement

Staffing, Performance Management, and Training

Board of Safety Review

Discrimination Program

Quality Metrics and Statistics

These identified areas are used for improvements and to establish corrective actions. One area identified as needing improvement was abatement verification, which has been an outlier for years. IOSHA continues to address this area.

The State uses an audit plan for its internal evaluation plan with various metrics to be reviewed on an annual, semiannual, quarterly and monthly basis. Indiana OSHA has also developed audit interview questions, an inspection review sheet, and uses the Federal OSHA Area Office Audit Checklist as a supplementary tool to assist with audit strategies as they develop and implement their SIEP.

V. ASSESSMENT OF STATE'S PROGRESS IN ACHIEVING ANNUAL PERFORMANCE GOAL

The following summarizes the activities and/or accomplishments for each of the FY 2011 annual performance goals. The IDOL received a one year extension to complete their goals. This extension extends their goals through FY 2012. The extension is not reflected with a new

amended strategic plan. The State has five goals which pertain to their Enforcement Program. Three of five of these goals were not met.

Performance Goal 1.1: Maintain a vigorous enforcement program by increasing safety and health inspections by 5% per FY.

Results: This goal was not met.

Discussion: In FY 2011, IOSHA completed 1349 inspections. The baseline is 1178 and by FY 2011 there was to be a 15% increase. Only a 14.5% increase was obtained.

Performance Goal 1.2: Reduce the rate of injuries and deaths in construction and manufacturing industries by 3% per Fiscal Year.

Results: This goal was not met.

Discussion: The goal was not met as all four of the baselines did not obtain the 3% increase from the previous Fiscal Year.

1. The 2009 Indiana Manufacturing Industry (NAICS 31-33) Total Injury and Illness Rate is 4.7 per 100,000 workers. In 2010, the Rate was 5.2 per 100,000 workers. This is an 11% increase. This goal is not met.
2. The 2009 Indiana Construction Industry (NAICS 23) Total Injury and Illness Rate is 4.6 per 100,000 workers. In 2010, the Rate was 3.8 per 100,000 workers. This is a 17% decrease. This goal is met.
3. The 2008 Indiana Manufacturing Industry (NAICS 31-33) Total Fatality Rate is 3.1 of 100,000 workers. In 2009, the Rate was 2.5 per 100,000 workers. This is a 20% decrease. This goal is met.
4. The 2008 Indiana Construction Industry (NAICS 23) Fatality Rate is 10.9 per 100,000 workers. In 2009, the Rate was 11.3 per 100,000 workers. This is a 4% increase. This goal is not met.

Two of the four parameters for the goal were met. However, the Manufacturing Industry Total Injury and Illness Rate increased by 11%, and the Construction Industry Fatality Rate increased by 4%.

Performance Goal 2.1: Increase participation in the Voluntary Protection Program and INSHARP by 11 combined each FY.

Results: This goal was not met.

Discussion: In FY 2011, IOSHA and INSafe did not decrease the number of VPP or INSHARP sites.

In FY 2010, there were 54 VPP sites and 50 INSHARP sites for a total of 104 sites. In FY 2011 there were 56 VPP sites and 48 INSHARP sites for a total of 104 sites. There was no change in the total number of sites.

Performance Goal 2.2: Increase the number of and participation by companies and organizations in Alliances and Partnerships combined by two per FY.

Results: This goal was met.

Discussion: In FY 2011, IOSHA and INSafe did not increase the number of Alliances and Partnerships.

In FY 2010, there were 11 current Alliances and Partnerships at the time of the report. In FY 2011, there were eight current Alliances and Partnerships at the time of the report. Indiana did not increase the total number of current Alliances and Partnerships due to participant removals during the year. The current Alliances and Partnerships decreased by three from the previous Fiscal Year. However, Indiana did add two new Partnerships in FY 2011.

Performance Goal 3.2: Increase public presentations, including speeches, expos, and conferences to 90 per FY.

Results: This goal was met.

Discussion: During FY 2011, 137 presentations were performed. This exceeded the 90 required presentations by 47 presentations.

APPENDIX A
FY 2011 Findings and Recommendations

Rec#	Findings	Recommendations	Related FY10 Rec#
11-01	Indiana OSHA exceeded the agreed upon time of 10 days to initiate a complaint inspection.	It is recommended that Indiana OSHA utilize the use of administrative controls to ensure that staffing levels are maintained and that complaint inspections are initiated within the agreed 10-day period.	
11-02	The OSHA-1 did not indicate if English is a second language for the employees involved in a fatality or catastrophe.	IMMLANG should be marked in the OSHA-1 form as either yes or no as per the Field Operations Manual.	
11-03	In 91% of the cases where sampling had been conducted, the results had not been provided to the employer.	Ensure that a copy of all sampling results is sent to the employer.	
11-04	Two companies requested a PMA. IOSHA failed to follow the PMA procedure.	IOSHA should perform the PMA procedure per the Field Operations Manual.	
11-05	Twenty-eight percent of case files reviewed contained inadequate abatement.	IOSHA should ensure that all abatement is present and is adequate. Two primary items were noted where an abatement item was missing and the item was noted as corrected on the abatement certificate.	10-8
11-06	One inspection was found from the previous year on IMIS where a follow-up should have occurred under the Severe Violator Enforcement Program (SVEP).	Follow-ups should be performed per SVEP.	10-2
11-07	While employee interviews were almost always indicated as being performed, 27 of 86 files did not contain documentation showing employee interviews had been performed.	Employee interviews should always be documented to provide proof of employee exposure.	
11-08	All reasons for modification of the case files during the informal conference were not documented.	All reasons for modification of a case file should be documented whenever vacating or reclassifying violations or reducing the penalties.	10-6
11-09	Every case file reviewed failed to show compliance in the area of case file organization.	Follow the Whistleblower Investigations Manual, DIS 0-0.9 for case file organization to ensure consistency with case file organization, contents, and tabbing.	
11-10	Federal OSHA reviewed a case which appeared to be a merit case as opposed to IOSHA's finding of non-merit.	Review the elements of a merit case per the Whistleblower Investigations Manual, DIS 0-0.9.	

11-11	No follow-up response was provided by IOSHA on the CASPA.	Follow-up actions on a CASPA should always be provided in writing.	
11-12	Annual written evaluations of Alliances and Partnerships were not performed.	INSafe should perform annual written evaluations per directive policies and procedures.	
11-13	While IOSHA currently allocates compliance staff levels that meet the required benchmark of 70 positions; only 41 enforcement positions are filled.	IOSHA should continue to try and fill all allocated benchmark positions while pursuing a modification of benchmark level with OSHA.	

Appendix B
FY 2011 Indiana State Plan FAME Report
Status of FY 2010 Findings and Recommendations

Rec #	Findings	Recommendations	Corrective Action Plans	State Action Plan	Status
10-1	While performing safety and health inspections, IOSHA staff decides on behalf of witnesses and employees whether their interviews will have their names attached to the interviews.	Provide all witnesses with information that clearly explains their rights, especially with regard to confidentiality prior to all interviews. Ensure employees and witnesses who are interviewed are provided the opportunity to decide if their name or other personal information should be included as part of their interview documentation or statement.	CSHOs will be instructed to write witness names on statements and witnesses are given the option to sign. Indiana Access to Public Records law is to be explained to witnesses. CSHOs will make detailed notes that should a witness decline to sign, there is still a method for introducing the statement in a court action. Legislative changes may result from this review.	Witness names are written on forms and witnesses are given the option to sign. Indiana Access to Public Records law is explained to witnesses. CSHOs now make detailed notes that should a witness decline to sign, there is still a method for introducing the statement in a court action. This item is complete except for any legislative changes that may result from this review.	Complete
10-2	Two files were reviewed where no verification of abatement was found.	IOSHA should obtain abatement verification for all files where abatement is required. When verification of abatement is not provided by the employer, follow-up should be conducted.	Abatement tracking and review will be assigned to a single individual and will have it added to that individual's performance expectations on their Performance Profile.	Abatement tracking and review has been assigned to a single individual and has been added to that individual's performance expectations on their Performance Profile.	Open
10-3	Complaint investigations and inspections were timely. However, the files did not always contain an updated OSHA-7 with all pertinent actions in it. Copies of all letters required to be sent by IOSHA were not found in the file. The missing letters were notification letters to complainants and, where appropriate, to respondents, and inspection result letters, specifically to the unions. The diary logs did indicate that the employer and union letters were sent. No diary log entries indicated that complainant acknowledgement letters were sent. There was also no evidence that IOSHA sent the Certificate of Posting (COP) to the employer when appropriate.	All appropriate entries should be made on the OSHA-7 and an updated OSHA-7 should be maintained in the file. These entries should be performed in accordance with OSHA Instruction 03-06 (IRT 01), OSHA Instruction (03-06 (ADM 01), and the IMIS Enforcement Data Processing Manual. All notification letters should be sent and, when appropriate, the COP.	The Duty Officer position will be made a permanent fixture. The Duty Officer will be provided training on OSHA-7 requirements and will be monitored by the System Administrator on a regular basis.	The Duty Officer position has been made a permanent fixture. The Duty Officer has been provided training on OSHA-7 requirements and is monitored by the System Administrator on a regular basis.	Complete

Rec #	Findings	Recommendations	Corrective Action Plans	State Action Plan	Status
10-4	There was not always adequate documentation that supported that a complaint item did not exist. Thirteen out of 15 files that were associated with exposure to hazardous substances did not contain any sampling information or justification as to why sampling was not necessary. Documentation of interviews and related safety and/or health programs was not in the files. Notes with a list of employees interviewed were in the files; however, the files did not contain documentation of the interviews.	It is recommended that documentation in the file shows that all complaint items have been evaluated. When addressing complaints about exposure to contaminants, an explanation should be provided when sampling was not conducted.	The Duty Officer will be instructed to include all complaint items on the complaint. All complaint items will be addressed in the response letter to the complainant.	The Duty Officer has been instructed and now includes all complaint items on the complaint. All complaint items are addressed in the response letter to the complainant.	Complete
10-5	Files were not maintained in an orderly manner. Not all file sections were tabbed with contents, files were not completely bound, and not all the files contained paper or electronic copies of digital records. Staff who may need access to the files did not always have the software and hardware required to access the file information.	A paper copy of the electronic documents should be placed in every file. Files should be orderly and all documents bound.	Indiana OSHA will continue to use paper and electronic media. Files will be audited for completeness and clerical staff will maintain order of files. All IOSHA staff will be given required software applications.	Indiana OSHA will continue to use paper and electronic media. Files are audited for completeness and clerical staff maintains order of files. All IOSHA staff has required software applications.	Complete
10-6	While employee interviews were always indicated as being performed, in eight out of 36 files nothing beyond contact information was listed in the file.	Better documentation proving exposure should have been provided to support citations. One file reviewed indicated that all the citations were deleted due to lack of employee exposure documentation.	Staff will be instructed that complete documentation is critical and will prepare complete and thorough documentation on employee interviews.	Staff has been instructed that complete documentation is critical and now prepares complete and thorough documentation on employee interviews.	Open
10-7	Although generated and distributed monthly, Supervisors are not utilizing IMIS reports to track abatement.	Supervisors must consistently review the IMIS reports to track abatement and update the IMIS in a timely manner.	Tracking reports will be generated and distributed on a monthly basis. Supervisors will be provided training on report usage.	Tracking reports continue to be generated and distributed on a monthly basis. Supervisors have been provided extensive training on report usage.	Complete

Rec #	Findings	Recommendations	Corrective Action Plans	State Action Plan	Status
10-8	In some cases, abatement was not late; as the employer had been informally granted extra time to submit abatement. One file was reviewed where the employer had petitioned for a modification of abatement due date. The time requested was not noted. The Supervisor did not note any discussion with the employer, however, abatement was submitted at a much later date than the original due date.	Require employers to follow procedures for PMA and ensure that IMIS is updated timely to reflect any extensions granted.	Directors and Supervisors will be instructed that no PMA shall be granted informally and all PMAs must be timely and in writing. The Administrative Assistant will generate PMA form letters and maintain a tickler file. The Legal Department is developing a PMA policy.	Directors and Supervisors have been instructed that no PMA shall be granted informally and all PMAs must be timely and in writing. The Administrative Assistant now generates PMA form letters and maintains a tickler file. The Legal Department is developed a PMA policy.	Open
10-9	Although several IMIS management reports are being generated and distributed to the management team on a monthly basis, the majority of the reports are not being used effectively.	IOSHA must establish a system for the proper handling and review of IMIS management reports. Consideration should be given to the importance of the report when determining the frequency with which it is generated and distributed (weekly, bi-weekly, or monthly).	Tracking reports will be generated and distributed on a monthly basis. Supervisors will implement tracking reports in their schedules. Report usage will be added to performance expectations on Performance Profiles.	Tracking reports continue to be generated and distributed on a monthly basis. Supervisors have implemented tracking reports in their schedules. Report usage has been added to performance expectations on Performance Profiles.	Complete
10-10	IOSHA conducted one follow-up inspection during FY 2009. IMIS reports are not utilized to identify cases requiring follow-up inspections.	IOSHA must begin using IMIS reports to identify and assign establishments requiring follow-up inspections.	Supervisors will be provided training on report usage. Report usage will be added to performance expectations on Performance Profiles.	Supervisors have been provided extensive training on report usage. Report usage has been added to performance expectations on Performance Profiles.	Complete
10-11	Electrical hazards cited were classified as serious only 48% of the time and fire protection in construction was classified as serious two times, while being cited a total of 71 times.	Review classification of electrical and fire hazard violations in both Construction and General Industry to ensure consistency with the Field Operations Manual and within IOSHA.	This will be reviewed with all staff at an All IOSHA Staff Meeting.	This has been reviewed with all staff at an All IOSHA Staff Meeting.	Complete

**Appendix C
Enforcement Comparison
Indiana State Plan
FY 2011 Enforcement Activity**

	IN	State Plan Total	Federal OSHA
Total Inspections	1,363	52,056	36,109
Safety	1,183	40,681	29,671
% Safety	87%	78%	82%
Health	180	11,375	6,438
% Health	13%	22%	18%
Construction	936	20,674	20,111
% Construction	69%	40%	56%
Public Sector	37	7,682	N/A
% Public Sector	3%	15%	N/A
Programmed	1,056	29,985	20,908
% Programmed	77%	58%	58%
Complaint	201	8,876	7,523
% Complaint	15%	17%	21%
Accident	41	2,932	762
Insp w/ Viols Cited	529	31,181	25,796
% Insp w/ Viols Cited (NIC)	39%	60%	71%
% NIC w/ Serious Violations	85.3%	63.7%	85.9%
Total Violations	1,953	113,579	82,098
Serious	1,382	50,036	59,856
% Serious	71%	44%	73%
Willful	16	295	585
Repeat	21	2,014	3,061
Serious/Willful/Repeat	1,419	52,345	63,502
% S/W/R	73%	46%	77%
Failure to Abate	-	333	268
Other than Serious	534	60,896	18,326
% Other	27%	54%	22%
Avg # Violations/ Initial Inspection	3.5	3.4	2.9
Total Penalties	\$1,937,348	\$ 75,271,600	\$ 181,829,999
Avg Current Penalty / Serious Violation	\$ 874.70	\$ 963.40	\$ 2,132.60
% Penalty Reduced	49.9%	46.6%	43.6%
% Insp w/ Contested Viols	4.9%	14.8%	10.7%
Avg Case Hrs/Insp- Safety	15.1	17.1	19.8
Avg Case Hrs/Insp- Health	38.3	26.8	33.1
Lapse Days Insp to Citation Issued- Safety	39.1	35.6	43.2
Lapse Days Insp to Citation Issued- Health	48.8	43.6	54.8
Open, Non-Contested Cases w/ Incomplete Abatement >60 days	21	1,387	2,436

Note: Federal OSHA does not include OIS data.

The total number of inspections for Federal OSHA is 40,684

Source: DOL-OSHA. State Plan & Federal INSP & ENFC Reports, 11.8.2011.

Appendix D FY 2011 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
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
S T A T E A C T I V I T Y M A N D A T E D M E A S U R E S (S A M M s)

NOV 08, 2011
PAGE 1 OF 2

State: INDIANA

RID: 0551800

MEASURE	From: 10/01/2010 To: 09/30/2011	CURRENT FY-TO-DATE	REFERENCE/STANDARD
1. Average number of days to initiate Complaint Inspections	2486 12.36 201	0 0	Negotiated fixed number for each State
2. Average number of days to initiate Complaint Investigations	1609 8.38 192	1325 18.92 70	Negotiated fixed number for each State
3. Percent of Complaints where Complainants were notified on time	203 100.00 203	1 100.00 1	100%
4. Percent of Complaints and Referrals responded to within 1 day -ImmDanger	0 0	0 0	100%
5. Number of Denials where entry not obtained	0	0	0
6. Percent of S/W/R Violations verified			
Private	971 72.41 1341	22 7.26 303	100%
Public	19 82.61 23	0 .00 4	100%
7. Average number of calendar days from Opening Conference to Citation Issue			
Safety	27105 57.79 469	2633 79.78 33	2631708 51.9 50662
Health	7432 63.52 117	309 61.80 5	767959 64.8 11844

*IN FY11

**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: INDIANA

NOV 08, 2011
 PAGE 2 OF 2

RID: 0551800

MEASURE	From: 10/01/2010 To: 09/30/2011	CURRENT FY-TO-DATE	REFERENCE/STANDARD
8. Percent of Programmed Inspections with S/W/R Violations			
	321	31	90405
Safety	28.69 1119	50.82 61	58.5 154606
			National Data (3 years)
Health	35 59.32 59	1 100.00 1	10916 51.7 21098
			National Data (3 years)
9. Average Violations per Inspection with Vioations			
S/W/R	1653 2.81 587	132 3.47 38	419386 2.1 198933
			National Data (3 years)
Other	444 .75 587	22 .57 38	236745 1.2 198933
			National Data (3 years)
10. Average Initial Penalty per Serious Violation (Private Sector Only)	2055461 1315.91 1562	162725 1281.29 127	611105829 1679.6 363838
			National Data (3 years)
11. Percent of Total Inspections in Public Sector (years)	37 2.71	1 100.00	105 1.8
			Data for this State (3 years)
	1363	1	5929
12. Average lapse time from receipt of Contest to first level decision	10818 373.03 29	1896 632.00 3	3533348 199.7 17693
			National Data (3 years)
13. Percent of 11c Investigations Completed within 90 days	45 100.00 45	10 100.00 10	100%
14. Percent of 11c Complaints that are Meritorious	14 31.11 45	2 20.00 10	1517 23.0 6591
			National Data (3 years)
15. Percent of Meritorious 11c Complaints that are Settled	14 100.00 14	2 100.00 2	1327 87.5 1517
			National Data (3 years)

Appendix E
State Information Report (SIR)

1111011

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)

PAGE 1

CURRENT MONTH = SEPTEMBER 2011

STATE = INDIANA

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	3694	135	8169	339	18137	918	40070	2622
	61.3	86.5	61.4	83.5	62.5	85.2	63.7	84.1
	6026	156	13312	406	29042	1078	62876	3119
B. HEALTH	480	1	1020	6	2126	40	4357	157
	39.7	7.1	36.4	14.3	34.6	26.7	34.7	35.4
	1208	14	2806	42	6150	150	12569	444
2. PROGRAMMED INSPECTIONS WITH VIOLATIONS (%)								
A. SAFETY	3378	71	7266	175	14959	354	32614	844
	73.7	32.1	72.4	31.5	70.1	28.5	69.1	27.1
	4583	221	10036	555	21330	1242	47196	3119
B. HEALTH	456	4	890	10	1723	46	3487	131
	57.0	44.4	57.2	55.6	56.2	55.4	55.3	55.7
	800	9	1555	18	3068	83	6309	235
3. SERIOUS VIOLATIONS (%)								
A. SAFETY	11703	261	23768	574	48704	1142	109064	2414
	79.6	75.7	77.4	75.3	76.7	75.3	78.4	67.4
	14698	345	30703	762	63528	1517	139117	3581
B. HEALTH	2634	33	5290	85	10266	200	21598	568
	66.6	67.3	64.7	56.7	64.4	52.6	66.7	52.9
	3957	49	8180	150	15930	380	32380	1073
4. ABATEMENT PERIOD FOR VIOLS								
A. SAFETY PERCENT >30 DAYS	2394	137	4978	318	10776	581	23693	1230
	16.6	38.7	16.8	42.9	17.9	38.4	17.9	38.2
	14465	354	29573	742	60243	1514	132414	3222
B. HEALTH PERCENT >60 DAYS	259	8	711	24	1451	52	3159	148
	6.5	15.4	8.6	17.6	9.4	14.9	10.0	14.8
	4006	52	8234	136	15507	348	31619	1003

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION
INTERIM STATE INDICATOR REPORT (SIR)

CURRENT MONTH = SEPTEMBER 2011

STATE = INDIANA

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								
	505479	4050	1258835	6800	2803637	9737	5086228	44439
OTHER-THAN-SERIOUS	1181.0	810.0	1195.5	755.6	1126.9	608.6	1055.2	753.2
	428	5	1053	9	2488	16	4820	59
B. HEALTH								
	219203	700	441915	15752	853346	24702	1667151	57452
OTHER-THAN-SERIOUS	1184.9	700.0	1077.8	1312.7	980.9	602.5	958.7	491.0
	185	1	410	12	870	41	1739	117
6. INSPECTIONS PER 100 HOURS								
A. SAFETY								
	6874	176	15417	460	33850	1237	73070	3542
	6.0	3.8	5.6	4.6	5.5	5.9	5.4	8.3
	1138	46	2730	100	6145	210	13476	429
B. HEALTH								
	1458	20	3330	58	7311	196	14958	544
	2.4	.6	2.2	.8	2.2	1.2	2.0	1.7
	615	31	1501	74	3390	165	7404	312
7. VIOLATIONS VACATED %								
	1270	30	3026	70	6577	186	12352	422
	5.6	5.7	6.6	5.9	7.0	7.0	6.2	6.6
	22608	526	46128	1185	93448	2672	200310	6423
8. VIOLATIONS RECLASSIFIED %								
	737	36	1997	66	4456	152	9147	294
	3.3	6.8	4.3	5.6	4.8	5.7	4.6	4.6
	22608	526	46128	1185	93448	2672	200310	6423
9. PENALTY RETENTION %								
	19478404	356329	40012395	732638	77322520	1262021	134938244	2204286
	61.0	49.1	61.6	46.4	62.8	49.8	62.8	52.5
	31918969	725247	65001782	1580240	123124542	2535418	214845679	4202306

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

PAGE 3

CURRENT MONTH = SEPTEMBER 2011

STATE = INDIANA

PERFORMANCE MEASURE	----- 3 MONTHS-----		----- 6 MONTHS-----		----- 12 MONTHS-----		----- 24 MONTHS-----	
	PRIVATE	PUBLIC	PRIVATE	PUBLIC	PRIVATE	PUBLIC	PRIVATE	PUBLIC
D. ENFORCEMENT (PUBLIC SECTOR)								
1. PROGRAMMED INSPECTIONS %								
	135	1	339	4	918	7	2622	16
A. SAFETY	86.5	100.0	83.5	80.0	85.2	46.7	84.1	44.4
	156	1	406	5	1078	15	3119	36
	1	0	6	0	40	0	157	0
B. HEALTH	7.1	.0	14.3	.0	26.7	.0	35.4	.0
	14	2	42	10	150	20	444	27
2. SERIOUS VIOLATIONS (%)								
	261	3	574	3	1142	16	2414	27
A. SAFETY	75.7	100.0	75.3	100.0	75.3	88.9	67.4	87.1
	345	3	762	3	1517	18	3581	31
	33	8	85	14	200	18	568	25
B. HEALTH	67.3	88.9	56.7	87.5	52.6	81.8	52.9	58.1
	49	9	150	16	380	22	1073	43

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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 4

CURRENT MONTH = SEPTEMBER 2011

COMPUTERIZED STATE PLAN ACTIVITY MEASURES

STATE = INDIANA

PERFORMANCE MEASURE	----- 3 MONTHS-----		----- 6 MONTHS-----		----- 12 MONTHS-----		----- 24 MONTHS-----	
	FED	STATE	FED	STATE	FED	STATE	FED	STATE
E. REVIEW PROCEDURES								
1. VIOLATIONS VACATED %								
	579	10	1131	10	2220	24	4270	83
	22.8	31.3	23.4	22.2	23.5	24.0	23.0	34.0
	2542	32	4834	45	9442	100	18586	244
2. VIOLATIONS RECLASSIFIED %								
	328	3	620	10	1259	31	2360	58
	12.9	9.4	12.8	22.2	13.3	31.0	12.7	23.8
	2542	32	4834	45	9442	100	18586	244
3. PENALTY RETENTION %								
	3616720	41660	9500018	44160	16062961	65660	28079915	162184
	56.1	68.1	62.4	61.1	62.3	54.3	60.6	66.0
	6443756	61150	15212620	72250	25766759	120900	46371522	245575

APPENDIX F
List of Acronyms

ADM	OSHA Instruction - Administrative
BLS	Bureau of Labor Statistics
BSR	Board of Safety Review
CAPR	Consultation Annual Project Report
CASPA	Complaint About State Program Administration
CPL	OSHA Instruction – Compliance
CSHO	Compliance Safety and Health Officer
EEP	Enhanced Enforcement Program
EISA	Expedited Informal Settlement Agreement
FAME	Federal Annual Monitoring Evaluation
FIRM	Field Inspection Reference Manual
FOM	Field Operations Manual
FY	Federal Fiscal Year
IDOL	Indiana Department of Labor
IH	Industrial Hygienist
IMIS	Integrated Management Information System
IMMLANG	Immigrant/Language
INSAFE	Indiana’s 21(d) Safety and Health Consultation Project
INSHARP	Indiana Safety and Health Achievement Recognition Program
IOSHA	Indiana Occupational Safety and Health Administration
NAICS	North American Industrial Classification System
NIC	Not In Compliance
OSHA	Occupational Safety and Health Administration
PMA	Petition for Modification of Abatement

SAMM	State Activity Mandated Measures
SIEP	State Internal Evaluation Program
SOAR	State OSHA Annual Report
SST	Site Specific Targeting
S/W/R	Serious/Willful/Repeat
VPP	Voluntary Protection Program

OSHA Forms

OSHA 1	Inspection Form
OSHA 1B	Violation Worksheet
OSHA-7	Complaint Form
OSHA 36	Accident Form
OSHA 170	Accident Investigation Summary
OSHA 90	Referral
OSHA 31	Weekly Activity Report

Appendix G

**Indiana State Plan
FY 2011 23(g) Consultation Activity**

	IN Public Sector	Total State Plan Public Sector
Requests	21	1,328
<i>Safety</i>	14	576
<i>Health</i>	6	560
<i>Both</i>	1	192
Backlog	1	123
<i>Safety</i>	-	51
<i>Health</i>	1	58
<i>Both</i>	-	14
Visits	20	1,632
<i>Initial</i>	14	1,336
<i>Training and Assistance</i>	1	175
<i>Follow-up</i>	5	121
<i>Percent of Program Assistance</i>	100%	67%
<i>Percent of Initial Visits with Employee Participation</i>	100%	96%
Employees Trained	70	5,030
<i>Initial</i>	31	2,144
<i>Training and Assistance</i>	39	2,886
Hazards	36	6,063
<i>Imminent Danger</i>	-	3
<i>Serious</i>	32	4,804
<i>Other than Serious</i>	3	1,171
<i>Regulatory</i>	1	85
<i>Referrals to Enforcement</i>	-	6
Workers Removed from Risk	954	171,075
<i>Imminent Danger</i>	-	55
<i>Serious</i>	516	136,884
<i>Other than Serious</i>	88	26,046
<i>Regulatory</i>	350	8,090

Source: DOL-OSHA. 23(g) Public & Private Consultation Reports, 11.29.2011

APPENDIX H
FY 2011 SOAR

(Available Separately)