



KENTUCKY
OCCUPATIONAL SAFETY AND HEALTH PROGRAM

STATE OFFICE ANNUAL REPORT

for

FEDERAL FISCAL YEAR 2011

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

INTRODUCTION

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

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

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

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

organizational entities associated with the former Department of Labor as stated in Executive Order 2008-472.

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

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

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

The Kentucky Labor Cabinet remains fully committed to promoting the safety, health, and general welfare of the Commonwealth of Kentucky by preventing any detriment to the safety

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

The Kentucky OSH Program implemented a new five (5) year strategic plan for Fiscal Years (FY) 2011-2015 that utilizes a combination of resources to address workplace hazards, including enforcement strategies, consultations, training and education, partnership programs, technical assistance, and standards development. The synergistic effect of these combined resources enables the OSH Program to significantly impact worker safety and health in the Commonwealth of Kentucky.

This report is presented in three (3) sections. Section I addresses Kentucky's success in achieving FY 2011 Performance Plan goals. Section II addresses mandated activities during FY 2011. Section III addresses noteworthy accomplishments achieved by the Kentucky OSH Program during FY 2011.

All state government executive branch merit and non-merit employees, including the Governor and all cabinet secretaries, were furloughed five (5) days in FY 2011. The five (5) days included two (2) state-wide furlough days, Friday, November 12, 2010 and Friday, May 27, 2011, as well as three (3) other days chosen by each Labor Cabinet employee within specified time periods. The Kentucky OSH Program scheduled employee furloughs in a manner that ensured Division of OSH Compliance coverage and minimized impact to the public. The Kentucky OSH Program was prepared to respond to fatalities, catastrophes, and imminent danger incidents during all of the furlough days.

SECTION I SUCCESS ACHIEVING PERFORMANCE GOALS

The first strategic goal of the 2011-2015 Strategic Plan is to improve workplace safety and health for all workers as evidenced by fewer hazards, reduced exposures, and fewer injuries, illnesses, and fatalities.

Performance Goal 1.1 for the five (5) year plan addresses the recidivism rate for repeat, serious, and willful violations in residential construction. The FY 2011 Annual Performance Goal is to reduce the rate for repeat, serious, and willful violations in residential construction.

FY 2011 is the first year under the new five (5) year performance plan and is considered a baseline year. The baseline set in FY 2011 is four (4) willful serious, ten (10) repeat serious and ninety-six (96) serious violations regarding residential construction hazards.

The Division of Education and Training continues to offer commercial and residential construction training upon request.

Performance Goal 1.2 aims to reduce amputations, hospitalizations, and illnesses in general industry and construction.

FY 2011 is the first year under the new five (5) year performance plan and is considered a baseline year. The baseline for FY 2011 is 151 reported hospitalizations. In FY 2011, the Division of OSH Compliance received 151 hospitalization reports. Seventy-four (74) inspections were conducted with sixty-four (64) serious violations, fourteen (14) other than serious violations, one (1) willful serious violation, and one (1) repeat serious violation. Total penalties were \$318,800.

The baseline for reported amputations is fifty-four (54). In FY 2011, the Division of OSH Compliance received fifty-four (54) reported amputations. Fifty-one (51) inspections were conducted with thirty-seven (37) serious violations, twelve (12) other-than-serious violations, and one (1) repeat serious violation. Total penalties were \$145,850.

Performance Goal 1.3 addresses the total number of employees removed from hazards through a multi-pronged strategy.

This performance goal incorporates efforts for both the Division of OSH Compliance and the Division of Education and Training and is a baseline year under the new five (5) year performance plan. The Division of OSH Compliance's portion of this goal consist of response to imminent dangers, staff training, and conducting inspections for reports of hospitalization of fewer than three (3) employees.

The Division of OSH Compliance responded to all imminent dangers in FY 2011 within the one (1) working day. The Division of OSH Compliance continued staff training in FY 2011 by sending staff to training programs sponsored by the OSHA Training Institute and Kentucky's Division of Education and Training. The Division of OSH Compliance inspected seventy-four (74) reported hospitalizations in FY 2011.

During FY 2011, the Division of Education and Training conducted 155 health surveys of which 148 were considered high hazard. The Division's Safety Branch conducted 197 surveys, of which 134 were considered high hazard.

Performance Goal 1.4 aims to ensure that employers are adhering to settlement provisions and have abated imminent danger and fatality violations.

The Division of OSH Compliance conducted twenty-nine (29) follow-up inspections involving imminent danger citations, two (2) follow-up inspections involving fatalities, two (2)

follow-up inspections involving ammonia releases, one (1) follow-up inspection involving a chlorine release, and one (1) follow-up inspection to ensure employer compliance with the terms of a settlement agreement.

Performance Goal 1.5 aims to reduce the number of injuries caused by falls, struck-by, and crushed-by in construction by ten (10) percent through a six (6) part strategy.

This performance goal incorporates efforts for both the Division of OSH Compliance and the Division of Education and Training and is a baseline year under the new five (5) year performance plan. The Division of OSH Compliance’s portion of this goal consists of responses to imminent dangers, conducting inspections for reports of hospitalizations of fewer than three (3) employees, and ensuring on-going staff training.

The Division of OSH Compliance responded to all imminent dangers in FY 2011 within one (1) working day. The Division of OSH Compliance continued to provide staff training in FY 2011 by sending staff to training programs sponsored by the OSHA Training Institute and Kentucky’s Division of Education and Training. The Division of OSH Compliance inspected seventy-four (74) reported hospitalizations in FY 2011.

Data was collected by the Bureau of Labor Statistics, Survey of Occupational Injuries and Illness in cooperation with the Division of Education and training’s Statistical Services Branch. The following Kentucky and national incident rates for 2010 represent nonfatal occupational injuries and illnesses involving days away from work per 10,000 full-time workers in the construction industry. Kentucky’s rates are well below the national average.

	Falls	Struck-by	Crushed
Kentucky	15.3	16.4	4.2
National	20.1	23.8	8.3

The Division of Education and Training continues its Construction Partnership Program (CPP) and monitors the number of employers enrolled, training courses, contact hours, surveys, and technical assistance efforts.

Performance Goal 1.6 addresses the initiation of all fatality and catastrophe inspections by the Division of OSH Compliance within one (1) working day of notification. Kentucky met its goal for FY 2011.

Although five (5) fatalities appear as outliers on the Fatality Catastrophe data for FY 2011, the Division of Compliance responded within one (1) working day to all five.

1. A fatal accident at Gibson Logging Enterprises, Inc. occurred on November 2, 2011 and was reported on November 3, 2011. The compliance officers went to the site on November 3, 2011 and learned the deceased's father-in-law owned the company. Therefore, the compliance officers did not open the inspection until after the funeral. The Division of OSH Compliance responded the day the fatality was reported but did not open the inspection until November 8, 2011 due to the circumstances described above. The Division of OSH Compliance responded within one (1) working day of notification.

2. A fatal accident occurred at the Joe LeDuff jobsite in Owensboro on November 6, 2010. The attorney for the deceased's estate reported the fatality on November 29, 2010 and the inspection opened on November 30, 2010. The Division of Compliance responded within one (1) working day of notification.

3. A fatal accident occurred at the Gra-Kat Environmental Services, LLC jobsite in Walton on February 9, 2011 and was reported in the media on February 11, 2011. The Division of OSH Compliance was uncertain if the deceased was working as an employee of Gra-Kat Environmental Services, LLC, at the time of his death or acting as a volunteer

firefighter. On February 11, 2011, the local sheriff confirmed the deceased was a Gra-Kat employee. A compliance officer was assigned on Monday, February 15, 2011. The CSHO was unable to open the inspection on February 16, 2011 due to a medical appointment. The inspection opened on February 17, 2011. The Division of Compliance responded to this fatality within one (1) working day.

4. A fatal accident occurred at Brad Ragan Recycling on July 19, 2011 and was reported on Friday, July 22, 2011. The inspection opened on Monday, July 25, 2011, the next business day. The Division of OSH Compliance responded to this fatality within one (1) working day.

5. A fatal accident occurred to an Angelico Cruz employee on September 7, 2011 and was reported the same day by the Franklin County Sheriff's Department. A compliance officer was dispatched to the scene the same day but unable to locate the employer. The opening conference was September 15, 2011. The Division of OSH Compliance responded to the fatality within one (1) working day.

Performance Goal 1.7 aims to initiate Division of OSH Compliance inspections of all imminent danger reports within one (1) working day of notification.

Although the Referral Audit Log indicates one (1) imminent danger referral was not opened within one (1) working day, investigation into the file establishes the Division of OSH Compliance responded on the date the referral was received. The Division of OSH Compliance received an imminent danger referral on February 15, 2011 alleging Midwest Demolition was involved in hazards occurring on February 14, 2011. An industrial hygienist arrived at the site around 3:30 P.M. EST on February 15, 2011 and opened with the general contractor. Midwest Demolition had left for the day and was not scheduled to work the following day, February 16,

2011. The industrial hygienist returned to the site and opened with Midwest Demolition on February 17, 2011. Kentucky responded to this imminent danger on the date it was received.

Performance Goal 1.8 strives to reduce Kentucky's total case rate for injuries and illnesses.

FY 2011 is the first year under the new five (5) year performance plan and is considered a baseline year.

Performance Goal 1.9 addresses the reduction of Kentucky's lost time case rate for injuries and illnesses.

FY 2011 is the first year under the new five (5) year performance plan and is considered a baseline year.

Performance Goal 1.10 aims to reduce the total case rate in five (5) of the fifteen (15) most hazardous industries in Kentucky.

FY 2011 is the first year under the new five (5) year performance plan and is considered a baseline year.

During FY 2011, the Division of Education and Training conducted 117 safety and health surveys in the selected top ten (10) Kentucky high hazard NAICS and specific high hazard industries. Additionally, fifty-four (54) training sessions were presented at six (6) Population (POP) Center Training seminars throughout the Commonwealth. The training addressed subjects relevant to the targeted NAICS such as Injury and Illness Recordkeeping, Mechanical Power Press, Confined Space, Combustible Dust, Mandated Health Programs, Basic Electrical Safety, Fire Safety and Protection, Bloodborne Pathogens, Personal Protective Equipment, Spray Finishing, Lockout-Tagout, Excavation and Trenching, Back Care and Ergonomics, Welding

Safety, Noise and Hearing Conservation, and Powered Industrial Trucks. Over 1,690 participants attended the training courses.

In an effort to supplement resources in addressing high hazard industry issues, the Division of Education and Training continued to coordinate outreach with professional and industry associations including the Association of General Contractors (AGC), Kentucky Community Technical College System (KCTCS), Builders Exchange of Kentucky, and Eastern Kentucky University's OSHA Training Institute Education Center (EKU-OTI).

The Division of Education and Training targeted employers in specific NAICS classifications in FY 2011 using 2009 data collected by the Division's Statistical Services Branch. The Division mailed an offer to specific industries encouraging utilization of Education and Training services under the program known as Safety Tops Our Priority (STOP). The outreach mailings for FY2011 were also sent under the Division's Targeted Outreach Program (TOP). TOP utilized OSHA Data Initiative information to target specific facilities rather than specific industries. STOP and TOP solicited 379 employers and resulted in 117 requests for consultative services.

Kentucky remains committed to working with these employers and continues to target those industries and employers with the worst injury and illness rates. The Division of Education and Training will continue to focus on a greater awareness and reduction in ergonomic-related injuries and illnesses. The Division of Education and Training continues to offer ergonomic training and to provide technical assistance to employers upon request.

The second goal of Kentucky's 2011-2015 Strategic Plan is to change workplace culture in order to increase employer and worker awareness of, commitment to, and involvement in safety and health.

Performance Goal 2.1 addresses settlement agreements that have a monetary penalty reduction of more than \$10,000 also include OSHA's 1989 Safety and Health Management Guidelines; or, engage outside safety and health consultation.

During FY 2011, the Division of OSH Compliance signed forty-two (42) settlement agreements following employer notices of contest. Penalties were reduced more than \$10,000 in four (4) agreements that did not require the inclusion of 1989 Safety and Health Management Guidelines or engaging outside safety and health consultation for the following reasons:

1. The willful serious violation in KOSHRC 4807-11 was reclassified as other-than-serious and one (1) citation was deleted which reduced the penalty from \$24,200 to \$3,300.
2. The penalties in KOSHRC 4853-11 were reduced from \$510,650 to \$1550 due to the financial condition of the company. Documents are contained in the file demonstrating the employer's financial condition.
3. The penalties in KOSHRC 4686-09 were reduced from \$102,125 to \$40,000 due to miscalculation of the issued penalties.
4. The penalties in KOSHRC 4739-09 were reduced from \$28,000 to \$7,000. Five (5) violations were grouped and two (2) serious violations were deleted.

Performance Goal 2.2 is to incorporate evaluation of safety and health management systems in 100 percent of the full service comprehensive surveys.

All Division of Education and Training comprehensive consultative survey reports contain a completed Form 33. Each comprehensive survey case file also includes a safety and health program evaluation report.

Performance Goal 2.3 seeks to utilize the Safety & Health Program Assessment Worksheet in all general industry full-service surveys and includes a narrative safety and health program evaluation in all full-service surveys.

All full-service surveys conducted by the Division of Education and Training include a narrative safety and health program evaluation and utilize the Safety and Health Program Assessment Worksheet.

Performance Goal 2.4 aims to provide safety and health program management training.

Safety and Health Program Management Training was available at the POP Center Training seminars during FY 2011. This was a newly developed course and was incorporated in the KY OSH Overview course. The Division of Education and Training will continue to offer this course in FY 2012 and track each course and participant.

Performance Goal 2.5 addresses the evaluations of worksites on a timely basis, including the certification of VPP sites, the development of construction partnership agreements, and the addition of new employers to SHARP.

The Division of Education and Training's Partnership Program expects to add two (2) new Voluntary Partnership (VPP) sites over the course of the next two (2) calendar years, 2012 and 2013. The Division is working diligently with other candidates to meet Kentucky's high standards required to participate in VPP.

The Partnership Program will add five (5) new Construction Partnership Program (CPP) sites over the next two (2) calendar years, 2012 and 2013. Construction industry requests for voluntary partnerships have increased. Construction partnership projects may last several months or several years depending on the size and scope of the project.

The Partnership Program expects to add six (6) new Safety and Health Achievement Recognition Program (SHARP) sites over the next two (2) calendar years, 2012 and 2013. SHARPS grew tremendously in 2011, adding five (5) new sites. The Division expects the interest in SHARPs to continue and anticipates the program will grow.

Monitoring and tracking of partnership programs will continue.

Performance Goal 2.6 addresses the implementation of a targeted outreach plan for all new Kentucky OSH standards.

Following the publication of OSHA's new Cranes and Derricks in Construction standard, the Division of OSH Education and Training, with assistance from the Office of the OSH Federal-State Coordinator, embarked on a state-wide outreach campaign through a series of training sessions on the changes brought about by the new standard. Sixteen (16) sessions were conducted in eleven (11) cities across the Commonwealth, blanketing the entire state with important information on the standard. Attendees included employers and employees from construction companies, many of them crane operators, as well as representatives from other affected industries such as public utilities. There was great demand for the training and approximately 900 participants attended.

The Division of OSH Education and Training continues to offer free outreach training at POP Centers for employers and employees across the Commonwealth addressing Kentucky OSH standards. The Kentucky Labor Cabinet also maintains updated and accurate information on the Kentucky OSH webpage as well as cost free publications for employers and employees. The Division of OSH Education and Training distributes a compact disc that contains all state OSH regulations, federal OSH standards, Kentucky safety and health manuals, posters, conference information, and other resource links. The compact disc offers employers a mechanism to

register and receive notices regarding new or amended regulations. The Kentucky OSH Program provides the compact disc free of charge.

The Kentucky OSH Program no longer prints the federal regulations. Kentucky now prints a document entitled “Kentucky Occupational Safety and Health Standards for Construction and General Industry.” The document contains Kentucky specific OSH general industry and construction regulations that supersede OSHA’s standards.

The third goal of Kentucky’s 2011-2015 Strategic Plan is to maximize the efficiency and effective use of human and technological resources.

Performance Goal 3.1 is to maintain a reliable data repository.

The Division of OSH Compliance employs one (1) employee dedicated to the IMIS system. IMIS rejects are completed daily and SIR/SAMM reports are reviewed quarterly. The Division of OSH Compliance uses the following reports to maintain a reliable data repository:

- Citations Pending;
- Weekly Response (Complaint);
- Weekly OSHA-7 (Complaint);
- Open Inspections;
- Unsatisfied Activity;
- Default Violation Abatement;
- OSH 31;
- Monthly Tracking;
- Candidates for Follow-up;
- Fat/Cat;
- Micro to Host Inspection Activity Report;
- Violations; and
- SIR/SAMM.

The Division of Education and Training continues to maintain data repository by monitoring IMIS rejects, running MARC reports, updating internal tracking, and running backups on a daily and monthly basis.

Performance Goal 3.2 aims for new supervisory staff to complete formal leadership training or complete certification.

The Division of OSH Compliance and the Division of Education and Training did not hire new supervisory staff during FY 2011.

Performance Goal 3.3 encourages and aids professional certification. During FY 2011, the Division of OSH Compliance maintained four (4) certified Occupational Health and Safety Technologist (OHST) employees and eight (8) certified Construction Health and Safety Technician (CHST) employees. The Division of OSH Compliance maintained one (1) Certified Safety Professional (CSP) employee who has been approved to sit for the Certified Industrial Hygiene (CIH) examination. One (1) employee was approved to sit for the CSP examination while two (2) others were approved to sit for the Associate Safety Professional (ASP) examination.

The Division of OSH Compliance continues to encourage and promote professional certification by maintaining two (2) safety position descriptions and increased salaries for the level of certification, paying for certification preparatory courses, and paying for the certification examination after successfully completing the examination.

One (1) Division of OSH Compliance safety supervisor is a Certified Public Manager and the Health Program Manager is a Certified Fundamentals Manager.

During FY 2011, the Division of OSH Compliance also sent employees to attend certification preparation courses.

During FY 2011, the Division of Education and Training maintained four (4) dual CIH/CSP employees, eight (8) CSP employees, four (4) OHST employees, and one (1) CHST employee. The Division had four (4) employees complete the Certified Managers Program

(CPM) through Kentucky State University Governmental Services Center. Two (2) industrial hygienists are currently studying for the CIH examination. Three (3) industrial hygienists and three (3) safety consultants are currently studying for either the CHST or the OHST certification.

Performance Goal 3.4 encourages and aids advanced degrees for OSH Program employees.

In FY 2011, the Division of OSH Compliance funded graduate degrees at Eastern Kentucky University for two (2) safety compliance officers. Both are pursuing Master of Science in Safety, Security, and Emergency Management degrees.

One (1) Industrial Hygienist is pursuing a Master of Science in Safety, Security, and Emergency Management degree from Eastern Kentucky University. She is on track to complete her work in May 2012.

Since 2009, the Division of OSH Compliance has paid for five (5) other compliance officers to attain Master of Science degrees.

Performance Goal 3.5 aims to implement adult learning theory principles into formal training provided to employers and employees.

The Division of Education and Training has begun to implement tenants of the andragogical model of adult learning theory in its Population Center Training seminars. In practice, this involves a reduction in lecture-based training in exchange for methods which provide for audience participation and interaction, places course content into the learners' contexts, utilizes learning materials and activities which allow for differing experiences, and allows for self-directed learning. The goal for FY 2011 was to have adult learning theory principles implemented in five (5) percent of the POP Center Training seminars. This goal was met, as four (4) of the thirty-eight (38) courses utilized adult learning theory principles. The

courses covered the topics of Slips, Trips and Falls; Personal Protective Equipment; and the Overview of the KY OSH program.

Performance Goal 3.6 aims to develop tool box talks in the form of short video courses.

The Division of Education and Training purchased video camera equipment and Adobe Connect software. The equipment and software gives the Division the capability to record and develop short video courses for employers to use as a resource for tool box talks. The materials will be available on the Labor Cabinet's new www.laborcabinetetrain.com webpage.

Performance Goal 3.7 seeks to include photographs of actionable hazards in all consultation surveys.

Photographs of actionable hazards were included in all consultation surveys when feasible. This was and continues to be monitored through the review of all consultation written reports.

SECTION II MANDATED ACTIVITIES

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

Unannounced Inspections, Including Prohibition Against Advance Notice Thereof

During FY 2011, the Division of OSH Compliance conducted a total of 1,054 unannounced inspections of work sites under the authority of KRS 338.101. Advance notice of inspections is prohibited and punishable under KRS Chapter 338.991(9).

Employee Involvement in Inspection Process

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

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

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

KRS Chapter 338.141 mandates the issuance of citations for violations of any OSH requirement. The Division of OSH Compliance continued to improve Kentucky's work environment through enforcement operations, which include first instance citations for violations of workplace safety and health standards and regulations.

The Division of OSH Compliance conducted a total of 1,054 inspections in FY 2011, 856 safety inspections and 198 health inspections. 903 inspections were unprogrammed, breaking down as follows:

- 381 referrals;
- 235 complaints;
- 213 unprogrammed related;
- Fifty-three (53) follow-up; and
- Twenty-nine (29) accidents.

151 programmed inspections break down as follows:

- Seventy-two (72) planned; and
- Seventy-nine (79) programmed related.

520 inspections were in the construction industry, 275 were in manufacturing, and 258 were other. 999 private sector and 55 public sector employers were inspected. The Division of OSH Compliance conducted 853 safety inspections which constitute 81% of total inspections while health conducted 128, representing 12% of total inspections. Thirteen (13) inspections were conducted under national emphasis programs.

Safety averaged 32.3 hours per case with 98.59 average days from opening to citation issuance and health averaged 76.7 hours per inspection with 85.50 average days from opening to citation issuance. A total of 1,250 violations were issued in FY 2011 with penalties totaling \$2,766,100 as follows:

813 violations classified as serious with penalties of \$1,829,050;

Twenty-four (24) violations classified as willful with penalties of \$450,250;

Ten (10) failure to abate with penalties of \$969,550;

Thirty-six (36) repeat with penalties of \$371,225; and

374 violations classified as other than serious with penalties of \$64,775.

In FY 2011, the total amount of penalties collected by the Division of OSH Compliance was \$1,241,766.26.

Seventy-one (71) cases were contested representing 15.2%.

The Division of OSH compliance inspected establishments employing a total of 283,546 employees and the inspections covered 107,444 employees.

The Division of OSH Compliance vacated forty-four (44) violations which represents 3.8% of the violations issued. Additionally, the Division reclassified twelve (12), or 1.0% of the violations issued.

Penalties issued were retained in sixty-two (62) percent of the violations.

At the time the FY 2010 data was compiled, fifty-five (55) 2011 inspections with citations had not been issued.

Ensuring Abatement of Potentially Harmful or Fatal Conditions

Hazardous conditions identified by Kentucky compliance officers and consultants are required to be abated. In order to ensure the correction of hazards, KRS 338.991(4) provides

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

The Division of OSH Compliance performed fifty-three (53) follow-up inspections in FY 2011, representing 5.0% of all safety and health inspections. That is an increase of 1.5% from FY 2010.

Ten (10) failure-to-abate violations were issued with penalties of \$969,550.

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

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

to the Franklin Circuit Court through its Office of General Counsel for an order to restrain such condition or practice.

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

Prompt, Effective Standard Adoption and Promulgation

On May 10, 2011, the Kentucky OSH Standards Board adopted OSHA's final rule published in the May 2, 2011 Federal Register affecting general working conditions in shipyard employment. The rule revised the existing requirements related to general working conditions in shipyard employment and consolidated a number of general industry and shipyard provisions to clarify their application to shipyard employment. The final rule made several amendments to the existing shipyard employment regulations. It also added three (3) new shipyard regulations and made amendments to three (3) general industry provisions. On July 25, 2011, OSHA issued a correction to the May 2, 2011 final rule and it was included in Kentucky's promulgation process. Adoption of the final rule and subsequent correction was required and implemented by Kentucky within the six (6) month timeframe. The amendments to the Kentucky Administrative Regulations (KAR) affected by the rule, 803 KAR 2:309, 2:313, and 2:500 were effective in Kentucky on October 7, 2011.

On May 10, 2011, the Kentucky OSH Standards Board also considered an amendment to 803 KAR 2:505. The amendment involved a state-specific change to OSHA's fall protection requirements in the Cranes and Derricks in Construction standards. The Kentucky OSH Standards Board amended the fall protection requirement from fifteen (15) to ten (10) feet.

Kentucky has other state-specific fall protection requirements with a ten (10) foot trigger height. Therefore, the action by the Kentucky OSH Standards Board brought consistency to Kentucky's fall protection requirements by providing employers and employees uniform fall protection requirements and a greater degree of fall protection. The amendment was also effective on October 7, 2011.

On June 8, 2011, OSHA issued the "Standards Improvement Project-Phase III" final rule. The Chair of the Kentucky OSH Standards Board adopted the rule on June 13, 2011. With this final rule, OSHA continued its series of rulemaking actions to revise requirements within the standards that were confusing, outdated, duplicative, or inconsistent. Adoption of the final rule was required and implemented by Kentucky within the six (6) month timeframe. The amendments to 803 KAR 2:304, 2:308, 2:309, 2:313, 2:319, 2:320, 2:403, 2:407, 2:425, 2:500, and 2:600 were effective on October 7, 2011.

The Chair of the Kentucky OSH Standards Board adopted a state-specific change to 803 KAR 2:313 on June 13, 2011. The state-specific change involved the adoption of 29 Code of Federal Regulations 1910.178 (m)(12) requirements that OSHA deleted several years earlier. With this state-specific change, Kentucky continues to enforce requirements related to lifting personnel with a powered industrial truck. This amendment was also effective on October 7, 2011.

Allocation of Sufficient Resources

The Kentucky OSH Program continued to match federal funding at the required rate. The state provides significant additional dollars beyond the federal match to meet the Program's needs. Kentucky's ratio was 65:35 of state to federal funds for FY 2011.

Counteraction of Imminent Dangers

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

In FY 2011, the Division of OSH Compliance conducted 220 reported imminent danger inspections and responded to 100 percent of imminent danger reports by initiating an inspection within one (1) working day of notification.

Response to Complaints

Kentucky's statutes ensure that employees and their representatives have a right to notify the OSH Program of perceived workplace violations. KRS 338.121 requires that a special inspection be conducted upon receipt of such notifications if reasonable grounds exist that there is a violation or danger. The Division of OSH Compliance prioritizes the employee complaints it receives.

All valid, formal complaints are scheduled for workplace inspections. Formal complaints are given priority based upon classification and gravity of the alleged hazard. Formal serious complaints, for example, are inspected within thirty (30) days; however, it is stressed to compliance officers to respond within five (5) days after being assigned the complaint.

Ten (10) serious complaint inspections opened greater than thirty (30) days after assignment in FY 2011 according to the Complaint Audit Log. However, investigation into the files establishes the Division of OSH Compliance responded to each of them within thirty (30) working days. The reason for the outliers lies in the fact that the Complaint Audit Log does not

consider weekends in response time calculation as well as other complaint satisfaction issues in IMIS. The outliers were:

1. IMIS indicates that Complaint 207647157 was received October 6, 2010 and opened August 13, 2010, which is an obvious error. In fact, Complaint 207647157 was received August 3, 2010 and added to another complaint that was already open. This compliance officer began investigating the complaint on August 13, 2010, ten (10) days after receipt.

2. Complaint 207647991 was received December 16, 2010 and opened on January 28, 2011. The Complaint Audit Log indicates the inspection opened thirty-one (31) days after it was received; however, the Complaint Audit Log excludes weekends from the calculation. Twelve (12) weekend days occurred between December 16, 2009 and January 28, 2010. Discounting the weekend days, the Division of OSH Compliance responded within thirty (30) working days.

3. Complaint 207649021 was received March 29, 2011 and opened September 2, 2010, which appears as a 208 day outlier on the Complaint Audit Log. Complaint 207649021 was added to a referral and an e-mail complaint which were already open when this complaint was received. The inspector began investigating items on Complaint 207649021 nine (9) days after receipt.

4. Complaint 207650920 was received April 17, 2011 and opened August 29, 2011. Repeated attempts were made when the complaint was received to contact the attorney who filed the complaint on behalf of his client but a call was not returned to the Division of OSH Compliance. Nevertheless, the complaint was opened to investigate the employer's failure to report the hospitalization. The Division of OSH Compliance attempted to respond within thirty (30) working days.

5. Complaint 207649526 was received April 20, 2011, and opened on June 7, 2011. The Complaint Audit Log indicates the inspection opened thirty-six (36) days after the complaint was received; however, the Complaint Audit Log excludes weekends from the calculation. Thirteen (13) weekend days occurred between December 16, 2009 and January 28, 2010. Discounting the weekend days, the Division of OSH Compliance responded within thirty (30) working days.

6. Complaint 207650078 was received June 9, 2011, and opened March 9, 2011 which appears as a ninety-two (92) day outlier on the Complaint Audit Log. Complaint 207650078 was added to another complaint which was already open. The compliance officer began investigating items on this complaint within thirty (30) days after receipt.

7. Complaint 207650250 was received May 24, 2011, and opened June 9, 2011. The receipt date was entered incorrectly into the IMIS and has been corrected. The Division of OSH Compliance responded within thirty (30) working days.

8. Complaint 207651613 was received August 17, 2011, and opened on September 27, 2011. The Complaint Audit Log indicates the inspection opened thirty-one (31) days after the complaint was received; however, the Complaint Audit Log excludes weekends from the calculation of days. As twelve (12) weekend days occurred between August 17, 2011, and September 27, 2011, the Division of OSH Compliance responded within thirty (30) working days.

9. Complaint 207651191 was received August 25, 2011, and opened May 4, 2011. The Complaint Audit Log indicates a 113 day outlier. Complaint 207651191 was an e-mail complaint and added to an unprogrammed related inspection that was already open. The inspector began investigating items on this complaint within thirty (30) days after receipt.

10. Complaint 207651308 was received August 31, 2011, and opened May 4, 2011. The Complaint Audit Log indicates a 119 day outlier. Complaint 207651308 was added to an unprogrammed related inspection and a complaint inspection that was already open. The inspector began investigating items on this complaint within thirty (30) days after receipt.

The Complaint Audit Log indicates the Division of OSH Compliance responded to all complaints alleging imminent dangers within one (1) day. The Complaint Audit Log indicates the average response time to complaints alleging serious hazards for safety was 8.9 days and 5.2 days for health. The Division's overall average is 7.3 days from the date the complaint is received to the date the inspection opened. The Complaint Audit Log indicates the average response time to complaints alleging other than serious hazards for safety was thirty-five (35) days and 17.3 days for health. The Division of OSH Compliance overall average was 18.1 days from the date the complaint was received to the date the inspection was opened.

Of the 460 complaints received in FY 2011, 177 were handled as letter complaints.

Response to Referrals

The Division of OSH Compliance responded to 460 referrals in FY 2011. Kentucky places the same level of importance to referrals as it does complaints. As provided in paragraph X.N. on Page IX - 8 of 26 in Chapter 9 of Kentucky's Field Operations Manual (FOM), serious complaints must be opened within thirty (30) working days and non-serious complaints within 120 working days. As referrals have the same importance as complaints, Kentucky's Division of OSH Compliance utilizes the same timeline in responding to referrals and stresses a five (5) day response. Utilizing this criteria, the Division of OSH Compliance met the referral response requirement for serious and nonserious hazards.

The Referral Audit Log indicates the average response time to referrals alleging imminent dangers for safety was 0.02 days, down from 2.41 days in FY 2010. The average response time for health was 0.33 days, down from 0.6 days in FY 2010. The overall average for the Division of OSH Compliance was .03 days from the date of referral received to the date the inspection opened, down from 2.37 days in FY 2010.

Fatality/Catastrophe Investigations

Only imminent danger investigations are given a higher priority in scheduling inspections by the Division of OSH Compliance than fatality/catastrophe investigations. It is the policy of the Division of OSH Compliance to investigate all job-related fatalities and catastrophes as thoroughly and expeditiously as possible. In FY 2011, forty-six (46) fatality/catastrophes were reported to the Division of OSH Compliance.

Each Division of Compliance staff personally contacts the next of kin at the outset of a fatality investigation and sends a follow-up letter providing contact information. At the conclusion of a fatality investigation, the next-of-kin receives a letter from the Director of the Division of OSH Compliance and if citations are issued, copies of the citations. If an employer contests a case in which a fatal accident occurred, the attorney assigned to the case from the Office of General Counsel also sends a letter to the next-of-kin with contact information and a request that the next-of-kin contact him or her if he or she wishes to be kept apprised of developments in the litigation.

The Investigation of Discrimination and Employee Protection from Discrimination

KRS 338.121(3) offers protection to employees from reprisals which might result from the exercise of rights afforded by the OSH statutes. A system of citations and penalties, appeals to the OSH Review Commission, and reinstatement authority by the Commissioner while final

determination is pending before the Review Commission, distinguishes the Kentucky anti-discrimination effort. In addition, 803 KAR 2:240 allows any employee who believes he or she has been discriminated against, to file a complaint within 120 days of the alleged violation, as opposed to the thirty (30) days allowed by federal law. The Division of OSH Compliance is responsible for the enforcement of the state's anti-discrimination provisions. During FY 2011, the Division of OSH Compliance received 129 discrimination complaints and opened sixty-one (61) new cases of alleged OSH discrimination. Sixty-eight (68) cases were screened and referred to other agencies or not accepted.

The average lapse time for discrimination cases was 108 days per case. One (1) case was settled without penalties, twenty-six (26) cases were dismissed with no violations, five (5) cases are still open, and seven (7) other cases were contested. Nine (9) discrimination violations were issued, two (2) of them were willful. Penalties totaling \$48,000 were issued and \$3,000 was collected. Complainants appealed six (6) no-merit findings and one (1) was found to have merit. Currently eight (8) FY 2011 discrimination cases remain open.

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

Complainants are informed when she or he calls the office of her or his discrimination rights and employees interviewed during inspections are also informed of their rights. The Division of OSH Compliance also prints discrimination rights on the back of its business cards which are given to employees and employers during inspections.

Ensuring Employees Access to Health and Safety Information

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

Kentucky's discrimination investigator, division director, and legal counsel attended OSHA's September 2011 Whistleblower Training Conference.

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

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

In FY 2011, the Division of OSH Compliance conducted thirty-six (36) inspections relating to silica, chrome 6, formaldehyde, lead, and asbestos, resulting in fifty-two (52) serious violations and six (6) other than serious violations. Penalties totaling \$62,425 were issued for the fifty-eight (58) violations.

The Division of OSH Compliance conducted four (4) process safety-related inspections resulting in five (5) serious violations with penalties totaling \$14,250.

The Division of OSH Compliance conducted twelve (12) inspections specifically related to bloodborne pathogens resulting in the issuance of thirty-one (31) serious violations and five (5) other than serious violations with penalties totaling \$51,750.

The Division of Compliance conducted twelve (12) indoor air quality inspections which resulted in seven (7) serious violations and four (4) other than serious violations. Penalties totaling \$14,250 were issued for the eleven (11) violations.

Coverage of Public Employees

KRS 338 “Occupational Safety and Health of Employees” establishes definitions for employer and employee which do not exclude public employers and public employees. The exclusions to KRS Chapter 338 cover only employees of the United States government and places of employment over which federal agencies other than OSHA have exercised statutory authority. In addition, written opinions of the Kentucky Office of the Attorney General support the Kentucky Labor Cabinet’s position that public employees are included in the Kentucky OSH Program’s jurisdiction. Therefore, Kentucky’s public employers and employees are subject to the same requirements, sanctions, and benefits as Kentucky’s private sector employers and employees. Consequently Kentucky statutes, regulations, and policies make no distinction between public and private sector employers and employees. During FY 2011, the Division of OSH Compliance conducted fifty-five (55) inspections of public sector work sites, including programmed inspections and responses to public employee complaints. This calculates to five (5) percent of the total number of Division of OSH Compliance inspections.

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

Recordkeeping and Reporting

KRS Chapter 338.161 “Statistical records – Posting of notices” requires that employers keep, preserve, and make available to the Kentucky OSH Program and the Secretary of the U.S. Department of Labor or the Secretary of the U.S. Department of Health and Human Resources, records relating to occupational safety and health as may be prescribed by regulation. Kentucky promulgated a regulation, 803 KAR 2:180, which specifically addresses occupational injury and illness recordkeeping, as well as reporting of fatalities or multiple hospitalization accidents. Kentucky’s requirement is identical to OSHA’s rule. In addition, Kentucky’s rule requires employers to report any work-related incident resulting in the in-patient hospitalization of one (1) or two (2) employees. The reporting requirement is limited to hospitalizations that occur within seventy-two (72) hours of the incident. Employers are also required to report any amputation suffered by an employee from any work-related incident. Hospitalizations of one (1) or two (2) employees and amputations must be reported to the Kentucky OSH Program within seventy-two (72) hours after the employer, his agent, or another employee is informed of such a condition.

The Division of OSH Compliance has implemented an inspection scheduling system to prioritize reported accidents and amputations. This allows compliance resources to be focused on serious hazards in the workplace. In addition, the Division of OSH Compliance is collecting information obtained from the reported accidents that will help identify specific industry sectors where serious accidents are currently occurring in the workplace. In FY 2011, the Division of OSH Compliance received 151 hospitalization reports. Seventy-four (74) inspections were

conducted with sixty-four (64) serious, fourteen (14) other than serious violations, one (1) willful violation, and one (1) repeat serious violation with penalties totaling \$318,800.

Fifty-four (54) amputations were reported in FY 2011. Fifty-one (51) inspections were conducted with thirty-seven (37) serious violations, twelve (12) other than serious violations, and one (1) repeat serious violation with penalties totaling \$145,850. Total penalties issued for amputation and hospitalization violations in FY 2011 were \$464,650.

Education, Training, and Consultation Services

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

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

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

1. The Kentucky VPP which is similar to OSHA's VPP.
2. The SPP offers long term assistance to smaller employers who have a history of high injury/illness rates and high workers' compensation costs.
3. The CPP focuses specifically on partnering with contractors and builders to address the unique issues of the construction industry.
4. The Kentucky SHARP mirrors the federal SHARP by encouraging small high hazard employers to operate exemplary safety and health management systems.

5. The Governor's Safety and Health Award Program recognizes employers who have reached certain milestones without a lost work time injury or illness.

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

SECTION III NOTEWORTHY ACCOMPLISHMENTS

Many daily activities of the Kentucky OSH Program resulted in accomplishments which were not easily measured. The impact of the on-site presence of OSH personnel; the hazards identified and corrected through inspection or consultation; and the injuries, illnesses and fatalities that were prevented, while critically important, are ones that do not easily lend themselves to be singularly classified as outstanding accomplishments. Nevertheless, the day-to-day efforts of Kentucky OSH field and office personnel should not go unrecognized. During FY 2011, there were events, activities, and results that merit attention as outstanding accomplishments.

Voluntary Compliance Program

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

The VPP Program maintained its ten (10) VPP sites, neither adding nor losing any sites during the past year. The sites include:

- Dow Corning Corp., Carrolton;
- GE Aircraft Engines, Madisonville;
- GE Lamp, Lexington;
- GE Aviation Infrastructure, Erlanger;
- Hunter Douglas Corp., Owensboro;
- International Paper Corp., Bowling Green;

L'Oreal (USA), Florence;
Performance Pipe, Williamstown;
Raytheon Corp., Louisville; and
GE Energy-Service and Repair, Louisville.

The Partnership Branch anticipated the addition of two (2) new facilities during 2011 to the VPP ranks; however, due to management changeover at one (1) facility and another was not quite ready to undergo the VPP process, the addition of two (2) new facilities did not come to fruition. The Partnership Branch is active with the two (2) facilities and anticipates their successful inclusion in the near future.

The Partnership Branch also worked very closely with several other potential VPP candidates over the past year, each in a different phase of preparation for the VPP process. Partnership consultants spent many hours conducting training to current and potential VPP facilities, with the Auditor I training class being the most requested. This is a class where Partnership safety and health consultants conduct highly detailed training for company employees on the proper way to conduct facility audits, thus helping them prepare them for the VPP audit at their facility in the future. The employees use a tagging system to identify the hazards and enter them into their tracking database for follow up for correction and possible root cause analysis, depending on the finding. The Partnership Branch was able to train over 150 employees at one (1) location, making this the largest number of employees trained in the Auditor I class at a single site. Well over 250 people were trained at various locations.

The Partnership Branch is proud to maintain its high level of professionalism and is renowned for the depth and detail of its VPP program, setting the bar high and maintaining a quality program that is unmatched anywhere in the country.

Construction Partnership Program

The Division of Education and Training continues to focus on the construction industry by promoting CPP, maintaining Association-Based Partnerships, Training-Based Partnerships and Site-Based Partnerships. Kentucky continues promoting VPPC which enables employers in the construction industry to participate in the program's premiere construction recognition program. The overall objective of VPPC is to reduce injuries, illnesses, and fatalities in the construction industry through increased construction employer participation.

The Partnership Branch continues to add new contractors/construction sites to CPP as previous partnership sites become completed and successfully run their courses. One of the more exciting additions is actually a "tri" partnership with three (3) entities involved: Messer Construction, Pikeville Medical Center, and the Labor Cabinet. Messer Construction is building a \$100,000,000 expansion for Pikeville Medical Center that includes a new medical office tower and a 1,000 space parking garage. Pikeville Medical Center, which has been awarded the "Hospital of the Year" for the second year in a row by a national recognized ranking agency, wanted to be involved in all phases of the partnership and requested to be the third member in the partnership. The project is scheduled for completion in spring 2013.

CPP added its first bridge project with Haydon Bridge, who is constructing a bridge over the Tennessee River between McCracken and Livingston counties. The Partnership Branch also made inroads into the western part of the state with the Haydon Bridge project and Scott Murphy Daniel in Bowling Green. Traditionally the Partnership branch has not had much success finding contractors in the western part of the state to participate in a CPP project. The Partnership branch is very excited about opening this door and hopefully this will lead to even more projects in this area of the state. In addition, CPP added projects at the D.W. Wilburn, Eastern Hospital

site in Lexington; Meyer Construction at the Zappos facility (a SHARP participant) in Shepherdsville; and Codell Construction, Franklin County Courthouse project in Frankfort.

The Voluntary Protection Partnership for Construction (VPPC) program maintained two (2) participants over the past year: Turner Construction whose main office is in Cincinnati, Ohio, and Miller-Valentine, main office in Dayton, Ohio. The Partnership Branch actively seeks more construction firms interested in pursuing VPPC and hopes to have one (1) identified for 2012.

SHARP and SPP Programs

The Safety and Health Achievement Recognition Program (SHARP), and the Safety Partnership Program (SPP) again saw new companies added over the past year. SHARP added six (6) new companies:

Gate Precast, Winchester;
SUN Products, Bowling Green;
ADI, Louisville;
National Office Furniture, Fordsville;
Pittsburg Tank and Tower, Henderson; and
Roll Forming, Inc., Shelbyville.

Several other companies are on the verge of meeting the requirements to become SHARP certified in Kentucky. The Partnership Branch looks forward to adding as many as four (4) new SHARP companies in 2012.

Secretary Mark S. Brown awarded SUN their SHARP certification at a plant-wide luncheon on November 10th, 2010. At the time, SUN employees had worked 5,087,143 hours without a lost time accident.

On September 22nd, 2011, Pittsburg Tank and Tower in Henderson had a SHARP ceremony celebrating their entry into the program. All employees of the facility were present as well as several local dignitaries and employees of the Labor Cabinet. A twenty (20) minute video produced by the company, chronicling the journey Pittsburg Tank and Tower had taken

over the past thirty (30) years, was shown at the celebration. It has progressed from a company where serious injury and fatalities were a part of their industry and even “accepted,” to a company that cherishes employee safety and health and has a safety management system in place that rivals the best in their industry.

Unfortunately, despite all the success, the Partnership Branch lost a SHARP site in 2011. Hendrickson Trucking, a manufacturer of large truck suspension components, was dismissed from the program due to a tremendous increase in their injury and illness rates over the past two (2) years, reflecting an overall loss of focus on safety and health. The split was amicable and the Partnership Branch hopes to work with Hendrickson in the future.

SPP is designed to assist companies who recognize they need help with their safety and health management structures, basic OSH programs, and lowering injury and illness rates. The program lasts for three (3) years with safety and health professionals from the Labor Cabinet working with the company over that time period to strengthen their programs. Stone Plastics of Cadiz was added to the SPP in FY 2011. Stone Plastics is a leading manufacturer of custom and stock plastic products for both consumer and industrial uses.

Two (2) SPP partnerships ran their course and came to an end, Felker Brothers in Glasgow, and Atkins and Pearce in Covington.

Construction Compliance Inspections

During FY 2011, Kentucky conducted a total of 520 construction inspections as identified by OSH-1 SIC codes. The Division of OSH Compliance conducted 136 construction inspections in SICs starting with fifteen (15), thirty-eight (38) in SICs starting with sixteen (16), and 100 in SICs starting with seventeen (17). Kentucky issued 236 violations for construction

hazards including twenty-five (25) other-than-serious, 232 serious, eleven (11) repeat serious, and seven (7) willful violations totaling penalties of \$619,475.

The Division of OSH Compliance utilized the construction scheduling system provided by the University of Tennessee. Although a state budget shortfall compelled the Division of OSH Compliance to maintain benchmark staffing levels, the Division of OSH Compliance continued an emphasis on construction.

In conjunction with a local compliance emphasis program, Kentucky's state specific regulation 803 KAR 2:412 specifically addresses residential construction fall protection. The regulation, which became effective on January 6, 2006, defines residential construction in Kentucky as construction work on a stand alone single family dwelling, duplex, three-plex, or four-plex structure. Employees engaged in residential construction activities working ten (10) feet or more above a lower level who are exposed to unprotected sides and edges, leading edges, hoist areas, form work and reinforcing steel, or are engaged in roofing work on roof slopes three (3) in twelve (12) or less, must be protected by guardrail systems, safety net systems, personal fall arrest systems, or a specific alternative measure established in the regulation. In FY 2011, the Division of Compliance conducted sixty-four (64) inspections in residential construction coded as N 20 RESIDENTIAL and issued fifty-eight (58) violations. The majority of the violations concerned lack of fall protection and unsafe scaffolds. Ladder violations were also frequently cited on residential sites.

From the 520 construction inspections conducted in FY 2011, the Division of OSH Compliance identified 236 hazards. Of the 236 construction hazards identified, the majority were serious violations, demonstrating a focus where serious hazards exist. The Division of

OSH Compliance issued \$619,475 in total construction penalties for 236 violations in FY 2011. Commercial construction inspections were coded as N 20 COMMERCIAL.

Compliance Emphasis on Serious Hazards

The Division of OSH Compliance maintains an emphasis on addressing serious hazards. Imminent dangers receive the highest priority. Referral and complaint hazards are evaluated using the same criteria.

The Division of OSH Compliance issued 813 serious violations in FY 2011 with penalties totaling \$1,829,050. Additionally, all but one (1) of the twenty-three (23) willful violations and some of the twenty-six (26) repeat violations were classified as serious with penalties totaling \$872,275. Five (5) failure to abate serious violations were issued with penalties totaling \$470,800.

Combustible Dust

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

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

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

The Division of OSH Compliance conducted ten (10) inspections involving combustible dust during FY 2011 resulting in one (1) willful serious, one (1) repeat serious, thirteen (13) serious and four (4) other than serious violations. Nine (9) inspections were conducted under the National Emphasis Program coded DUSTEXPL. Four (4) of the inspections were conducted as the result of explosions.

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

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

Occupational Poison Alerts

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

Professional Development

During FY 2011, the Division of Education and Training maintained four (4) dual CIH-CSP employees, one (1) CIH employee, four (4) CSP employees, four (4) OHST certified employees, and one (1) CHST certified employee.

The Office of the Federal-State Coordinator maintained one (1) CSP and one (1) CIH.

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

During FY 2011, the Division of OSH Compliance maintained four (4) OHST certified and eight (8) CHST certified employees. The Division of OSH Compliance maintains one (1) CSP who has been approved to sit for the CIH certification examination. Another employee has been approved to sit for the CSP examination while two (2) others have been approved to sit for the ASP examination. The Division of OSH Compliance continues to encourage and promote additional personnel to achieve certification in the safety and health field by maintaining two (2) safety certification position descriptions, paying for certification preparatory courses, and paying for the certification exam once it has been passed. One (1) Division of OSH Compliance safety supervisor is a Certified Public Manager and the Health Program Manager is a Certified Fundamentals Manager.

During FY 2011, the Division of OSH Compliance sent employees to certification preparation courses. The Division of OSH Compliance continues to encourage and promote additional personnel who may achieve certification in the safety and health field by maintaining two (2) safety certification position descriptions, paying for certification preparatory courses, and paying for the certification exam once it has been passed. One (1) Division of OSH Compliance

safety supervisor is a Certified Public Manager and the Health Program Manager is a Certified Fundamentals Manager.

The Division of OSH Compliance continued to send employees to OTI for training. Additionally, the Division of OSH Compliance encourages staff education as well as certification by paying full tuition for employees attending Eastern Kentucky University and Murray State University in their safety programs. In FY 2011, the Division of OSH Compliance funded graduate degrees at Eastern Kentucky University for two (2) safety compliance officers. Both are pursuing a Master of Science in Safety, Security, and Emergency Management degree.

One (1) Industrial Hygienist is pursuing a Master of Science in Safety, Security, and Emergency Management degree from Eastern Kentucky University. She is on track to complete her work in May 2012.

Since 2009, the Division of OSH Compliance has paid for five (5) compliance officers to attain a Master of Science degree.

Focused OSH Public Speaking / Presentations

In addition to the numerous presentations performed in FY 2011 by the Division of OSH Education and Training, the Kentucky OSH Program continues to serve as a resource for associations, employers, organizations, etc. requesting specialized and insightful speakers addressing various OSH-related topics. Counsel for the Kentucky OSH Review Commission and a Division of OSH Compliance safety supervisor presented a workshop at Kentucky's 27th Annual Governor's Safety and Health Conference and Exposition. Employers and employees learned about inspection procedures as well as their obligations and rights during, and following, a Division of OSH Compliance inspection.

The Director of the Division of OSH Compliance presented at the third Associated General Contractors Annual Construction Day Conference informing employers and employees of Kentucky's new penalty calculation procedure. The Director presented at the Kentuckiana Construction Users Council regarding the new penalty calculation procedure and new standards.

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

Standards Interpretation and Development

The Health Standards Specialist, who is a CIH, is pursuing CSP certification. The Standards Specialists and OSH Federal-State Coordinator provided over 500 written OSH interpretations during 2011. Additionally, hundreds of telephone inquiries received responses from both Standards Specialists and the OSH Federal-State Coordinator in 2011. Both Standards Specialists, on behalf of the Kentucky OSH Standards Board and the Labor Cabinet, completed promulgation of several regulations, which affected more than thirteen (13) Kentucky Administrative Regulations. The new Cranes and Derricks in Construction final rule, 29 CFR Part 1926-Subpart CC, occupied a considerable amount of time on the part of the Safety Standards Specialist working with Division of OSH Education and Training consultants, attending training, and participating in outreach training.

National Conference and Exposition Support

At the request of OSHA, the Kentucky OSH Program represented OSHA at the October 2011 national Planet GIE+EXPO and Hardscape North America Conference and Exposition in Louisville. According to conference organizers, the event is the 9th largest trade show in the United States. There were approximately 17,000-18,000 conference participants and approximately 950 booths. Two (2) OSH Standards Specialists and the OSH Federal-State

Coordinator staffed a booth over a three (3) day period where they responded to participants' questions and distributed material provided by OSHA. The OSH Federal-State Coordinator represented OSHA at the daily "Breakfast of Champions" events. The OSH Federal-State Coordinator also participated in a conference session entitled "Safety Panel Discussion."

The event was good exposure for OSHA and the Cabinet.

KYOSH IMPACT

The Labor Cabinet's OSH Program was on the road in FY 2011 in the OSH Program's incident response-outreach vehicle - the Incident Mobile Post and Consultation Training vehicle, dubbed the KYOSH IMPACT. The KYOSH IMPACT is a Class A state of the art multi-purpose motor coach specifically constructed to support the Division of OSH Compliance and the Division of Education and Training. The KYOSH IMPACT, made possible in 2009 through a one-time federal award, is equipped with satellite service, surveillance equipment, internal and external monitors, workstations, and a host of other devices that serve the Kentucky OSH Program, employers, and employees throughout the Commonwealth. The KYOSH IMPACT was deployed in 2011 to seven (7) events from one end of the state to the other participating in outreach efforts affecting over 8,400 people, including .

The KYOSH IMPACT was deployed to a double fatality enforcement investigation for nine (9) days and eight (8) nights.

Penalty Calculation Procedure Change

On January 1, 2011, the Division of OSH Compliance instituted an updated penalty calculation system. The updated system generally increased the average amount of penalties issued by the Division. Some of the changes included increasing unadjusted penalty amounts and changing the penalty reduction factors. Kentucky changed its history reduction and repeat

violation limits from three (3) years to five (5) years. The Division of OSH Compliance continues to calculate the final penalty by summing the percentages for a total reduction rather than performing a serial calculation.

Additional Efforts

The Kentucky OSH Program received a one (1) time federal award in FY 2011 to purchase web conferencing software, a video editing computer, video equipment, and related third party training. The Division of Education and Training will produce both live training events and recorded training programs for Kentucky OSH Program clients providing them an opportunity to gain knowledge through the Internet rather than traveling to a specific location. It will enable Kentucky OSH Program staff to greatly reduce travel time (thus saving travel related expenses) and bring a better product to the client via a far more client-friendly interface. Ultimately, a many-fold increase will be seen in the number of workers affected by the Kentucky OSH Program's training efforts. The software also provides a means to conduct Kentucky OSH Program staff meetings and training via the Internet. This will increase efficiency and save the Kentucky OSH Program money as field staff can remain at their remote locations for these events rather than travel to the Frankfort office.

The Division of Education and Training initiated the development of an online training program. The Division recognized and responded to the need for safety and health training products that are easy to access, cost-free, and readily available. Employers will find this online training resource to be extremely valuable in their efforts to educate and protect the safety and health of their employees.

The new training website, laborcabinetetrain.ky.gov, is a gateway that will lead to an electronic library of training materials related to occupational safety and health. All materials on

the site will be based on the Labor Cabinet's regulations along with industry best practices learned from extensive experience of Division safety and health consultants.

The Division is in the initial stages of developing online safety and health training products that will include both live webinars and pre-recorded on-demand training modules. All of the information will be available free of charge. Courses are being developed and the online catalogue will continue to grow as the Division's library of material increases. Initial subjects that will be presented include hazard communication, fire safety, emergency eyewash and showers, emergency action plans, personal protective equipment, and much more.

In the future, the Division will offer a number of specific training curriculums that will allow users to attain a certificate of completion once they have successfully finished all the courses in that curriculum.

The Division of Education and Training is very proud that all content is being developed in-house. The Division is not using outside contractors for any content development. Employees of the Division of Education and Training are entirely responsible for all aspects of this new program. The Division is proud of its employees' hard work and support. The Division recognizes the need for more efficient services and providing a product to clients that is more convenient, more efficient, and more economical while remaining effective in delivering safety and health training that works for Kentucky's employees and employers. The Labor Cabinet believes the new website will do just that.

Heat Blast

During the week of August 8-12, 2011, the Division of Education and Training conducted a state-wide effort to educate the working public concerning the hazards of working in

the summer heat. The prolonged bout with high humidity and high heat resulted in several cases of heat-related illnesses in Kentucky and across the Nation.

Rallying the support of all employees of the Division, efforts to conduct the 2011 “heat blast” began with the identification of target groups and central locations where affected employees would have access to information. Materials were developed and printed and Division staff fanned out across the entire Commonwealth spreading the message of heat-related dangers.

Home improvement stores, nurseries, garden centers, feed stores, contractor rental stores, and other central locations were targeted as dissemination points for heat stress publications. Countless copies of brochures and information bulletins were left in these locations with cooperation from the owners. Division staff actively engaged construction workers, pavers, mowing and landscaping crews, and selected factory employees and management.

After the week-long outreach program, the Division estimates that approximately 80,000 employees were affected by this outreach program. This is a very conservative estimate since the number of employees who received information at the centralized locations could not be counted.

The Division of Education and Training is proud of this effort and can state that no additional heat-related illnesses or deaths were reported after the outreach efforts. Plans are underway to repeat this outreach effort in 2012.