

# **Federal Annual Monitoring and Evaluation (FAME) Report**

**Michigan Occupational Safety and Health Administration (MIOSHA)**

**October 1, 2010 to September 30, 2011**

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## I. Executive Summary

### A. *Summary of Report*

The purpose of the Federal Annual Monitoring Evaluation (FAME) report is to assess the State's progress towards achieving their performance goals established in their Fiscal Year (FY) 2011 Annual Performance Plan and their progress in resolving outstanding recommendations. The guidance used in the development of this report was based on the Occupational Safety and Health Administration's (OSHA's) collective experience in conducting the FY 2009 evaluations, the FY 2010 follow-ups, and feedback from Federal and State participants. This report fully assesses the current performance of the Michigan Department of Licensing and Regulatory Affairs, Occupational Safety and Health Administration (MIOSHA) 23(g) Enforcement Program, and compares the State's program to Federal OSHA.

A five-person Federal OSHA team was assembled to accomplish the evaluation onsite at MIOSHA in Lansing, Michigan, on January 17, 2012. The OSHA team's evaluation consisted of case file reviews, review of MIOSHA's performance statistics, and staff interviews.

A detailed explanation of the findings and recommendations of the MIOSHA performance evaluation is found in the Assessment of State Performance, Section IV of this report. The summary of all findings and recommendations noted as a result of OSHA's study are found in Appendix A, FY 2011 Summary of Findings and Recommendations of this report.

The onsite evaluation confirmed implementation of previous recommendations, but also revealed new findings. One of the findings involved the classification of hazards. While MIOSHA's hazard classification process was similar to OSHA's, the review identified a number of serious hazards that were classified as other-than-serious. This finding contributed to MIOSHA's average penalty calculation for a violation being lower than OSHA's.

MIOSHA has been unable to adopt two Federal standards, Cranes and Derricks in Construction and the Standards Improvement Process Phase III. The Michigan Office of Regulatory Reinvention (ORR) is currently analyzing all MIOSHA standards. During this time, the ORR has processed few, if any, administrative rule revisions. MIOSHA anticipates target adoption dates in mid FY 2012.

MIOSHA has taken action towards addressing the 11 issues found in the FY 2010 FAME follow-up report. Seven of the issues were resolved, while four remain open. Two of the remaining issues are information management-related and will be resolved with MIOSHA's implementation of an alternative data management system, which will address the applicable issues when the new OSHA Information System (OIS) rolls out in late FY 2012. This alternative data management system will feed data into the Integrated Management Information System (IMIS). MIOSHA is currently addressing a third issue related to documentation of case files with a pilot program. The fourth issue involves staffing level benchmarks and has been a long-standing issue.

## ***B. State Plan Introduction***

The Department of Licensing and Regulatory Affairs (LARA) administers the Michigan Occupational Safety and Health Administration (MIOSHA). The program became effective on July 1, 1975. MIOSHA operates under an Operational Status Agreement with Federal OSHA. The Director of LARA is Steven H. Hilfinger who also serves as the State Designee. As of March 1, 2012, Martha B. Yoder assumed the role of Director of MIOSHA, replacing Douglas J. Kalinowski. The Deputy Director for MIOSHA is Barton G. Pickelman.

MIOSHA includes Administration, Management Technical Services Division, General Industry Safety and Health Division, Construction Safety and Health Division, Consultation Education and Training Division, and MIOSHA Appeals Division. The Management and Technical Services Division is responsible for standards adoption, information technology and laboratory operations. The General Industry Safety and Health Division is responsible for Compliance Program administration through conducting enforcement inspections in general industry workplaces. The Employee Discrimination Section is also included in the General Industry Safety and Health Division. The Construction Safety and Health Division (CSHD) is responsible for Compliance Program administration through conducting enforcement inspections related to construction. The Consultation Education and Training Division provides direct staff assistance and outreach to employers. The MIOSHA Appeals Division represents the Agency in contested cases. During FY 2011, MIOSHA Program administration was expanded to include the State's wage and hour programs. These programs, though administered by MIOSHA, are funded separately with State funds.

In FY 2011, the State's 23(g) enforcement grant included State and Federal funds totaling \$20,583,200. MIOSHA overmatched the Federal grant by \$2,237,100. The State's current enforcement staff consists of 42 safety compliance officers and 26 industrial hygienists.

The State program extends its protection to private, public, and municipal workers within the State. The program also covers non-Indian employers within Indian reservations and Indian employers outside the territorial boundaries of Indian reservations. MIOSHA does not have jurisdiction over Federal agencies, United States Postal Service, maritime workers, household domestic workers, mineworkers, and employers who own or operate businesses located within the boundaries of Indian reservations who are enrolled members of Indian tribes.

MIOSHA may promulgate standards, which may be more stringent or more specific than those of Federal OSHA. Some examples of those standards are Fire Fighting, Automotive Services, and Telecommunication Towers.

The mission of MIOSHA is to help assure the safety, health, earned, and fringe benefits of Michigan workers. The vision of MIOSHA is to enhance the quality of life and contribute to the economic vitality in Michigan.

Most noteworthy, MIOSHA has implemented the MIOSHA Leadership Institute as an initiative

for succession planning. It is offered internally and has a two-tier class structure with Level I courses and Level II courses. Level II has more advanced courses and a more advanced core curriculum. Some of the courses include Emotional Intelligence, Leading through Vision and Values, Essentials of Leadership, Personal Goal Setting, Effective Listening, Effective Time Management, Basics of Effective Communication, Conflict Management, Team Building, and Facilitating Effective Meetings. Most classes are open to MIOSHA employees to attend on a first come, first serve basis with preferential treatment afforded to new supervisors. A few Level II classes are reserved for supervisors with a minimum of six months of supervisory experience due to the assessment instruments that are used.

Stakeholder interviews provided valuable insight into Program performance during the FY 2009 review. OSHA again reached out to those individuals for updated feedback for the FY 2011 evaluation.

*The International Union, United Automobile, Aerospace and Agricultural Implement Workers of America (UAW) in Michigan has had a long standing positive relationship with MIOSHA. UAW members have served on various standards commissions and advisory committees. MIOSHA is more responsive on enforcement issues than other States and has a very good turn around time on inspections. The UAW currently receives a Consultation, Education, and Training assistance grant from MIOSHA which the UAW uses to provide safety and health related training to its membership. MIOSHA is also involved in a very active and productive partnership with Ford, ACH-LLC and Federal OSHA.*

*The Michigan Chamber of Commerce is satisfied with how MIOSHA is being operated, especially under the Snyder Administration. They have found MIOSHA to be more customer service oriented. The Michigan Chamber of Commerce challenges MIOSHA to continue to work "with" businesses to address safety and health issues and concerns.*

### **C. *Data and Methodology***

An onsite review of the Michigan OSHA workplace safety and health program was conducted from January 17, 2012 through January 27, 2012. Nine fatality inspection case files were evaluated. One hundred eleven inspection case files, comprised of safety and health, were randomly selected for review. In addition, 89 randomly selected complaints were reviewed. Seventy-seven non-formal and 12 formal complaints were reviewed. All cases occurred from October 1, 2010 through September 30, 2011.

All Michigan Voluntary Protection Program (MVPP) files were reviewed. These files included new and recertification evaluations.

In addition to reviewing the above-cited case files, the study team reviewed data gathered from all MIOSHA inspections conducted from October 1, 2010 through September 30, 2011,

including general statistical information, complaint processing, and inspection targeting. Michigan data was examined, as contained in the Integrated Management Information System (IMIS), OSHA's database system used by the State to administer and monitor its program, and by OSHA and the State to monitor the program. Compliance with legislative requirements regarding contact with families of fatality victims, training, and personnel retention was assessed.

The review also included interviews with MIOSHA's management and compliance staff and comments from various stakeholder groups were also collected. Throughout the entire process, MIOSHA was cooperative, shared information, and ensured staff was available to discuss cases, policies, and procedures.

#### ***D. Findings and Recommendations***

As a result of the review, several findings are being made for Program improvement. Highlights of the study findings are as follows: (A list of all findings is included in the Appendix A of this report.)

**Finding 11-01:** In the General Industry Safety and Health Division, the date of receipt of nonformal complaints entered into the IMIS was determined to be the date the administrative staff received the complaint and not the actual day the complaint was received by MIOSHA.

**Recommendation 11-01:** Process all complainant information upon receipt of complaint. Enter the actual date the complaint was received by MIOSHA into IMIS. Reevaluate the complaint process to reduce delays in processing complaints.

**Finding 11-04 (Formerly 10-06, 09-08):** Hazard classification did not follow the guidelines established in MIOSHA's FOM in all cases reviewed. Penalty assessment, severity/probability, and adjustment factors did not follow established MIOSHA guidance documents in all cases.

**Recommendation 11-04 (Formerly 10-06, 09-08):** Ensure management verifies during case file review that penalty assessment, severity/probability, and adjustment factors of case files follow MIOSHA guidance in all cases.

**Finding 11-07:** In the Construction Safety and Health Division (CSHD), documentation that employee representatives were given an opportunity to participate in all phases of workplace inspections was not included in all case files reviewed.

**Recommendation 11-07:** Document that "employee representatives" are given an opportunity to participate in all phases of workplace inspections.

**Finding 11-09:** The adoption of two standards, Cranes and Derricks and Standards Improvement Process, has not been completed. The adoption of these two standards is currently overdue by several months.

**Recommendation 11-09:** Ensure the adoption of these two standards by MIOSHA is a priority and adopted as soon as feasible.

## II. Major New Issues

Michigan Senate Bill No. 14, which called for repealing the Michigan Occupational Safety and Health Act, was introduced on January 19, 2011. This bill has been referred to the Committee on Appropriations. There has been no further action since the bill was introduced.

Michigan Senate Bill No. 20, which called for a ban on imposing new ergonomic regulations, was passed by both the House and the Senate and signed into law by the Governor on March 22, 2011. Senate Bill No. 20 does not apply to the adoption by reference of a Federal workplace ergonomics rule.

Michigan House Bill 4307 was passed by the House and referred to the Committee on Regulatory Reform on June 8, 2011. This bill, as proposed by the House, would include Christmas tree farms and processing operations in the same category of occupational safety workplace regulations, such as agricultural operations. There has been no further action since the bill was referred to committee.

Michigan House Bill 4326 was introduced in February 2011 and was a broader based bill to prohibit a State department or Agency from promulgating rules more stringent than required by applicable Federal standards. Additionally, the bill required systematic review of existing rules and established that Agency bulletins, interpretative Statements, etc. do not have the force of law. The Governor vetoed the Bill on December 1, 2011.

The House passed Michigan House Bill 5030 on December 8, 2011. The bill, as proposed, would prohibit MIOSHA from promulgating rules more stringent than required by Federal standards, unless specifically authorized by State statute. This bill was referred to the committee on Reforms, Restructuring, and Reinventing December 13, 2011. There has been no further action since the bill was introduced.

The Governor approved public Act Number 270 – on December 18, 2011. Paragraph 5 of the act could affect MIOSHA. The paragraph states the following,

“A guideline, operational memorandum, bulletin, interpretive statement, or form with instructions is not enforceable by an Agency, is considered merely advisory, and shall not be given the force and effect of law. An Agency shall not rely upon a guideline, operational memorandum, bulletin, interpretive statement, or form with instructions to support the Agency’s decision to act or refuse to act if that decision is subject to judicial review. A court shall not rely upon a guideline, operational memorandum, bulletin, interpretive statement, or form with instructions to uphold an Agency decision to act or refuse to act.”

The Governor created the Office of Regulatory Reinvention (ORR). Its mission is to simplify Michigan's regulatory environment by reducing obsolete, unnecessary, and burdensome rules that are limiting economic growth. MIOSHA completed a review in FY 2011 of all current standards as mandated by the ORR. Through this review, MIOSHA has identified approximately 2,000 updates/deletions/changes to standards. MIOSHA is currently waiting for a decision from the ORR on how the changes to standards will be made, either legislatively or administratively.

### **III.State Response to FY 2010 FAME Recommendations**

MIOSHA has taken action towards addressing the 11 issues found in the FY 2010 FAME follow-up report. Seven of the issues were resolved, while four remain open. Two of the remaining issues are information management related and will be resolved with MIOSHA's implementation of an alternative system that will address the applicable issues when OIS rolls out in late FY 2012. This alternative system will replace the aged Integrated Management Information System (IMIS).

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

**Update 10-01:** MIOSHA has implemented procedures that assign the task to a department analyst in each enforcement division. The department analysts ensure the appropriate letters are included in the fatality case files. This item is closed.

**Recommendation 10-02 formerly 09-01:** MIOSHA should enter abatement verification into the Integrated Management Information System (IMIS), as this is a Mandated Measure.

**Update 10-02 formerly 09-01:** MIOSHA will begin entering abatement verification upon implementation of an alternative information management system. This item remains open.

**Recommendation 10-03 formerly 09-02:** MIOSHA needs to follow their penalty calculation policy, with respect to classification of serious violations.

**Update 10-03 formerly 09-02:** MIOSHA provided training to all staff regarding penalty calculation policy, with respect to classification of serious violations. This item remains open.

**Recommendation 10-04 formerly 09-03:** Ensure a tracking mechanism, such as a diary sheet, is put in place and used effectively.

**Update 10-04 formerly 09-03:** MIOSHA is currently piloting the use of a diary sheet and will review the results to determine if a diary sheet will be used Agency wide. This item remains open.

**Recommendation Finding 10-05 formerly 09-06:** Ensure all staff are retrained on hazard classification and penalty assessment guidelines for fatalities.

**Update 10-05 formerly 09-06:** MIOSHA provided training to all staff regarding hazard classification and penalty assessment guidelines for fatalities. This item remains open.

**Recommendation 10-06 formerly 09-08:** Ensure all staff are retrained on current hazard classification and penalty assessment guidelines for inspections.

**Update 10-06 formerly 09-08:** MIOSHA provided training to all staff regarding current hazard classification and penalty assessment guidelines for inspections. This item remains open.

**Recommendation 10-07 formerly 09-10:** Changes that are made to violations and penalties through the first appeal level must be documented in the case file.

**Update 10-07 formerly 09-10:** MIOSHA completed training and a process has been implemented to ensure changes to citations in the first appeal level are appropriately documented in the case file. This item is closed.

**Recommendation 10-08 formerly 09-11:** Ensure all staff are retrained on policy for hazard classification and penalty assessment guidelines.

**Update 10-08 formerly 09-11:** MIOSHA provided training to all staff regarding hazard classification and penalty assessment guidelines. This item remains open.

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

**Update 10-09 formerly 09-12:** MIOSHA will incorporate the use of management reports upon implementation of an alternative information management system. This item remains open.

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

**Update 10-10 formerly 09-13:** MIOSHA implemented changes to ensure consistency with case file organization and contents, including forms, letters, and Final Investigative Reports (FIRs). This item is closed.

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

**Update 10-11 formerly 09-18:** Awaiting data from Federal OSHA to conduct a Special Study. This item is closed until MIOSHA moves forward to obtain 18e certification.

#### **IV Assessment of State Performance**

Through its annual performance report (refer to appendix H), MIOSHA provided information that supports positive performance in meeting their five-year strategic plan. Through effective resource utilization, partnership development, outreach activities, and an overall commitment to

performance goal achievements, many of the goals have been met or exceeded.

Information provided by MIOSHA has been reviewed and analyzed to assess its accuracy in meeting performance plan goals and the overall accomplishments. This is the third year of their five-year strategic plan.

## **A. Enforcement**

### **1. Complaints**

MIOSHA received 1,617 complaints, of which 415 (26%) were formal and 1202 (84%) were nonformal. A total of 77 closed, nonformal complaint files and 12 formal complaints were randomly selected for review. The State accepted and processed e-complaints filed through the [www.osha.gov](http://www.osha.gov) website and the State website [www.michigan.gov/miosha](http://www.michigan.gov/miosha).

The MIOSHA process for complaint processing is as follows. When a complaint is received, the administrative staff printed a copy of the complaint and attached a “buck slip,” which was used as a tracking mechanism. The complaint then was given to a manager for review and assessment. Once this was completed, the complaint was given back to the administrative staff to enter into IMIS. This process could take several days to complete. When entering the complaint into IMIS, the administrative staff has been trained to use the current date as the date the complaint was received. SAMM Indicator #2 for MIOSHA currently is 1.9 days to open complaint investigations. Review of the complaint files, noting actual receipt of complaint date, documented an increase to nine calendar days to open complaint investigations.

While the files were well organized, it was noted that few of the complaint files contained any summary of activities, such as a diary sheet. This issue was originally noted in the FY 2009 EFAME and again in the FY 2010 Follow-up FAME. Rather than using IMIS reports, MIOSHA maintains a complaint tracking log that records dates and actions taken to process and track complaints. Formal complaint documentation is not included in the inspection file. MIOSHA is currently piloting the use of diary sheets. See Finding/Recommendation 11-05.

Appropriate abatement dates were established and tracked. When necessary, dunning letters were sent to the employer to ensure all hazards were addressed. Abatement information submitted by the employer was reviewed and found to be adequate.

When the complainant’s mailing address was known, copies of the abatement were sent. Delays were noted ranging from one to 100 days, with an average of 21 days to send the final response to the complainant. Based on the files reviewed, MIOSHA did not attempt to get a mailing address for all complainants where contact information such as email addresses and/or cell phone numbers were provided.

Nine of the 77 complaints had complaint items that MIOSHA did not have jurisdiction over. These included EPA, wage and hour, and Federal employers. In each of these cases, a letter was sent to the complainant stating that MIOSHA did not have jurisdiction. When possible, an

Agency address was provided, but the complaint was not forwarded by MIOSHA to the appropriate Agency.

## Findings and Recommendations

**Finding 11-01:** In the GISHD, the date of receipt of nonformal complaints entered into the IMIS was determined to be the date the administrative staff received the complaint, not the actual day the complaint was received by MIOSHA. In accordance with OSHA Instruction ADM 1-1.31, “The IMIS Enforcement Data Processing Manual,” Chapter IV, paragraph B.1, complainant information must be processed upon initial receipt of all complaints, except discrimination complaints.

**Recommendation 11-01:** Process all complainant information upon receipt of complaint. Enter the actual date the complaint was received by MIOSHA into IMIS. Reevaluate the complaint process to reduce delays in processing complaints.

### 2. Fatalities

MIOSHA coded a total of 42 inspections as fatality/catastrophe inspections in Fiscal Year (FY) 2011. Nine (22%) of the 42 case files were reviewed, including one significant case.

Of the nine case files that were reviewed, all were opened within one day of being notified of the fatality. Three of the cases indicated that the employer did not notify MIOSHA within eight hours of the fatality. MIOSHA issued citations for failure to report a fatality in two of the inspections that indicated the employer failed to report the fatality within eight hours. MIOSHA did not issue a citation for failure to report a fatality in one of the inspections that indicated the employer failed to report the fatality within eight hours. However, it was noted that the owner of the company was the victim.

In April 2010, MIOSHA revised their instruction on “Inclusion of Victim’s Families in Fatality Investigation” to formalize their policy on sending an initial letter and a copy of the citations to the next of kin (NOK). All of the fatality inspection case files reviewed did have a copy of the initial contact letter sent to the NOK in the case files when required. One of the fatality inspection case files reviewed did not have a copy of the final NOK letter located in the case file.

MIOSHA’s policy for inclusion of the victim’s families in fatality investigations was similar to Federal OSHA’s. It required that the initial contact letter and the information form be sent to family members within five working days, issuance of the letter be documented in the case file, and the victim’s family members be provided with a copy of all of the citations issued as a result of the accident inspection within five days of issuance, if requested. In practice, MIOSHA automatically sends a sanitized copy of the case file, including citations, to the next of kin, as noted above.

Of the nine case files that were reviewed, one was coded as a “no inspection.” The “no inspection” case file involved a non-work related heart attack. All case files that were reviewed were coded correctly.

Seven (78%) of the nine case files contained good documentation and appropriate violations were issued related to the fatality inspections. Two (22%) of the nine case files did not contain adequate supporting documentation. One of the case files appeared to have been purged of supporting documentation, as there was no evidence in the case file such as photographs, field notes, or interview notes. Additionally, one of the case files did not contain documentation necessary to support a repeat citation, such as copies of 1Bs and citations from the inspection used as justification for a repeat citation.

The OSHA-170 abstract lacked detailed information about the fatalities in eight (89%) of the nine case files that were reviewed. In four of the case files, the OSHA-170 abstract was identical to the MIOSHA-36 preliminary description, which consisted of one short sentence. In one of the case files, the OSHA-170 abstract was blank. Prior to the audit, the CSHD conducted training for staff on how to properly complete the OSHA-170 at the conclusion of the fatality investigation. MIOSHA is currently in the process of updating incomplete 2011 fatality abstracts.

MIOSHA achieved its goal of reducing construction related fatalities. A five-year calendar year average of 10.86 was used as the baseline. The new five year average is 9.0, which is a 17.1% decrease and exceeds the goal of a 12% decrease.

### **Findings and Recommendations**

**Finding 11-02:** The OSHA-170 abstracts lacked a detailed summary of the circumstances that surrounded the event due to the fact that the OSHA-170 information was not being updated at the conclusion of the investigation in accordance with MIOSHA FOM, Chapter V, paragraph II.B.7.(1).

**Recommendation 11-02:** Ensure all OSHA-170 abstracts provide a detailed summary of the circumstances surrounding the event and are updated at the conclusion of the investigation.

### **3. Targeting and Programmed Inspection**

MIOSHA conducted 5,360 inspections, with 86% as programmed inspections. MIOSHA focused its programmed inspections to reduce injuries, illnesses, and fatalities in certain targeted industries. MIOSHA has a guidance document that outlines its policies for inspection targeting and General Industry Inspection Priority System for Programmed Scheduled Inspections.

The priority system adopted by MIOSHA for conducting scheduled and programmed inspections in private sector workplaces involves two major steps. In the first step, MIOSHA designates target industries. In the second step, MIOSHA generates a priority list of establishments to be inspected based on the targeted industries.

MIOSHA selects targeted industries for its recurring five-year strategic plans. The current strategic plan is the MIOSHA Strategic Plan for Fiscal Years 2009-2013, and the objectives of the plan guide program activity during the five-year period outlined by the plan. The goals in the

MIOSHA strategic plan are consistent with those of OSHA. The strategic plan defines goals that are outcome-based, rather than activity-based, thus providing clear benchmarks for evaluating performance. In the current strategic plan, two goals designate targeted industries. The industries are classified according to the North America Industry Classification System (NAICS) code. To generate the priority list, MIOSHA uses stratified, random sampling from the employer registers. The stratification is based on NAICS code.

The priority list contains a list of establishments in Michigan that have been selected for programmed inspections. The list is a random sample of Michigan employers. The establishments are pulled from publicly available and government-supplied directories of employers in Michigan. MIOSHA uses directories that have large numbers of employers and a wide array of NAICS codes. To ensure that the priority list is not a function of the data collection method of a particular directory, the directory used to generate the priority list is rotated. Additionally, MIOSHA combines lists of employers from multiple directories.

MIOSHA participates in several National Emphasis Programs (NEPs). These include combustible dust, process safety management, and facilities that manufacture food flavorings that contain diacetyl.

MIOSHA has several Local Emphasis Programs (LEPs) which include field sanitation, process safety management, residential construction, bridge painting, and ergonomics.

MIOSHA’s primary scheduling methods for construction inspections come from the University of Tennessee’s data (Dodge Reports) and a compliance observance of construction activities being conducted, as well as serious hazards noted. In addition, MIOSHA receives a list of bridge renovations and repairs from the Michigan Department of Transportation.

There were 14,199 violations cited, of which 39.1% were serious, 0.2% were willful and 3.6% were repeat violations. The amount of in compliance inspections was 28.3% for safety and 38.0% for health, while the average number of violations per inspection was 3.8.

#### **4. Citations and Penalties**

Most citations are issued from the main office in Lansing by the administrative staff person once the case file has been reviewed by the supervisor. Unlike Federal OSHA, MIOSHA does not have a six-month statute of limitations for citation issuance. However, Section 33 of the MIOSHA Act States, “In no case shall any citation be issued beyond 90 calendar days from the completion of the investigation.” Based on case file lapse time data noted below and file review, citations are issued within the required 90-day limit from opening conference.

Average Lapse Time

	MIOSHA	Federal OSHA
Safety	30 days	43 days
Health	53 days	55 days
Total Average	32 days	45 days

One hundred twenty case files were reviewed to assess adequacy of violation classification and penalty assessment. In the majority of the case files reviewed, documentation was lacking. Case files did not contain the basic documentation of an inspection/investigation, such as notes, interviews, monitoring, measurements, photographic evidence, and employer records, as required by MIOSHA FOM, Chapter VI, paragraph I.A.1. This made it difficult to determine whether policies and procedures had been followed.

In some cases, there may be differences based on the professional judgment of the compliance officer at the time of the inspection. Staff training on citation classification, probability, and severity to assure consistency and accuracy is ongoing and conducted throughout the year.

In those case files that were considered to be significant cases and where willful violations were issued, documentation that was in the case file was adequate for the type of violation cited, such as narratives, photographs, interview statements, and worksheets. Repeat violations were issued in many of the case files reviewed and the previous inspection activity was in the case file to support the violation.

MIOSHA's Percent Violations Serious/Willful/Repeat/Unclassified/Failure to Abate (SWRUF) was 43.2% in FY 2011, compared to the National Federal OSHA SWRUF of 89.1%.

#### Percent of Violations Cited Serious/Other Than Serious

	MIOSHA	Federal OSHA
Serious	39%	73%
OTS	57%	22%

Severity and probability ratings were inconsistent with the associated hazards and did not follow the MIOSHA FOM in some case files. Examples include the following:

- LOTO violations, including an employee working in a molding press, were classified as low severity and lesser probability.
- Electrical violations, including employee exposure to electrical panels and extension cords with exposed conductors, were classified as other than serious.
- Machine guarding hazards, involving employee exposure to in-running nip and pinch points and saw blades, were classified as other than serious.

Effective March 13, 2009, MIOSHA implemented the Memorandum "Penalty Considerations During Economic Downturn." This memorandum addressed timely correction of the cited hazards and payment of penalties. An additional 10% reduction in penalty may be given during the settlement process for those items abated during the inspection or during the settlement negotiation process. Abatement verification must be provided prior to the conclusion of the settlement process. An employer could receive up to 60% penalty reduction for all abated hazards.

A specific worksheet for assessing good faith was developed and implemented. While copies of this worksheet were included in the files reviewed, they contained little or no documentation to justify rating. The issue of little or no documentation to justify the rating had been previously identified in the 2009 EFAME and 2010 FAME. A total of eight categories were assessed, such as compliance, housekeeping, postings and logs, PPE, and MIOSHA Training Institute.

In FY 2008, MIOSHA’s average penalty reduction after citation issuance was 49.5%. In FY 2009, with the Instruction noted above in place, MIOSHA’s average penalty reduction increased to 53.7%. Percent penalty reduction further increased in FY 2011 to 57.6% compared with the national Federal OSHA reduction being 43.6%. As a result of MIOSHA’s classification, severity/probability assessment, and the Memorandum “Penalty Considerations During Economic Downturn,” noted above, penalties are significantly lower than OSHA’s, as noted in the chart below.

Average Penalty Per Serious Violation

	MIOSHA	Federal OSHA	% Difference
FY 2009	\$441	\$985	55%
FY 2011	\$466	\$2,133	78%

According to MIOSHA-STD-05-2 “Application of Recording and Reporting of Occupational Injury and Illness Rules,” the industrial hygienists and safety officers are required to review injury and illness records during all general industry inspections and any construction accident or fatality investigation. The MIOSHA-1 form included in all inspection files contains a section for recording an employer’s injury and illness data. While some employers were partially exempt from injury and illness recordkeeping requirements, 11 of the 50 GISHD case files reviewed involving employers that were not partially exempt lacked documentation showing that the employer’s injury and illness records were requested and reviewed.

**Findings and Recommendations**

**Finding 11-03:** Case files lacked documentation to support that employer’s injury and illness records were reviewed in accordance with MIOSHA-STD-05-2.

**Recommendation 11-03:** Ensure compliance staff document review of employer injury and illness records.

**Finding 11-04 (Formerly 10-08, 09-08):** While MIOSHA had a hazard classification and penalty assessment system that was similar to Federal OSHA, they did not follow it in all cases. Penalty assessment, severity/probability, and adjustment factors did not follow established MIOSHA guidance documents in all cases in accordance with MIOSHA FOM, Chapter VI, paragraph IV.B.

**Recommendation 11-04 (Formerly 10-08, 09-08):** Ensure management verifies during case file review that penalty assessment, severity/probability, and adjustment factors of case files follow MIOSHA guidance in all cases.

**Finding 11-05 (Formerly 10-04, 09-03):** Activity diary sheets were not found in case files to provide a ready record and summary of all actions relating to a case in accordance with Federal OSHA FOM Chapter 5, paragraph X.

**Recommendation 11-05 (Formerly 10-04, 09-03):** Develop a document, such as a diary sheet, to note all actions taken while investigating complaints.

## **5. Abatement**

There were 97 case files reviewed for abatement verification. Thirty-one (32%) of the files did not contain abatement documentation. As noted earlier in this report, documentation in the case files was limited. Therefore, we could not determine if abatement was received. When interviewed, MIOSHA managers stressed that abatement documentation was closely tracked, using an internal Excel spreadsheet, and obtained prior to closing the file.

Abatement periods were noted as “abated,” “immediately upon receipt,” or on a given specific date, which was generally less than 30 calendar days in accordance with MIOSHA’s FOM. All citations reviewed had abatement dates that were appropriate and set in accordance with this policy, which was similar to OSHA’s policy.

MIOSHA does not enter the date abatement was verified in item 22 of the OSHA-1B. Participation in IMIS, including use of all of its components, is a State Plan requirement. As a result, SAMM indicator #6 did not reflect any hazards as being abated. It is anticipated this issue will be resolved when MIOSHA implements the alternative system to OIS.

MIOSHA created an Excel spreadsheet that was accessible to all Division personnel responsible for abatement verification. The Duty Officer for both the General Industry Safety and Health Division and the Construction Safety and Health Division was responsible for tracking and obtaining abatement verification. Interviews with MIOSHA determined that the Excel spreadsheet used to track abatement is monitored closely to ensure abatement documentation is received. While this system is different from OSHA’s, it appears to be an effective tracking tool.

Case file review showed that formal letters requesting abatement documentation were sent to employers. Some of the case files contained abatement documentation from employers in the form of photos, purchase orders, and other pertinent documentation. In addition, the duty officers and supervisors follow up with a telephone call to secure abatement.

MIOSHA conducted follow-up inspections according to their policy and procedures. Division supervisors assign follow-up inspections to compliance officers on a case by case basis. In addition, the supervisors would assign other candidates for follow-up inspections based on the

classification of those violations that included issuance of willful violations, repeat and high gravity serious, and/or citations related to imminent danger situations.

## **Findings and Recommendations**

**Finding 11-06 (Formerly 10-2, 09-1):** The verified abatement date was not being entered into IMIS in item 22 of the OSHA-1B. As a result, State Activity Mandated Measure #6, “Percent of Serious/Willful/Repeat Violations Verified,” did not reflect any hazards as being abated.

**Recommendation 11-06 (Formerly 10-2, 09-1):** Ensure the date abatement is verified and is entered into the IMIS.

**Finding 11-07 (Formerly 10-09, 09-12):** MIOSHA does not use IMIS management reports to track all case file activity.

**Recommendation 11-07 (Formerly 10-09, 09-12):** To prevent duplicative work, MIOSHA should use IMIS management reports to track all case file activity,

## **6. Employee and Union Involvement**

Section 29(4) of the Michigan Occupational Safety Act requires an employee representative be given an opportunity to participate in the inspection. The MIOSHA Field Operations Manual (FOM) Chapter V, paragraph I.B.23.a. defines the term “employee representative” as:

(1) a representative of the certified or recognized bargaining agent, or if none, (2) an employee member of a safety and health committee who has been chosen by the employees (employee committee members or employees at large) as their MIOSHA representative, or (3) an individual employee who has been selected as the walk around representative by the employees of the establishment.

The MIOSHA Field Operations Manual (FOM) Chapter V, paragraph I.B.23.b., states “SO/IHs shall determine as soon as possible after arrival whether the employees at the worksite to be inspected are represented and, if so, shall ensure that employee representatives are afforded the opportunity to participate in all phases of the workplace inspection.” Of the construction inspections reviewed, 16 were Union. Union representatives participated in six (37.5%) of those inspections.

The MIOSHA Field Operations Manual (FOM) Chapter V, paragraph I.C.8.c., provides a guideline for the minimum number of interviews based on the number of employees affected by the inspection, not the total number of employees at the worksite. This guideline provides a minimum of two interviews. In 44% of the inspections reviewed (56% construction), case files did not contain documentation that indicated employee interviews had taken place during the inspection.

Documentation of employee interviews was not found in most of the case files reviewed. MIOSHA used and completed an “Inspection Guidelines” checklist, which indicated employee inspection participation.

### **Findings and Recommendations**

**Finding 11-08:** In CSHD documentation that employee representatives were given an opportunity to participate in all phases of workplace inspections was not included in all case files reviewed, in accordance with Section 29(4) of the Michigan Occupational Safety Act.

**Recommendation 11-08:** Document that “employee representatives,” as defined in the MIOSHA FOM Chapter V, Section 23, paragraph (a), are given an opportunity to participate in all phases of workplace inspections.

**Finding 11-09:** Evidence to indicate employee interviews had been conducted was not found in all CSHD case files, in accordance with MIOSHA FOM Chapter V, paragraph I.C.8.c.

**Recommendation 11-09:** Ensure employee interviews are conducted on all inspections and documentation of the interviews is included in the case files.

### ***B. Review Procedures***

There were 1,109 cases which resulted in Informal Settlement Agreements (ISA), 805 cases with First Appeal Level (settled), and 247 with Second Appeal Level.

MIOSHA’s review procedures are different from OSHA. MIOSHA has implemented a program negotiating an Informal Settlement Agreement (ISA) with the employer, preferably within five working days upon receipt of citation, but prior to 15 days after citation issuance. ISAs are offered on all inspections and citations regardless of the severity or classification of violations. This is a program designed to obtain abatement of the hazard at the earliest possible opportunity and reduce the need for appeal. The ISA currently results in a penalty reduction of up to 60%, in accordance with a Memorandum entitled, “Penalty Considerations During Economic Downturn.” The penalty reduction is offered provided the issuing division and the employer agree to a number of specified conditions. These conditions include an agreement that the employer 1) will not appeal the citation, 2) abate all items within the abatement period, 3) provide proof of abatement, 4) pay all agreed upon penalties, and 5) abide by any other mutually agreed upon actions. An employer that is interested in pursuing an ISA can contact the issuing Division by phone, fax, letter, etc.

Within 15 workdays following receipt of a citation, an employer may file a first appeal to the issuing Division for modification or dismissal of a citation item and/or any proposed penalty or an extension of time for abatement. The first appeal can result in a penalty reduction of up to 60%, providing the issuing Division and the employer agree to certain conditions, such as abatement completion and submission of this information, which are noted in the formal

settlement agreement. An employee or employee representative may appeal, in writing, the reasonableness of the abatement date(s).

If a citation is not appealed within 15 workdays of receipt, the citation becomes a Final Order of the Board of Health and Safety Compliance and Appeals (Board). Final Order citations are not subject to review by the issuing Division, unless the Bureau of Hearings establishes good cause for a late appeal.

An appeal must specify the item(s) appealed and that portion of the item (e.g., violation, abatement date, and penalty) which is being appealed, and include a certification that the appeal has been posted or given to affected employees or their representatives. If the issuing Division meets with the employer to discuss an appeal, the issuing Division will notify the employee representative and allow attendance at the meeting.

The issuing Division will notify an employer of its decision within 15 workdays of the receipt of the employer's written appeal. The decision must be posted at the location of the subject citation.

If an employer, employee, or employee representative is not satisfied with the result of the First Level appeal, they may file a Second Level appeal with the Board. The appeal must be in writing and the envelope containing the second appeal must be postmarked within 15 workdays of the receipt of the issuing Division's decision on the first appeal. If the issuing Division's decision is not appealed, then the citation becomes a Final Order of the Board.

There was a reduction in the number of hearing specialists in the MIOSHA Appeals Division due to a retirement in January 2011. The MIOSHA Appeals Division Director acted as hearing specialist to compensate for this reduction in staffing, therefore, allowing the MIOSHA Appeals Division to maintain a sufficient number of hearing specialists. The MIOSHA Appeals Division received 373 new files in FY 2011. Of the 373 files received, approximately 70 files were late appeals. Thirty-two of the late appeals filed were ultimately permitted by the ALJ to proceed through the second appeal process. In addition, five of the 373 second appeal files received in FY 2011 were Petitions for Modification of Abatement (PMA). Each of the PMA files were resolved without progressing through the Second Appeal process. The remaining 330 cases filed in FY 2011 have continued through the second appeal process. As of the commencement of this audit on January 17, 2012, 88 of 330 cases (27%) filed during FY 2011 were still pending a prehearing conference and 23 (7%) of the cases filed during FY 2011 were pending a hearing with an ALJ.

The public previously had access to a select number of MIOSHA decisions issued through 2004 through the State Office of Administrative Hearings and Rules web page at [http://www.dleg.State.mi.us/ham/boh/pdf/sr\\_bhear.asp](http://www.dleg.State.mi.us/ham/boh/pdf/sr_bhear.asp). Web access to these select MIOSHA decisions was discontinued mid-year upon a restructuring of the State Office of Administrative Hearings and Rules to the Michigan Administrative Hearing System (MAHS). The public continues to have access to a hard copy digest of MIOSHA decisions and may obtain specific

MIOSHA decisions through the Michigan Administrative Hearing System upon request and payment of a nominal fee.

The FY 2010 FAME identified an issue related to changing or eliminating violations or penalties in the post citation process. As a result, MIOSHA provided training and implemented a process to ensure changes to citations in the first appeal level are appropriately documented in the case file.

**C. Standards Adoption and Plan Changes**

**1. Standards Adoption**

Three Federal standards were required to be adopted by MIOSHA during FY 2011. The adoption of the Federal standards was not handled by MIOSHA in a timely manner.

**Federally Initiated Standards Log  
Summary for MI Report  
02/15/2012**

Federal Standard Number	Subject	Intent to Adopt	Adopt Identical	State Standard Number	Date Promulgated	Effective Date
1926(various) 2010 41	Cranes and Derricks in Construction	YES	NO	Construction Standard Part 10	In Process	In Process
1910,1915 2011 42	Working Conditions in Shipyards	----	----			
1910,15,18,19,26,28 2011 43	Standards Improvement Project, Phase III	----	----	Construction Safety Standards Parts 01, 06, 08. General industry Safety Standards Parts 01, 06, 18, 19, 21, 33, 49, 79. Occupational Health Standards Parts 302, 303, 304, 305, 307, 308, 309, 310, 311, 312, 314, 350, 431, 433, 451, 470, 474, 476, 500, 504, 511, 554, 603.	In Process	In Process

MIOSHA did not adopt the standard “Working Conditions in Shipyards,” as shipyard employment falls under the jurisdiction of Federal OSHA in accordance with 29 CFR 1952.264.

The proposed standard, in regards to Cranes and Derricks in Construction, Michigan Construction Standard (CS) Part 10, was approved through LARA’s Office of Policy and Legislative Affairs in March 2012 and was forwarded to the Michigan Office of Regulatory Reinvention (ORR) for final processing. It will then move to the Joint Committee on Administrative Rules before being filed with the Michigan Secretary of State. It is anticipated the process will be completed mid-2012. Regarding the Standards Improvement Process Phase III, from June to December of 2011, the ORR Workplace Safety Advisory Rules Committee, at

the direction of the Governor's office, analyzed all MIOSHA standards, and developed suggestions for revisions to them. During that time, few if any administrative rule revisions have been processed by the ORR. The final ORR recommendations were issued on March 12, 2012. A target adoption date for these changes is October 1, 2012.

The MIOSH Act established the General Industry Safety Standards Commission, the Construction Safety Standards Commission, and the Occupational Health Standards Commission. The Commissions are responsible for developing standards in consultation with advisory committees whose members represent the major interests affected by the proposed standard. The standards are intended to protect the health and safety of Michigan's employees. The Commission meetings are open to the general public and their comments are addressed during the meetings. Each Commission held three meetings during FY 2011. These meetings are conducted according to Act 267 of the Public Acts of 1976, Open Meeting Act. Annually, the MIOSHA Standards Section, along with the three standard Commissions, develops a table that lists the MIOSHA standards that will either be revised or promulgated. During FY 2011, there were 21 standards on the list to be updated or revised.

Michigan's standard for personnel hoisting (408.42809(2)) permits no more than two connectors to ride the headache ball of the crane in order to gain access to work areas that are otherwise inaccessible or hazardous to reach by other means, when 13 additional provisions are met. The State's standard is not considered to be at least as effective as and is in direct conflict with the OSHA standard (1926.753(c) (3)). The OSHA standard prohibits the use of the headache ball for worker transport under any circumstance to prevent falls or being crushed, which can result in serious injury or death. OSHA's position is supported by existing consensus standards.

### **Findings and Recommendations:**

**Finding 11-10:** The adoption of two standards, Cranes and Derricks and Standards Improvement Process, has not been completed. The adoption of these two standards is currently overdue by several months.

**Recommendation 11-10:** Ensure the adoption of these two standards by MIOSHA is a priority and they are adopted as soon as feasible.

### **2. Federal Program Changes (FPCs):**

All Federal Program changes were submitted timely along with Plan change information and any State initiated changes with no outliers of concern or recommendations requiring attention for the MIOSHA FY 2011 activities. MIOSHA has continued to provide timely responses to OSHA regarding their intentions to adopt all federally-initiated program changes, including those initiated during 2011.

One Federal program change, CPL 02-00-150, Field Operations Manual (FOM), where adoption was required did not apply to MIOSHA and was not adopted. MIOSHA did not adopt these changes to the MIOSHA FOM, with respect to the Federal changes to Chapters 10 and 13.

MIOSHA did not adopt changes to Chapter 10 on maritime enforcement since under the State Plan agreement maritime activities remain within the exclusive jurisdiction of OSHA. MIOSHA also did not adopt changes to Chapter 13 titled Federal Agency Field Activities as the State Plan does not conduct Federal investigations and, therefore, will not be reviewing Chapter 13, Federal Agency Field Activities.

**Federal Program Change  
Summary for MI Report  
02/15/2012**

<b>Directive Number</b>	<b>Subject</b>	<b>Adoption Required</b>	<b>Intent Required</b>	<b>Intent to Adopt</b>	<b>Adopt Identical</b>	<b>State Adoption Date</b>
CPL-02(10-06) 2011 400	Site-Specific Targeting 2010 (SST-10)	NO	YES	YES	NO	01/31/2011
CPL-02(10-07) 2011 401	Recordkeeping NEP – September 2010 Changes	NO	YES	YES	YES	12/29/2010
CPL-02-01-049 2011 402	PPE in Shipyard Employment	NO	YES	NO	N/A	N/A
STD-03-11-002 2011 403	Compliance Guidance for Residential Construction	NO	YES	YES	NO	03/25/2011
CPL-02-01-050 2011 422	PPE in General Industry	NO	YES	YES	YES	10/07/2011
CPL-03(11-01) 2011 423	NEP Microwave Popcorn Processing Plants	YES	YES	YES	YES	07/18/2011
CPL-02-00-150 2011 442	Revisions to Field Operations Manual – April 2011	YES	YES	NO	NO	N/A – Refer to Note Above in Federal Program Change Section
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	11/18/2011
CPL-02-00-151 2011 445	Commercial Diving Operations	NO	YES	YES	YES	08/26/2011
CPL-02-01-052 2011 462	Enforcement Procedures for Incidents of Workplace Violence	NO	YES	YES	YES	02/21/2012
CPL-02-11-03 2011 463	Site-Specific Targeting 2011 (SST-11)	NO	YES	NO	N/A	N/A
CPL-02-03-003 2011 464	Whistleblower Investigations Manual	YES	YES	YES	NO	12/09/11

#### ***D. Variances***

There were 19 permanent variances and 24 interim variances granted in FY 2011. During the audit, it was found variances were not being entered into the Automated Tracking System. This was addressed during the audit and all variances were entered. The variance procedures are outlined and followed in accordance with Section 27 of the MIOSH Act.

#### ***E. Public Employee Programs***

MIOSHA's Public Employee Program operates identically as the private sector. As with the private sector, public sector employers can be cited with monetary penalties. The penalty structure for both sectors is the same. MIOSHA conducted 159 public sector inspections in FY 2011, or 3% of all inspections. These inspections included complaints and programmed activity. Case file review documented the same concerns noted in the private sector inspections regarding citations and penalties.

#### ***F. Discrimination Program***

##### **1. Investigative Case File Review**

The MIOSHA Division Memorandum GISHD-MEMO-ADM-11-2 indicates that the MIOSHA Employee Discrimination Section follows OSHA's DIS 0-0.9 for guidance during their investigations and there are no MIOSHA policies or procedures manual applicable to the Employee Discrimination Section. MIOSHA has adopted the new Whistleblower Investigations Manual (WHIM), CPL 02-03-003, which went into effect shortly after the reviewing period. Three members of the discrimination staff were interviewed.

##### Complaint Intake and Screening

MIOSHA has created a "MIOSHA Discrimination Complaint" form that appears to be the official document used when docketing a complaint. It appears that any member of the MIOSHA Employee Discrimination Section who may be in the office can/will complete the intake and screening of a complaint. Information in some files suggests that the intake and screening of most complaints are conducted by the Program Manager or secretary. Several of the later files also contained a detail screening form. MIOSHA informs the complainants of their right to file with Federal OSHA as well.

##### Investigation

MIOSHA utilizes its own version of an interview statement, rather than the form provided in DIS 0-0.9 and was typically hand written. Most complainant interview statements were signed and dated but other witness statements were a mix of signed and unsigned documents. In many instances, the files contained "Narratives" memorializing information obtained during the investigation. The complainant's interview in the majority of the files did not contain the remedy that the complainant was seeking.

## Report Writing

Procedurally, the MIOSHA Employee Discrimination Section differs greatly from the OSHA DIS Manual 0-0.9. For example, MIOSHA has created their own version of applicable directives, policies, etc. through forms, documents, and sample writings, instead of using those provided through the OSHA Whistleblower Program. However, the outcomes of the cases reviewed were appropriate. Additionally, it was noted that during the course of the review period MIOSHA had begun to adopt the letters from the OSHA DIS Manual 0-0.9. One of the 20 files reviewed mirrored all of the Federal procedures, letters, and forms.

MIOSHA has created its own version of a Final Investigation Report (FIR), an “Investigation Report” that contains the basic complainant and respondent information, complaint allegation, date filed, etc. that is signed and dated by the Investigator of Record. The files also contain a “Recommendation.” These “Recommendations” appear to be a chronology of narratives from the file that are copied and pasted into this report, and they end by making a recommendation regarding the merits of the complaint. It was clear that MIOSHA began to convert to the Federal format during the course of the evaluation period. One of the 20 files reviewed had forms that were the format from the Discrimination manual.

MIOSHA does not utilize a Secretary’s Finding as in the OSHA Whistleblower Program. MIOSHA utilizes a written determination that adequately sets forth the determination and provides the respective party their right to appeal the MIOSHA finding.

## Settlement Agreement

Two of the files reviewed contained a determination of “settled” or “settled other.” These files should have contained a copy of the executed settlement agreement. A third case marked as “settled” contained an employment ban within the Agency settlement. Such a ban should be prohibited on an Agency settlement and should be settled as “settled other.” The file should also contain a memo identifying complainant’s understanding of the employment ban and their ability to obtain employment in their field of work, within their geographic area. Each of these files contained a copy of the fully executed agreement. There was nothing in the files to enable this reviewer to understand why or how this complaint was resolved through a settlement, the adequacy of the agreement, or why the agreement was an appropriate resolution of the complaint.

## Determinations

The MIOSHA Employee Discrimination Section’s overall merit rate, reinstatement rate and wages collected were below the Federal national level. Of the cases reviewed, the determination was accurate and no cases had been dismissed that should have been determined to be merit.

## Case File Management

The MIOSHA Employee Discrimination Section does not use Case Activity Worksheets/OSHA 87s generated by the Whistleblower IMIS Web System. MIOSHA has created “A Discrimination Complaint” form that contains essentially the same information contained on the Case Activity Worksheet form, with the exception of a final worksheet revealing the determination/disposition of the complaint. The final disposition is recorded in other documents in the case file, such as the MIOSHA Investigation Report.

## Timeliness

MIOSHA Employee Discrimination Section has improved their percentage of cases completed within 90 days with a 65 % completion rate.

## Withdrawn Complaints

Six of the files reviewed contained a determination of “Withdrawn.” Several of the files lacked the ability to conclude when the withdrawal was reached, and at what point the investigation was at when withdrawn.

## Respondent Notification

Respondents were served notice of the complaint. Method of service was predominately by certified mail.

## Overall Organization

The content of the files reviewed, with a couple of exceptions, did conform to the guidelines set forth in DIS 0-0.9. However, 19 of the 20 files reviewed did not separate the evidentiary materials from the correspondence material by “left side and right side.” MIOSHA adopted the Whistleblower Investigations Manual (WHIM) on December 9, 2011.

## **Findings and Recommendations**

**Finding 11-11:** The evidentiary case file organization does not follow the Whistleblower Investigations Manual (WHIM) as displayed in CPL 02-03-003, Chapter V, Paragraph III.B.1-3.

**Recommendation 11-11:** Follow WHIM to ensure consistency with case file organization and contents, including forms, letters, Final Investigative Reports (FIR s) and settlement agreements.

## **2. Program Management**

### Accuracy, Completeness of Data Entry and Timeliness

MIOSHA has created their own sample letters, forms, reports, etc. utilized in the Whistleblower Program. Deference was granted where the document could be related to a form or sample

document provided in DIS 0-0.9. Some examples were the “Investigation Report” that was accepted in lieu of a Final Investigation Report and closing letter to complainant and/or Respondent in lieu of a Secretary’s Finding. It should be noted that MIOSHA began to structure their program to the Federal Program during the review period. One of the 20 files reviewed did mirror a Federal case file. As discussed earlier, MIOSHA Employee Discrimination Section has also improved their percentage of cases completed within 90 days, with a 65 % completion rate.

#### Internal Quality Control

The information in each case file was compared with that entered in the Whistleblower Web Based (IMIS) System. It appears that the majority of the data entries in the IMIS are made by the MIOSHA Employee Discrimination Section Secretary, rather than the Investigator of Record. The information reveals a limited use of the IMIS with only basic allegation and respective party information. It does not appear that MIOSHA uses the Case Activity Worksheet, or utilizes case comment or additional tracking information.

### **Findings and Recommendations**

**Findings 11-12:** MIOSHA enters limited whistleblower information such as, basic allegation and respective information, into the IMIS.

**Recommendation 11-12:** Ensure that all required information is entered into IMIS.

### **3. Resources**

MIOSHA received 151 cases and completed 127 cases during the reviewing period. MIOSHA’s Employee Discrimination Section experienced a change in staff during the same time period. During the latter portion of the reviewing period and, to date, the discrimination staff experienced a vacancy of one full-time Investigator. MIOSHA may not be able to fill this position until the end of the current Fiscal Year. MIOSHA has begun the process of cross training other personnel in discrimination until the position can be filled. This will ease the burden of completing 151 cases between two full-time employees and a supervisor that is limited to 10% field work. In addition, each Investigator interviewed verified that they had received all required training.

#### ***G. Complaints About State Program Administration (CASPA)***

Five CASPAs related to MIOSHA were filed in FY 2011. Four of the five CASPAs have been closed, with one pending completion of the investigation. A description of each CASPA is included below.

Complainant alleged dissatisfaction with a complaint filed with MIOSHA on 7/12/2010. Based on the information contained in the case file and interviews with the MIOSHA compliance staff, it was determined that MIOSHA did not notify the complainant regarding the results of their investigation in a timely manner. It was recommended that MIOSHA establish feasible timeframes to notify complainants about the status of their

investigations and date stamp or annotate on the case file diary sheet when abatement information was received in their office.

Complainant alleges that State is not following noise Instruction; no LEP for Collision Repair Shops; confined space hazards not reviewed; and insufficient staffing for Macomb and Oakland counties. Our investigation found that MIOSHA followed proper policies and procedures. These policies and procedures are at least as effective as federal OSHA's.

Complainant alleges that whistleblower complaint was not properly investigated by MIOSHA. Our investigation into these allegations found that MIOSHA followed proper policies and procedures. These policies and procedures are at least as effective as federal OSHA's.

The complainant alleged an ergonomic complaint dated February 7, 2011 against General Linen Supply was not investigated. Instead, MIOSHA conducted a discrimination investigation. Our investigation found that MIOSHA had an ongoing inspection opened at the facility. This CASPA was closed with no further action taken.

Of the four closed, two found MIOSHA's policies and procedures were at least as effective as Federal OSHA's. In one case, a recommendation to provide the complainant with the inspection finding in a timely manner was made to MIOSHA. In regards to the fourth CASPA, it was determined an investigation was not warranted, as an inspection related to the issue was open at the time the CASPA had been received.

## ***H. Voluntary Compliance Programs***

MIOSHA actively supports three Cooperative Programs which are Alliances, Partnerships and the Voluntary Protection Program (MVPP). Each Program was reviewed and evaluated.

### **1. Alliances**

MIOSHA is not required to have an Alliance Program similar to OSHA Alliance Program CSP 04-01-001 (06/10/04). However, MIOSHA does have Alliances with Associations in place. The MIOSHA Instruction for the Alliance Program was reviewed and found to be consistent with the Federal Program. A total of 13 Alliance files were reviewed. Signed copies of the current Alliances are maintained along with copies of the annual reports. At the time of the onsite, approximately 30% of the Alliances did not have annual reports completed.

### **2. Partnerships**

The MIOSHA Instruction for their Partnership Program was reviewed and found to be consistent with the Federal Program. As with Federal OSHA, the majority of the Partnerships are with construction sites. Folders are maintained for each agreement. The folders included the signed agreement, meeting notes, and the annual evaluation.

It also should be noted that MIOSHA signed a partnership with International Union, United Automobile, Aerospace and Agricultural Implement Workers of America UAW/ACH-LLC/Ford, and Federal OSHA during FY 2011. This was the first time that one Partnership document was signed by all parties. In the past, while MIOSHA actively participated in the Partnership with Ford, a separate agreement had been signed.

### **3. Voluntary Protection Program (MVPP)**

The MIOSHA Voluntary Protection Programs Policy and Procedures Manual (VPPPPM) was reviewed and found to be as effective as OSHA's policy. MIOSHA's VPP afforded the same exemptions as the Federal Program. MVPP companies were exempt from programmed inspections while in the Program.

A folder is maintained for each of the sites. This folder included the application, initial report/worksheet, any recertification reports, and all correspondence with the company including correspondence sent to the unions at the site. The files were well maintained.

As needed, Medical Access Orders (MAO) (MIOSHA's Written Access Order (WAO) is comparable to OSHA's MAO.) were obtained. If needed, a WAO could be obtained in 24 hours or less.

MIOSHA uses a Control Log to track the status of each site to ensure that recertifications are completed in a timely manner.

A total of 15 MVPP files (new and recertifications) were reviewed. MIOSHA followed their MVPPPPM. A diary sheet was maintained for each file, which allowed for an easy status review. Onsite evaluations were conducted in a timely manner. Ninety-day items, if found, were tracked until completion. The time from the onsite evaluation to the final report was longer than expected. The time ranged from 23 to 205 days, with the average being 96 days.

The makeup of the Evaluation Team was appropriate. The Team Leader was trained and experienced. Team Members brought necessary experience and knowledge to ensure all aspects of the company would be fully reviewed. Prior to the Team conducting an evaluation at a Process Safety Management (PSM) site, a PSM expert completed their evaluation of the company. The evaluation of the company did not move forward if all PSM issues were not in good order.

#### ***I. Public Sector On-site Consultation Program***

In FY 2011, the Public Sector Consultation Program conducted a total of 16 visits, which was 2.8% of all consultation visits. Of these 16 visits, 12 were classified as initial, four were training and assistance, and two were follow-up. Employees were interviewed during each of these visits. A total of 30 serious hazards were identified and abated within established timeframes. Over 280 public sector employees were removed from workplace hazards.

The 23(g) Consultation Program not only provides assistance to public workers, they also effectively manage the MVPP, Alliance and Partnership Programs.

## ***J. Program Administration***

### **1. Training**

MIOSHA has developed and implemented their own Training Program and Training Instruction, MIOSHA-TRG-04-1R5, which addressed the overall training needs of the MIOSHA staff. The Instruction states:

“Each employee shall have the opportunity to attend at least one technical and one non-technical course per fiscal year, as funding permits.”

The Instruction does not include a specific listing of required courses for new hire CSHOs. A list of the specific training classes required for new CSHOs is established by each enforcement Division and is included in Division Training Instructions “MIOSHA-TRG-04-1R5” MIOSHA Staff Training effective September 13, 2010.

MIOSHA developed and uses a “New Hire Checklist” to monitor the training for all new CSHOs. This Checklist included monitoring of the four-month training program developed specifically for each new CSHO. This training includes the following:

- Mentoring with an experienced and trained senior compliance officer
- Classroom training on the MIOSHA Act
- Classroom training on MIOSHA standards, administrative rules and Agency manuals
- Testing for competency of all issues at the end of four months (70% or higher)
- PPE assigned and training on use
- Defensive driving course
- Evaluations or mentoring activities

MIOSHA maintained all training records in a database. MIOSHA currently is updating and verifying this data.

Annually, a training plan is developed and submitted for approval. All MIOSHA employees received training annually for at least one course. This training varies from formal training at the MIOSHA Training Institute (MTI) or OTI to in-house training. Additionally, the training plan for each MIOSHA employee must include at least a day of formal cross training. This cross training might include an administrative staff member going out onsite with a compliance officer or a manager training with an administrative staff member.

The MIOSHA Leadership Institute is a succession training program that was developed by the State. In FY 2011, MIOSHA Leadership Institute was open, however, only two classes were held due to low enrollment. MIOSHA plans to offer classes again in FY 2012. MIOSHA also provided “connecting” training to all field staff. This training was a series of courses, which

provided the staff with communication tools they can use when working with other divisions, disgruntled employers, or difficult complainants.

## 2. Funding

During FY 2011, the MIOSHA Program operated within the State budget restrictions placed on the Agency, especially as it related to out of State travel. As noted above, an annual training plan was developed and submitted for approval at the beginning of the year. All in and out of State training was approved.

Total State and Federal funds allocated to the MIOSHA 23(g) Program for FY 2011 was \$22,664,800. MIOSHA overmatched the Federal grant by \$2,081,600. MIOSHA did not de-obligate any funds during the Fiscal Year. MIOSHA did not apply for any one-time funding monies as they had in the past.

## 3. Staffing

No furloughs were required in FY 2011. While staffing levels remained below established benchmarks, the State filled two vacant safety and one health position.

The benchmark for safety compliance officers is 56. MIOSHA has 42 (75%) of these positions filled. The benchmark for health compliance officers is 45 with 26 (58%) filled. MIOSHA has been unable to meet staffing benchmarks, specifically for health compliance officers, but is not required to do so, as the State has not sought final approval of 18(e) status.

### Michigan Benchmarks and Staffing

		FY 06	FY 07	FY 08	FY 09	FY 10	FY 11
Safety	Benchmark	56	56	56	56	56	56
	Positions Allocated	56	49	51	47	47	45
	Positions Filled	56	49	50	44	40	42
	Vacancies	1	0	1	3	7	3
	% of Benchmarks Filled	100%	88%	89%	84%	71%	75%
Health	Benchmark	45	45	45	45	45	45
	Positions Allocated	24	23	31	25	25	30
	Positions Filled	24	23	30	24	25	26
	Vacancies	0	0	1	1	2	4
	% of Benchmarks Filled	53%	51%	67%	53%	56%	58%

## 4. Information Management

MIOSHA is currently pursuing the implementation of an alternative information management system to replace the Integrated Management Information System (IMIS). MIOSHA plans to implement this new system in late FY 2012. MIOSHA opted to use this alternative system due to the fact this system will provide a much more robust data analysis/data management capability

compared to the OIS. Information from this new alternative system will feed information into OSHA's IMIS.

Currently, MIOSHA enters inspection data into IMIS. They have developed an alternative manual tracking system, rather than using the IMIS management reports. This tracking system, an Access database, tracks all complaint and inspection activity from receipt to inspection, as appropriate, to final abatement and file closeout. While the database appeared to be effective, this was duplication of work, since IMIS reports were available. One employee routinely monitors the system for outstanding abatement deficiencies to ensure all abatement is submitted and the file closed out.

Data entry is completed in one central location. All case files are sent via disk for submission into OSHA's IMIS, which created some delay in IMIS data entry. The administrative staff enters the files and makes a copy for the supervisors to review. After the file is finalized, the citations are assembled, printed, signed by the supervisor, and mailed. MIOSHA's tracking system is updated manually as files move through the system. Some form of an internal tracking system has been in place since MIOSHA joined IMIS.

MIOSHA GISHD completed work on an Access Database called the "Universal Log." The Universal Log combines the tracking spreadsheets that were being used into one central database. The Universal Log aids in the workflow as several staff members have the ability to access the log and work in it at the same time. GISHD has the ability to customize reports based on specific needs and has developed standardized reports, such as the "CSHO Performance Detail" and "CSHO Performance Summary." These reports provide information, such as inspections assigned per safety officer, violations cited, where the case is in the process, and detailed lapse time data. Another standardized report, "Injury-Illness Assignments," tracks inspections generated by the review of Workers Compensation Data. A weekly report called "IMIS Professional Weekly Report" is sent out to management every Monday. This report identifies all inspections over 45 days. The director of GISHD requires all inspections over 45 days to submit a status report, as MIOSHA case files must be closed at 90 days.

Debt collection is handled by each respective division. In GISHD the checks that come in the mail for penalty payment go from the mail room directly to Receipt Accounting. The MIOSHA staff uses the department system, as well as IMIS, by entering the form 163 once a penalty payment has been received. They also maintain documentation in the Universal Log.

If penalty payment has not been received within 30 days, a debt collection letter is sent to the employer. After the next 30 days, a pink slip is placed on the file. The file is then given to the supervisor for follow-up with the employer. If a penalty payment is not received, the file is transferred to the Michigan Treasury Department. Once the Treasury Department has collected the penalties, the record of the transaction is sent to MIOSHA and it is entered into both Federal and State databases.

MIOSHA closes cases in the IMIS once satisfactory abatement has been documented, including cases with unpaid penalties. Unpaid penalty cases are sent to the Michigan Department of

Treasury for collection. The cases are tracked by MIOSHA. Treasury notifies MIOSHA when a collection is made and the company is removed from the list.

## 5. State Internal Evaluation Plan

MIOSHA State Internal Evaluation Plan (SIEP) for FY 2011

In FY 2011, OSHA notified MIOSHA that it had completed a single audit of MIOSHA's use of funds related to OSHA State Plan and American Recovery and Reinvestment Act grant programs for the biennial ending September 30, 2008. The report identified approximately \$18,000 in non-approved charges.

MIOSHA focused on an audit of the Employee Time Certification (ETC) system used to track employees' activities. This audit was conducted to ensure that appropriate funds are used as intended and to ensure the system is in compliance with Federal laws and regulations regarding allowable costs/cost principles. The audit of the ETC identified several issues, which were subsequently corrected.

## V. Assessment of Progress in Achieving Annual Performance Goals

The following summarizes the activities and/or accomplishments for each of the goals for Fiscal Year 2011 performance goals.

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

**Performance Goal #1.1A-1-13:** Reduce the rate of worker injuries and illnesses by 20% in high hazard industries by the end of the five-year plan, which is 2013. MIOSHA will focus on 13 different industries. Once the goal has been met, the industry may be dropped from the Annual Performance Plan (APP). The results are shown in the table below. At the end of the third year, MIOSHA has already met or exceeded three industry goals and has made progress towards meeting the five-year goal for the others.

Goal #	Industry	Baseline	Results	Comments
1.1A-1	Beverage and Tobacco Product Manufacturing	9.2	7.5	Decrease of 18.5% -5 year goal not met
1.1A-2	Wood Products Manufacturing	8.0	8.3	Increase of 3.8% - 5 year goal not met
1.1A-3	Plastics and Rubber Products Manufacturing	8.3	5.6	Decrease of 32.5% - goal met – 5 year goal met
1.1A-4	Nonmetallic Mineral Product Manufacturing	10.0	4.6	Decrease of 54% - 5 year goal met
1.1A-5	Primary Metal Manufacturing	8.4	7.9	Decrease of 6% - 5 year goal not met

1.1A-6	Fabricated Metal Product Manufacturing	8.9	7.6	Decrease of 14.6% - 5 year goal not met
1.1A-7	Machinery Manufacturing	6.3	4.8	Decrease of 23.8% - 5 year goal met
1.1A-8	Transportation Equipment Manufacturing	8.2	7.4	Decrease of 9.8% - 5 year goal not met
1.1A-9	Recyclable Material Merchant Wholesaler	4.6	3.9	Increase of 15.2% - 5 year goal not met
1.1A-10	Merchant Wholesalers, Nondurable Goods	5.6	6.3	Increase of 12.5% - 5 year goal not met
1.1A-11	Landscaping Services	N/A	N/A	**
1.1A-12	Hospitals	9.0	8.4	Decrease of 7.1% - 5 year goal not met
1.1A-13	Nursing and Residential Care Facilities	9.0	10.6	Increase of 17.8% - 5 year goal not met

\*\* Goal 1.1A-11 – Although Michigan specific BLS injury illness data is not available for Landscaping Services, MIOSHA has conducted 43 inspections in this industry. A total of sixty serious citations have been issued. MIOSHA will continue to work with BLS to obtain State injury/illness data for this industry.

**Performance Goal 1.2:** Reduce by 20% (4% percent per year) the rate of worker injuries, illnesses, and fatalities in general industry workplaces experiencing high rates or with targeted hazards or exposures not covered by Emphasis 1.1.

**Results:** This goal was a two-part goal.

- Part 1 was to reduce the incidence rate, total recordable cases (TRC) per 100 full-time workers. MIOSHA exceeded this goal. A 16.9% reduction to 5.9 was obtained.
- Part 2 was to reduce the number of fatalities. This goal was met. General industry fatalities for calendar year 2007 were 20 compared to three in calendar year 2010. This is a reduction of 56.7% and exceeds the goal of 12% for year three.

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

**Results:** MIOSHA exceeded this goal. A five-year calendar year average, 10.86, was used as the baseline. The new five-year average is 9.0, which is a 17.1% decrease, which exceeds the goal of a 12% decrease.

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

**Results:** The days away, restricted, transferred (DART) rate for CY 2010 was 2.0, which is a 33.3% decrease from the baseline of 3.0. The new five-year average is 2.08, which is a 44% decrease. This exceeds the year three goal of a 12% reduction.

**Performance Goal 2.1:** Safety and Health Management Systems (SHMSs) will be promoted during all MIOSHA contacts. General industry and construction establishments that are subject

to a MIOSHA visit (programmed/comprehensive inspection or consultation hazard survey) will have a SHMS evaluation.

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

**Performance Goal 2.2:** Increase by 50 the number of MTI certificate holders by marketing the MIOSHA Training Institute to targeted groups.

**Results:** MIOSHA exceeded their goal of 50 MTI certificate holders. In FY 2008, which is used as the base line during which MIOSHA issued 30, MIOSHA issued 122 certificates in FY 2011. The goal was exceeded by 92.

In FY 2008, a total of 1,801 students attended a course at the MIOSHA Training Institute (MTI). In FY 2011, 2,628 students attended, which was a 46% increase.

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

**Results:** MIOSHA continued to promote their Cooperative Programs through press releases, media advisories, MIOSHA News and seminars. The results of their activities are noted below.

	FY 2011 Goal	FY 2011 Results	Comments
MVPP	3	3	Met goal
MSHARP	2	7	Exceeded goal
New CET	10	14	Exceeded goal
Michigan Challenge	6	0	Did not meet goal
Alliances	2	0	Did not meet goal
Partnerships	1 or 2	3	Exceeded goal

**Performance Goal 2.4:** Provide safety and health awareness during every intervention.

**Results:** The baseline injury and illness rates for all Michigan industries (including State and Local government) had a DART of 2.4 and TRC of 4.9 (BLS, 2007). In FY 2011, the Michigan DART of 2.1 and TRC of 4.3 (BLS, 2010) equals a 12.5% decrease and a 12.2% decrease, respectively, for year three.

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

**Results:** In September 2011, the MIOSHA Cross Cultural Team administered a survey to all new MIOSHA staff that had been hired since January 2011. The survey was conducted to determine how effective MIOSHA’s training effort has been and to identify areas that could be improved upon. New MIOSHA employees returned 70% of the surveys. The survey included 17 questions with five of the questions having an additional space to provide more information and comments.

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

**Results:** MIOSHA received 575 Comment/Suggestion Cards during Fiscal Year 2011. Results included the following.

- 97.2% “Useful” on “How would you rate your overall experience with MIOSHA?” (559/575)
- 97.2% “Yes” on “Did you find the staff to be knowledgeable about employee safety and health issues?” (559/575)
- 86.8% “Yes” on “Did the staff explain how to correct the safety and health hazards they identified?” (499/575)

**Performance Goal 3.2A:** Respond to 97% of complaints within 10 working days for the Enforcement Division.

**Results:** MIOSHA conducted 379 out of 387 complaints within 10 days (97.9%).

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

**Results:** MIOSHA initiated all fatality and catastrophe investigations within one day and met this goal.

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

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

	FY 2008 Baseline	FY 2013 Goal	FY 11 Results	Comments
General Industry Safety	65.28	58.75	45.11	31% decrease
General Industry Health	67.70	60.93	69.00	2% increase
Construction Safety	51.9	38.99	45.43	12.5% decrease
Construction Health	64.8	54.54	56.53	12.8% decrease

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

**Results:** Promulgate 100% of standards required by OSHA within six months. Accomplished 50% of original goal. Promulgate 80% of other standards within deadlines established by an annual Standards Promulgation Plan. Accomplished 17% of original goal. Many standards are in the late stages of promulgation. However, for FY 2011, the Governor of Michigan created a committee to review all of MIOSHA's standards. MIOSHA was informed that no significant revisions to existing rules would occur until this review was completed. The committee completed its review and has recommended numerous changes, however, the process on changing the rules has not been released.

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

**Results:** A total of 208 computers (40 desktops and 168 laptops) were purchased to replace older systems or outfit new field staff. This brings all computers under warranty. The analyst position has been filled and fully utilized. All field staff are outfitted with SecureID. Training sessions were provided to select staff in Outlook, Excel, and PowerPoint.

**Appendix A - FY 2011 Summary of Findings and Recommendations**

<i>REC #</i>	<i>Findings</i>	<i>Recommendations</i>	<i>Related FY 10/FY09 REC #</i>
<b>11-01</b>	In the GISHD, the date of receipt for nonformal complaints entered into the IMIS was determined to be the date the administrative staff received the complaint, not the actual day the complaint was received by MIOSHA. In accordance with OSHA Instruction ADM 1-1.31, "The IMIS Enforcement Data Processing Manual," Chapter IV, paragraph B.1, complainant information must be processed upon initial receipt of all complaints, except discrimination complaints without alleged safety and health hazards.	Process all complainant information upon receipt of complaint. Enter the actual date the complaint was received by MIOSHA into IMIS. Reevaluate the complaint process to reduce delays in processing complaints.	New
<b>11-02</b>	The OSHA-170 abstracts lacked a detailed summary of the circumstances that surrounded the event due to the fact that the OSHA-170 information is not being updated at the conclusion of the investigation in accordance with MIOSHA FOM, Chapter V, paragraph II.B.7.(1).	Ensure all OSHA-170 abstracts provide a detailed summary of the circumstances surrounding the event and are updated at the conclusion of the investigation.	New
<b>11-03</b>	Case files lacked documentation to support that employer's injury and illness records were reviewed in accordance with MIOSHA-STD-05-2. Additionally, DART rates were not calculated in accordance with OSHA FOM Chapter 5, paragraph II.B.13.	Ensure compliance staff review employer injury and illness records and calculate DART rates.	New

<i>REC #</i>	<i>Findings</i>	<i>Recommendations</i>	<i>Related FY 10/FY09 REC #</i>
<i>11-04</i>	While MIOSHA had a hazard classification and penalty assessment system that was similar to Federal OSHA, they did not follow it in all cases. Hazard classification did not follow the guidelines established in MIOSHA's FOM. Penalty assessment, severity/probability, and adjustment factors did not follow established MIOSHA guidance documents in all cases in accordance with MIOSHA FOM, Chapter VI, paragraph IV.B.	Ensure management verifies, during case file review, that penalty assessment, severity/probability, and adjustment factors of case Files follow MIOSHA guidance.	10-08, 09-11 10-03 10-05, 09-06 10-06, 09-08
<i>11-05</i>	Activity diary sheets were not found in case files to provide a ready record and summary of all actions relating to a case in accordance with Federal OSHA FOM Chapter 5, paragraph X.	Develop a document, such as a diary sheet, to note all actions taken while investigating complaints.	10-04, 09-03
<i>11-06</i>	The verified abatement date was not being entered into IMIS in item 22 of the OSHA-1B. As a result, State Activity Mandated Measure #6, "Percent of Serious/Willful/Repeat Violations Verified," did not reflect any hazards as being abated.	Ensure the date abatement was verified is entered into the IMIS.	10-02, 09-01
<i>11-07</i>	In CSHD, documentation that employee representatives were given an opportunity to participate in all phases of workplace inspections was not included in all case files reviewed in accordance with Section 29(4) of the Michigan Occupational Safety Act.	Document that "employee representatives," as defined in the MIOSHA FOM Chapter V, Section 23, paragraph (a), are given an opportunity to participate in all phases of workplace inspections.	New
<i>11-08</i>	MIOSHA does not use IMIS management reports to track all case file activity.	To prevent duplicative work, MISOAH should use IMIS management reports to track all case file activity	10-09, 09-12

<i>REC #</i>	<i>Findings</i>	<i>Recommendations</i>	<i>Related FY 10/FY09 REC #</i>
<i>11-09</i>	Evidence to indicate employee interviews had been conducted was not found in all CSHD case files in accordance with MIOSHA FOM Chapter V, paragraph I.C.8.c.	Ensure employee interviews are conducted on all inspections and documentation of the interviews is included in the case files.	New
<i>11-10</i>	The adoption of two standards, Cranes and Derricks and Standards Improvement Process, has not been completed. The adoption of these two standards is currently overdue by several months.	Ensure the adoption of these two standards by MIOSHA is a priority and they are adopted as soon as feasible.	New
<i>11-11</i>	The evidentiary case file organization does not follow the Whistleblower Investigations Manual (WHIM), as displayed in CPL 02-03-003, Chapter V, Paragraph III.B.1-3.	Follow WHIM to ensure consistency with case file organization and contents, including forms, letters, Final Investigative Reports (FIR s) and settlement agreements.	New
<i>11-12</i>	MIOSHA enters limited whistleblower information such as, basic allegation and respective information, into the IMIS.	Ensure that all required information is entered into IMIS.	New

**Appendix B - State Actions Related to FY 2010 FAME Follow-up Recommendations**

<i>REC #</i>	<i>Findings</i>	<i>Recommendations</i>	<i>Response/Corrective Action Taken</i>	<i>Status</i>	<i>Related FY 09 REC #</i>
<b>10-1</b>	Three fatality case files were reviewed. As recommended in FY 2009, the NOK letters were included in the file. It was noted that MIOSHA was sending either the initial letter notifying the victim's family of the investigation or the final letter with a copy of the citations. Both letters were in none of the files reviewed.	Ensure that both the initial NOK letter stating that MIOSHA is conducting an investigation and the final closeout letters are maintained in the file.	MIOSHA has implemented procedures that assign the task to a department analyst in each enforcement division. The department analysts ensure the appropriate letters are included in the fatality case files.	Closed	new
<b>10-2</b>	MIOSHA did not enter abatement verification into the IMIS System. Instead, it is entered into an Excel spreadsheet.	MIOSHA should enter abatement verification into the IMIS system as this is a Mandated Measure.	MIOSHA will begin entering abatement verification upon implementation of an alternative information system in place of the OIS, once it rolls out.	Open	09-1
<b>10-3</b>	MIOSHA penalty calculation policy has resulted in low average penalty assessments. MIOSHA's initial penalty, per serious violation, is \$692.37, which is below the national reference data by 51.9%.	MIOSHA needs to follow their penalty calculation policy with respect to classification of serious violations.	While MIOSHA provided training to all staff regarding penalty calculation policy with respect to classification of serious violations in FY2011, this issue still existed during the FY2011 FAME audit.	Open	09-2
<b>10-4</b>	The complaint files, formal and nonformal, did not include a mechanism to track actions taken while handling the file.	Ensure a tracking mechanism, such as a diary sheet, is put in place and used effectively.	MIOSHA is currently piloting the use of a diary sheet and will review the results to determine if the diary sheet will be used Agency wide.	Open	09-3
<b>10-5</b>	While MIOSHA recognized hazards and issued citations, not all of the hazards were appropriately classified per their FOM.	Ensure all staff is retrained on hazard classification and penalty assessment guidelines for fatalities.	While MIOSHA provided training to all staff regarding penalty calculation policy with respect to classification of serious violations in FY2011, this issue still existed during the FY2011	Open	09-6

<i>REC #</i>	<i>Findings</i>	<i>Recommendations</i>	<i>Response/Corrective Action Taken</i>	<i>Status</i>	<i>Related FY 09 REC #</i>
			FAME audit.		
<b>10-6</b>	While MIOSHA had a hazard classification and penalty assessment system that was similar to Federal OSHA, they did not follow it in all cases. Hazard classification did not follow the guidelines established in MIOSHA's FOM. Penalty assessment, severity/probability and adjustment factors did not follow established MIOSHA guidance documents in all cases.	Ensure all staff is retrained on current hazard classification and penalty assessment guidelines for inspections.	While MIOSHA provided training to all staff regarding penalty calculation policy with respect to classification of serious violations in FY2011, this issue still existed during the FY2011 FAME audit.	Open	09-8
<b>10-7</b>	There was no documentation to support or explain why changes were made to the violations and penalties in some case files.	Changes that are made to violations and penalties through the first appeal level must be documented in the case file.	MIOSHA completed training and a process has been implemented to ensure changes to citations in the first appeal level are appropriately documented in the case file.	Closed	09-10
<b>10-8</b>	MIOSHA had a hazard classification and penalty assessment system that was similar to Federal OSHA; they did not follow it in some case files. Hazard classification did not follow the guidelines established in MIOSHA's FOM. Penalty assessment, severity/probability and adjustment factors did not follow established MIOSHA guidance documents in some case files.	Ensure all staff are retrained on policy for hazard classification and penalty assessment guidelines.	While MIOSHA provided training to all staff regarding penalty calculation policy with respect to classification of serious violations in FY2011, this issue still existed during the FY2011 FAME audit.	Open	09-11
<b>10-9</b>	MIOSHA does not use IMIS management reports.	To prevent duplicative work, MIOSHA should use IMIS management reports to track all case file activities.	MIOSHA will incorporate the use of management reports upon implementation of an alternative information system in place of the	Open	9-12

<i>REC #</i>	<i>Findings</i>	<i>Recommendations</i>	<i>Response/Corrective Action Taken</i>	<i>Status</i>	<i>Related FY 09 REC #</i>
			OIS, once it rolls out.		
<b>10-10</b>	Review of the cases revealed that MIOSHA's Employee Discrimination Section has adopted their own forms, letters, and Final Investigative Report (FIR), rather than using the forms provided by the OSHA Whistleblower Program. Case file organization does not follow DIS 0-0.9. However, the outcomes of the cases reviewed were appropriate.	Follow DIS 0-0.9 to ensure consistency with case file organization and contents, including forms, letters and Final Investigative Reports (FIRs).	MIOSHA implemented changes to ensure consistency with case file organization and contents, including forms, letters and Final Investigative Reports (FIRs).	Open	09-13
<b>10-11</b>	MIOSHA's staffing levels are below the currently approved benchmarks. MIOSHA has considered reevaluating its benchmark levels as part of the SIEP in each of the past three years.	The State should continue to work with OSHA, regarding benchmarks, and continue to increase staffing levels to the extent feasible	This item is closed until MIOSHA moves forward to obtain 18e certification.	Closed	09-18

### Appendix C - Enforcement Comparison Chart

	MI	State Plan Total	Federal OSHA
<b>Total Inspections</b>	<b>5,360</b>	<b>52,056</b>	<b>36,109</b>
Safety	4,683	40,681	29,671
<i>% Safety</i>	87%	78%	82%
Health	677	11,375	6,438
<i>% Health</i>	13%	22%	18%
Construction	3,907	20,674	20,111
<i>% Construction</i>	73%	40%	56%
Public Sector	159	7,682	N/A
<i>% Public Sector</i>	3%	15%	N/A
Programmed	4,588	29,985	20,908
<i>% Programmed</i>	86%	58%	58%
Complaint	444	8,876	7,523
<i>% Complaint</i>	8%	17%	21%
Accident	40	2,932	762
Insp w/ Viols Cited	3,665	31,181	25,796
<i>% Insp w/ Viols Cited (NIC)</i>	68%	60%	71%
<i>% NIC w/ Serious Violations</i>	66.1%	63.7%	85.9%
<b>Total Violations</b>	<b>14,278</b>	<b>113,579</b>	<b>82,098</b>
Serious	5,582	50,036	59,856
<i>% Serious</i>	39%	44%	73%
Willful	34	295	585
Repeat	518	2,014	3,061
Serious/Willful/Repeat	6,134	52,345	63,502
<i>% S/W/R</i>	43%	46%	77%
Failure to Abate	34	333	268
Other than Serious	8,110	60,896	18,326
<i>% Other</i>	57%	54%	22%
Avg # Violations/ Initial Inspection	3.8	3.4	2.9
<b>Total Penalties</b>	<b>\$4,687,366</b>	<b>\$ 75,271,600</b>	<b>\$ 181,829,999</b>
Avg Current Penalty / Serious Violation	\$ 466.20	\$ 963.40	\$ 2,132.60
% Penalty Reduced	57.6%	46.6%	43.6%
<b>% Insp w/ Contested Viols</b>	<b>9.4%</b>	<b>14.8%</b>	<b>10.7%</b>
Avg Case Hrs/Insp- Safety	12.3	17.1	19.8
Avg Case Hrs/Insp- Health	23.2	26.8	33.1
Lapse Days Insp to Citation Issued- Safety	30	35.6	43.2
Lapse Days Insp to Citation Issued- Health	52.7	43.6	54.8
Open, Non-Contested Cases w/ Incomplete Abatement >60 days	154	1,387	2,436

Note: Federal OSHA does not include OIS data.  
The total number of inspections for Federal OSHA is 40,684.

## 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  
 OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION  
 STATE ACTIVITY MANDATED MEASURES (SAMMs)

NOV 08, 2011  
 PAGE 1 OF 2

State: MICHIGAN COMBINED

RID: 0552600

MEASURE	From: 10/01/2010 To: 09/30/2011	CURRENT FY-TO-DATE	REFERENCE/STANDARD
1. Average number of days to initiate for each State	2137	160	Negotiated fixed number
Complaint Inspections	4.82 443	5.51 29	
2. Average number of days to initiate for each State	43	2	Negotiated fixed number
Complaint Investigations	1.95 22	2.00 1	
3. Percent of Complaints where Complainants were notified on time	470 100.00 470	24 100.00 24	100%
4. Percent of Complaints and Referrals responded to within 1 day -ImmDanger	1 100.00 1	0 0 0	100%
5. Number of Denials where entry not obtained	0	0	0
6. Percent of S/W/R Violations verified			
Private	0 .00 4865	0 .00 4865	100%
Public	0 .00 130	0 .00 130	100%
7. Average number of calendar days from Opening Conference to Citation Issue			
Safety Data (1 year)	132307 39.35	13102 31.34	2631708 51.9   National
Health Data (1 year)	3362 31237 67.90	418 4805 71.71	50662 767959 64.8   National
	460	67	11844

\*MI 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)

NOV 08, 2011  
 PAGE 2 OF 2

State: MICHIGAN COMBINED

RID: 0552600

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			
Safety	2120	293	90405
Data (3 years)	49.43	64.25	58.5 National
	4289	456	154606
Health	84	15	10916
Data (3 years)	27.72	37.50	51.7 National
	303	40	21098
9. Average Violations per Inspection with Violations			
S/W/R	6290	810	419386
Data (3 years)	1.63	1.65	2.1 National
	3857	489	198933
Other	8179	996	236745
Data (3 years)	2.12	2.03	1.2 National
	3857	489	198933
10. Average Initial Penalty per Serious Violation (Private Sector Only)	3734070	574425	611105829
Data (3 years)	669.18	830.09	1679.6 National
	5580	692	363838
11. Percent of Total Inspections in Public Sector	159	9	620
this State (3 years)	2.92	2.42	3.9 Data for
	5450	372	15877
12. Average lapse time from receipt of Contest to first level decision	354	0	3533348
Data (3 years)	7.86		199.7 National
	45	0	17693
13. Percent of 11c Investigations Completed within 90 days	81	6	100%
	64.29	75.00	
	126	8	
14. Percent of 11c Complaints that are Meritorious	9	0	1517
Data (3 years)	7.14	.00	23.0 National
	126	8	6591
15. Percent of Meritorious 11c Complaints that are Settled	7	0	1327
Data (3 years)	77.78		87.5 National
	9	0	1517

## Appendix E - FY 2011 State Indicator Report (SIR)

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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

PAGE 1

CURRENT MONTH = SEPTEMBER 2011

I N T E R I M S T A T E I N D I C A T O R R E P O R T ( S I R )

S T A T E = M I C H I G A N C O M B I N E D

PERFORMANCE MEASURE	----- 3 MONTHS-----		----- 6 MONTHS-----		-----12 MONTHS-----		-----24 MONTHS-----	
	FED	STATE	FED	STATE	FED	STATE	FED	STATE
<b>C. ENFORCEMENT (PRIVATE SECTOR)</b>								
<b>1. PROGRAMMED INSPECTIONS (%)</b>								
A. SAFETY	3694	968	8169	1934	18137	4142	40070	8036
	61.3	92.3	61.4	91.7	62.5	91.8	63.7	91.5
	6026	1049	13312	2110	29042	4510	62876	8786
B. HEALTH	480	100	1020	173	2126	295	4357	696
	39.7	53.5	36.4	48.1	34.6	47.0	34.7	51.9
	1208	187	2806	360	6150	627	12569	1342
<b>2. PROGRAMMED INSPECTIONS WITH VIOLATIONS (%)</b>								
A. SAFETY	3378	701	7266	1500	14959	3010	32614	5635
	73.7	70.6	72.4	69.1	70.1	67.2	69.1	64.6
	4583	993	10036	2170	21330	4480	47196	8729
B. HEALTH	456	42	890	82	1723	167	3487	402
	57.0	41.6	57.2	42.9	56.2	48.1	55.3	49.6
	800	101	1555	191	3068	347	6309	811
<b>3. SERIOUS VIOLATIONS (%)</b>								
A. SAFETY	11703	1280	23768	2564	48704	5019	109064	9613
	79.6	40.3	77.4	39.3	76.7	39.0	78.4	38.1
	14698	3174	30703	6527	63528	12874	139117	25200
B. HEALTH	2634	123	5290	212	10266	448	21598	920
	66.6	54.2	64.7	46.5	64.4	44.2	66.7	44.3
	3957	227	8180	456	15930	1013	32380	2075
<b>4. ABATEMENT PERIOD FOR VIOLS</b>								
A. SAFETY PERCENT >30 DAYS	2394	181	4978	433	10776	979	23693	2516
	16.6	11.1	16.8	13.2	17.9	15.5	17.9	21.0
	14465	1630	29573	3273	60243	6313	132414	11998
B. HEALTH PERCENT >60 DAYS	259	18	711	33	1451	81	3159	138
	6.5	6.6	8.6	6.9	9.4	8.3	10.0	6.9
	4006	271	8234	475	15507	972	31619	2007

## OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

CURRENT MONTH = SEPTEMBER 2011

INTERIM STATE INDICATOR REPORT (SIR)

STATE = MICHIGAN COMBINED

PERFORMANCE MEASURE	----- 3 MONTHS-----		----- 6 MONTHS-----		-----12 MONTHS-----		-----24 MONTHS-----	
	FED	STATE	FED	STATE	FED	STATE	FED	STATE
C. ENFORCEMENT (PRIVATE SECTOR)								
5. AVERAGE PENALTY								
A. SAFETY								
	505479	18220	1258835	44970	2803637	76070	5086228	132265
OTHER-THAN-SERIOUS	1181.0	396.1	1195.5	345.9	1126.9	254.4	1055.2	250.0
	428	46	1053	130	2488	299	4820	529
B. HEALTH								
	219203	4000	441915	6400	853346	12150	1667151	22450
OTHER-THAN-SERIOUS	1184.9	444.4	1077.8	376.5	980.9	368.2	958.7	350.8
	185	9	410	17	870	33	1739	64
6. INSPECTIONS PER 100 HOURS								
A. SAFETY								
	6874	1131	15417	2296	33850	4943	73070	9880
	6.0	5.4	5.6	5.8	5.5	6.7	5.4	6.9
	1138	208	2730	399	6145	739	13476	1424
B. HEALTH								
	1458	215	3330	423	7311	777	14958	1625
	2.4	2.0	2.2	1.9	2.2	1.7	2.0	1.8
	615	109	1501	219	3390	453	7404	921
7. VIOLATIONS VACATED %								
	1270	24	3026	55	6577	162	12352	320
	5.6	.6	6.6	.7	7.0	1.1	6.2	1.1
	22608	3833	46128	7476	93448	14732	200310	29223
8. VIOLATIONS RECLASSIFIED %								
	737	7	1997	25	4456	72	9147	215
	3.3	.2	4.3	.3	4.8	.5	4.6	.7
	22608	3833	46128	7476	93448	14732	200310	29223
9. PENALTY RETENTION %								
	19478404	437242	40012395	905058	77322520	1682833	134938244	3485165
	61.0	60.5	61.6	58.3	62.8	58.6	62.8	56.2
	31918969	723160	65001782	1553185	123124542	2870510	214845679	6202390

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 = MICHIGAN COMBINED

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 %								
A. SAFETY	968	19	1934	52	4142	89	8036	209
	92.3	65.5	91.7	77.6	91.8	75.4	91.5	74.1
	1049	29	2110	67	4510	118	8786	282
B. HEALTH	100	2	173	6	295	7	696	15
	53.5	14.3	48.1	25.0	47.0	18.4	51.9	17.2
	187	14	360	24	627	38	1342	87
2. SERIOUS VIOLATIONS (%)								
A. SAFETY	1280	33	2564	70	5019	122	9613	229
	40.3	39.8	39.3	32.0	39.0	31.6	38.1	28.7
	3174	83	6527	219	12874	386	25200	797
B. HEALTH	123	4	212	8	448	17	920	66
	54.2	66.7	46.5	80.0	44.2	65.4	44.3	50.0
	227	6	456	10	1013	26	2075	132

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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 = MICHIGAN COMBINED

PERFORMANCE MEASURE	----- 3 MONTHS-----		----- 6 MONTHS-----		----- 12 MONTHS-----		----- 24 MONTHS-----	
	FED	STATE	FED	STATE	FED	STATE	FED	STATE
E. REVIEW PROCEDURES								
1. VIOLATIONS VACATED %	579	33	1131	71	2220	157	4270	314
	22.8	11.5	23.4	14.5	23.5	16.7	23.0	15.3
	2542	286	4834	490	9442	939	18586	2057
2. VIOLATIONS RECLASSIFIED %	328	26	620	46	1259	95	2360	231
	12.9	9.1	12.8	9.4	13.3	10.1	12.7	11.2
	2542	286	4834	490	9442	939	18586	2057
3. PENALTY RETENTION %	3616720	87765	9500018	132005	16062961	244680	28079915	524294
	56.1	41.8	62.4	45.0	62.3	45.5	60.6	49.2
	6443756	209950	15212620	293670	25766759	538155	46371522	1064565

## Appendix F – Acronyms

ALJ – Administrative Law Judge

ATS – Automated Tracking System (National database used for tracking State Plan activities)

BLS – Bureau of Labor Statistics (Agency within the Department of Labor that maintains and issues statistics related to injury and illness rates)

CASPA – Complaints About State Program Administration (an avenue available to a complainant or individual in the State of Michigan that is covered by the MIOSHA program to file a complaint against the State)

CET – Consultation Education and Training (Training Division for MIOSHA program)

CIS – Consumer and Industry Services (former name for one of the State Departments that housed the MIOSHA program)

CSHD – Construction Safety and Health Division (a division within MIOSHA)

CSHO – Compliance Safety and Health Officer

DART – Days Away, Restricted, and Transfer (an injury and illness rate that can be calculated for a company)

DELEG – Department of Energy Labor and Economic Growth (Department in Michigan State Government where MIOSHA Program is located)

DLEG – Department of Labor and Economic Growth (former Department where MIOSHA was located)

FAME – Federal Annual Monitoring and Evaluation

FIR – Final Investigation Report

FOIA – Freedom of Information Act

FOM – Field Operations Manual (directive for compliance officer to follow pre, during and post inspections)

FPC – Federal Program Change

GISHD – General Industry Safety and Health Division (Division within MIOSHA)

IMIS - OSHA's Integrated Management Information System

IMMLANG – Immigrant Language Questionnaire (national database used to capture information related to fatalities of immigrant workers)

ISA – Informal Settlement Agreement

MAO – Medical Access Order

MIFACE – Michigan Fatality Assessment and Control Evaluation (initiative within Michigan State University that collects and analyzes results fatality information)

MIOSHA – Michigan Occupational Safety and Health Administration

MSEA – Michigan State Employees Association (one of the unions that represent State workers)

MSHA – Mine Safety and Health Administration

MTSD – Management and Technical Services Division (MIOSHA Division)

MTI – MIOSHA Training Institute

MVPP – Michigan Voluntary Protection Program (exemption program within MIOSHA)

MVPPPPM – Michigan Voluntary Protection Programs; Policies and Procedures Manual

NCR – OSHA Administration database

NOK – Next of Kin (letters to the families of victims of fatalities)

OSE – Office of State Employer (Agency that represents governor in labor relations)

OSHA – Occupational Safety and Health Administration

OTI – OSHA Training Institute

OTS – Other than serious (a citation classification)

P.A. – Public Act

PMA – Petition for Modification of Abatement

PPE – Personal Protective Equipment

PSM – Process Safety Management

SAMM – State Activity Mandated Measures (statistical reports for State program mandated activities)

SIEP – State Internal Evaluation Plan (plan that the State develops to review a process, program, policy, etc. of State Plan activities)

SOAHR – State Office of Administrative Hearings and Rules

STAA – Surface Transportation Assistance Act (whistleblower complaint that can be filed with Federal OSHA related to violations of Department of Transportation violations)

S/W/R – Serious, Willful, Repeat

TCIR – Total Case Incidence Rate (calculated injury and illness rate)

TCR – Total Case Rate(calculated injury and illness rate)

TRC – Total Recordable Cases

UAW – United Auto Workers Union (Union that represents State employees)

WAO – Written Access Order

**Appendix G - FY 2011 23(g) Consultation Activity**

	<b>MI Public Sector</b>	<b>Total State Plan Public Sector</b>
<b>Requests</b>	<b>16</b>	<b>1,328</b>
<i>Safety</i>	12	576
<i>Health</i>	4	560
<i>Both</i>	-	192
<b>Backlog</b>	<b>1</b>	<b>123</b>
<i>Safety</i>	-	51
<i>Health</i>	1	58
<i>Both</i>	-	14
<b>Visits</b>	<b>18</b>	<b>1,632</b>
<i>Initial</i>	12	1,336
<i>Training and Assistance</i>	4	175
<i>Follow-up</i>	2	121
<i>Percent of Program Assistance</i>	92%	67%
<i>Percent of Initial Visits with Employee Participation</i>	100%	96%
<b>Employees Trained</b>	<b>114</b>	<b>5,030</b>
<i>Initial</i>	32	2,144
<i>Training and Assistance</i>	82	2,886
<b>Hazards</b>	<b>36</b>	<b>6,063</b>
<i>Imminent Danger</i>	-	3
<i>Serious</i>	30	4,804
<i>Other than Serious</i>	6	1,171
<i>Regulatory</i>	-	85
<i>Referrals to Enforcement</i>	-	6
<b>Workers Removed from Risk</b>	<b>285</b>	<b>171,075</b>
<i>Imminent Danger</i>	-	55
<i>Serious</i>	175	136,884
<i>Other than Serious</i>	110	26,046
<i>Regulatory</i>	-	8,090

**Appendix H - FY 2011 State OSHA Annual Report (SOAR)**

(Available Separately)