

**FY 2012 Abridged Federal Annual Monitoring and Evaluation (FAME)
Report**

Michigan

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I. Executive Summary

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 functions under an Operational Status Agreement with Federal OSHA. Effective January 31, 2013, Steven Arwood replaced Steven Hilfinger as the Director of LARA. Mr. Arwood 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 (GISHD) 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 2012, the State's 23(g) enforcement grant included State and Federal funds totaling \$22,413,500. MIOSHA overmatched the Federal grant by \$1,830,300. The State's current enforcement staff consists of 45 safety compliance officers, which is 80% of benchmark levels, and 28 industrial hygienists, which is 62% of benchmark levels.

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.

The mission of MIOSHA is to help protect 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.

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) 2012 Annual Performance Plan and their progress in resolving outstanding recommendations. 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 two-person Federal OSHA team was assembled to review files to verify MIOSHA's corrective actions taken to address Findings and Recommendations documented in the FY 2011 FAME. Of the 12 FY 2011 Findings, only two remain open at this time. A detailed status update of the Findings and Recommendations is included in Section III of this report. Although no new Findings or Recommendations were observed in FY 2012, one new Observation, lack of documentation on the Good Faith worksheet, was noted during this review. See Appendix B.

II. Major New Issues

As in the past few years, there were several State legislative actions that could or did affect MIOSHA. An update is included below. The new legislation will not affect MIOSHA's ability to remain "at least as effective as" Federal OSHA.

Michigan Senate Bill 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 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 a 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 November 30, 2011. The Bill was re-referred to the Committee on Regulatory Reform on December 6, 2011. No further action since the Bill was re-referred to committee.

Michigan House Bill 5030, 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 on December 13, 2011. There has been no further action since the Bill was introduced.

Office of Regulatory Reinvention's (ORR) 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, several hundred updates/deletions/changes to standards have been identified. MIOSHA is working with ORR on implementing the changes through an expedited rule making process.

Michigan House Bill 5917, proposing the elimination of the Construction Standards Commission, was introduced on September 19, 2012. This Bill was passed on December 20, 2012 as Public Act 448.

Michigan House Bill 5922, proposing the elimination of the General Industry Safety Standards Commission, was introduced on September 19, 2012. This Bill was passed on December 20, 2012 as Public Act 416.

Michigan Senate Bill 1335 would amend the Michigan Occupational Safety and Health Act to require the Director of the Department of Licensing and Regulatory Affairs (LARA) to provide a statement of specific facts establishing a clear and convincing need when processing an administrative rule that goes beyond Federal rule requirements. This Bill was passed on December 20, 2012 as Public Act 415.

Michigan Senate Bill 1336 would repeal a section of the Act creating the Occupational Health Standards Commission. This Bill was passed on December 22, 2012 as Public Act 447.

III. State Progress in Addressing FY 2011 FAME Report Recommendations

An abbreviated onsite monitoring visit was conducted to verify corrective action taken by MIOSHA. A total of 28 case files, including non-formal complaints, fatalities and inspection cases, were reviewed.

- **Finding 11-01:** In the GISHD, the date of receipt of non-formal 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 the complaint. Enter the actual date the complaint was received by MIOSHA into IMIS. Reevaluate the complaint process to reduce delays in processing complaints.

State Action Plan 11-01: GISHD will process complaint information upon receipt of the complaint and will enter the actual date the complaint was received by MIOSHA into IMIS for non-formal complaints. GISHD will reevaluate the complaint process to reduce delays in processing complaints.

Status Update 11-01: As of October 1, 2012, GISHD has implemented new procedures for processing non-formal complaints. The new procedure involves entering the actual date the complaint was received by MIOSHA. An abbreviated review of closed case files from FY 2012 documented that the process had been implemented. **This item is closed.**

- **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.

State Action Plan 11-02: MIOSHA will ensure all OSHA -170 abstracts provide a detailed summary of the circumstances surrounding the event and are updated at the conclusion of the investigation. MIOSHA has updated the CY 2011 and CY 2012 OSHA-170 abstracts. Instructions for writing abstracts and entering information into the IMIS system have been provided to staff.

Update 11-02: As of October 1, 2012, MIOSHA has implemented procedures to update the OSHA 170 abstracts at the conclusion of the investigation to ensure they provide a detailed summary of the circumstances surrounding the event. An abbreviated review of closed case files from FY 2012 documented that the OSHA 170 was completed as required. **This item is closed.**

- **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.

State Action Plan 11-03: MIOSHA will ensure compliance staff review injury and illness records in accordance with MIOSHA-STD-05-2 and document the review of the records on the inspection guidelines form. The inspection guidelines form has been revised with an injury and illness check box. Compliance staff has received instruction on the new form and required documentation.

Status Update 11-03: The inspection guidelines form has been revised with an injury and illness check box. Compliance staff will continue to review the injury and illness records and have received instruction on the revised inspection guidelines form and required documentation. An abbreviated review of closed case files from FY 2012 documented that injury/illness data review is being documented in the case file. **This item is closed.**

- **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.

State Action Plan 11-04 (Formerly 10-08, 09-08): All MIOSHA enforcement management staff and appeals staff will undergo retraining on hazard classification severity/probability and adjustment factors by Federal OSHA staff on September 12, 2012. Appeals staff and enforcement management staff have also been advised of the findings and reinstructed on the case file review process with an emphasis on the documentation and verification of proper penalty assessment, severity/probability, and adjustment factors in accordance with MIOSHA FOM, Chapter VI, paragraph IV.B.

Status Update 11-04 (Formerly 10-08, 09-08): Federal OSHA provided training on September 12, 2012 to management and appeals staff. Follow-up training has also been provided by the enforcement divisions at manager/supervisor meetings. A limited review of closed case files from FY 2012 documented that hazard classification and penalty assessment followed established procedures contained within the FOM. **This item is closed.**

- **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.

State Action Plan 11-05 (Formerly 10-04, 09-03): GISHD and CSHD have developed and implemented the use of a document (called a diary sheet or chronology) to note actions taken while investigating complaints.

Status Update 11-05 (Formerly 10-04, 09-03): GISHD and CSHD have developed and implemented the use of a document (called a diary sheet or chronology) to note actions taken during inspections or investigations. A limited review of closed case files from FY 2012 documented that Diary Sheets were not only included in the case files, but also included documentation of the actions taken throughout the inspection. **This item is closed.**

- **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.

State Action Plan 11-06 (Formerly 10-2, 09-1): MIOSHA will begin entering the date abatement was verified when the replacement for the IMIS is operational.

Status Update 11-06 (Formerly 10-2, 09-1): Awaiting IMIS replacement. **This item remains open.**

- **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.

State Action Plan 11-07 (Formerly 10-09, 09-12): MIOSHA does use certain IMIS reports routinely. However, retrieving some data from the IMIS system can be cumbersome and takes more time when it is needed quickly. MIOSHA uses an equivalent tracking system to IMIS that is readily available and accessible on a daily basis.

Status Update 11-07 (Formerly 10-09, 09-12): MIOSHA does use certain IMIS reports routinely. However, retrieving some data from the IMIS system can be cumbersome and takes more time when it is needed quickly. MIOSHA uses an equivalent tracking system to IMIS that is readily available and accessible on a daily basis. **This item is closed.**

- **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.

State Action Plan 11-08: CSHD will ensure that staff document in the case file that employee representatives were given an opportunity to participate in all phases of workplace inspections. Compliance staff has been instructed to document this on the inspection guidelines form.

Status Update 11-08: CSHD compliance staff have been trained and are documenting in the case files that employee representatives were given an opportunity to participate in all phases of workplace inspections. The inspection guidelines form is being used to document employee representative involvement. A limited review of closed case files from FY 2012 documented that employee representatives were given the opportunity to participate in the inspections. **This item is closed.**

- **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.

State Action Report 11-09: CSHD will ensure that staff document employee interviews in the case file in accordance with MIOSHA FOM Chapter V, paragraph I.C.8.c. Compliance staff have been instructed to document this on the inspection guidelines form.

Status Update 11-09: CSHD compliance staff will continue to conduct employee interviews and have been trained on how the interviews will be documented in the case files. The inspection guidelines form is being used to document that employees have been interviewed. A limited review of closed case files from FY 2012 documented that employee interviews are being conducted and documented. **This item is closed.**

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

Recommendation 11-10: Ensure the adoption of the Cranes and Derricks standard and completion of the Standards Improvement Process by MIOSHA is a priority and are completed as soon as feasible.

State Action Plan 11-10: MIOSHA's version of the Cranes and Derricks standard has been reviewed by the Legislative Services Bureau and published for final public comment. The anticipated effective date is November 1, 2012. MIOSHA is currently making all of the changes recommended in the Standard Improvement Project in conjunction with the changes recommended in the Office of Regulatory Reinvention (ORR) report issued in March 2012.

Status Update 11-10: MIOSHA's version of the Cranes and Derricks standard has been adopted with an effective date of November 20, 2012. MIOSHA is currently making all of the changes recommended in the Standards Improvement Project in conjunction with the changes recommended in the Office of Regulatory Reinvention (ORR) report issued in March 2012. **This item remains open for the completion of changes in regards to the Standards Improvement Process.**

- **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 (FIRs) and settlement agreements.

State Action Plan 11-11: MIOSHA will follow WHIM to ensure consistency with case file organization and contents, including forms, letters, Final Investigative Reports, and settlement agreements.

Status Update 11-11: MIOSHA is following WHIM to ensure consistency with case file organization and contents including forms, letters, Final Investigative Reports, and settlement agreements. **This item is closed.**

- **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.

State Action Plan 11-12: MIOSHA will ensure that the required whistleblower information is entered into the IMIS.

Status Update 11-12: MIOSHA will ensure that the required whistleblower information is entered into the IMIS. **This item is closed.**

IV. Assessment of FY 2012 State Enforcement Measures

The State meets or exceeds established references/standards for most of the State Activity Mandated Measures, such as: the safety and health lapse time, responding to imminent danger, lapse time from receipt of contest to first level decision, and average time to initiate inspections and investigations.

While the established reference/standards for serious violations per inspection are below the standard of 2 with a value of 1.8, and for other than serious violations, the reference value of 2.08 is also outside of the standard of 1.2, this is still an improvement from FY 2011 results of 1.6 Serious and 2.12 other than serious violations per inspection.

Two other areas where the State has made improvement include the average initial serious penalty and percent of meritorious 11(c) cases. The average initial penalty for serious violations has risen from \$669.18 in FY 2011 to \$805.64 in FY 2012. The percent of meritorious 11c complaints has almost doubled from 7.14 in FY 2011 to 13.38 in FY 2012.

A. Enforcement

Data discussed below was obtained from Enforcement and Inspection micro to host reports dated 10/30/12.

1. Complaints

MIOSHA received 1,748 complaints, of which 485 (28%) were formal and 1263 (82%) were non-formal. The State accepted and processed E-Complaints filed through the Federal website www.osha.gov and the State website www.michigan.gov/miosha.

The MIOSHA process for complaint processing is as follows. When a complaint was received, the administrative staff printed a copy of the complaint and attached a “buck slip,” which was used as a tracking mechanism. The complaint was then 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 takes up to several days to complete. When entering the complaint into IMIS, the administrative staff was retrained to use the date received by MIOSHA as the date the complaint was received rather than the date the complaint was entered into IMIS.

When the complainant’s mailing address was known, copies of the abatement were sent in a timely manner.

2. Fatalities

MIOSHA coded a total of 28 inspections as fatality/catastrophe inspections in FY 2012. Based on SAMM #4, all fatality inspections were opened within one day of being notified of the fatality.

The OSHA-170 abstract lacked detailed information about the fatalities in FY 2011. As of October 1, 2012, MIOSHA has implemented procedures to update the OSHA 170 abstract at the conclusion of the investigation to ensure they have provided a detailed summary of the circumstances surrounding the event. An abbreviated review of closed case files from FY 2012 concluded that the OSHA 170 documentation was completed as required.

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 8.0, which is a 26.3% decrease and exceeds the goal of 16%.

3. Targeting and Programmed Inspection

MIOSHA conducted 5,390 inspections, with 84% 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 in use is the MIOSHA Strategic Plan for Fiscal Years 2009-2013 in which the objectives of the plan outline guide program activity during the five year period. The goals in the MIOSHA strategic plan are consistent with those of Federal 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, falls, and facilities that manufacture food flavorings that contain Diacetyl.

MIOSHA has several Local Emphasis Programs (LEPs) which include field sanitation, 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 the 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.

4. Citations and Penalties

There were 14,293 violations cited, of which 41.8% were serious, 0.3% were willful and 3.6% were repeat violations. This was a slight increase from FY 2011. The in compliance for safety was 31.4% and 38.7% for health, while the average number of violations per inspection was 3.9.

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, citations are issued within the required 90 day limit from opening conference.

	MIOSHA
Safety	27.8
Health	48.6

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. This issue is noted as an Observation. See Appendix B.

Observation 12-1: Use of the Good Faith Worksheet should contain more information to justify each of the ratings/points.

5. Abatement

MIOSHA noted that abatement documentation was closely tracked, using an internal Excel spreadsheet, and was 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 IMIS replacement.

MIOSHA created an Excel spreadsheet that is 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 is 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 Federal OSHA’s, it appears to be an effective tracking tool.

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 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.

Finding 12-01 (formerly 11-06): 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 12-01: Ensure the date abatement was verified is entered into the IMIS.

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.”

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.

B. Review Procedures (Informal and Formal)

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.

In FY 2012, 276 (7.5%) of all inspections were contested. The average lapse time from receipt of Contest to first level decision is 71 days.

C. Standards Adoption and Plan Changes

1. Standards Adoption

Two Federal standards were required to be adopted by MIOSHA during FY 2012. MIOSHA adopted both standards.

Federal Standard	Intent to Adopt	Adopt Identical	Date Promulgated	Effective Date
Revising Standards Referenced in the Acetylene Standard	YES	NO	10/08/2012	10/15/2012
Updating OSHA Standards Based on National Consensus Standards; Head Protection	YES	YES	12/14/2012	12/21/2012

2. Federal Program Changes (FPCs):

All responses to 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 2012 activities. However, MIOSHA did not adopt Longshoring and Marine Terminals because they do not have jurisdiction over this industry.

Directive Number	Title	Adoption Required; Equivalency Required or Adoption encouraged/Not Required	Intent to Adopt	Adopt Identical	State Adoption Date
CPL-02-01-053 2012 482	<i>Compliance Policy for Manufacture, Storage, Sale, Handling, Use and Display of Pyrotechnics</i>	<i>Equivalency Required</i>	YES	YES	04/27/2012
CPL-03-00-014 2012 483	<i>National Emphasis Program - PSM Covered Chemical Facilities</i>	<i>Adoption Required</i>	YES	YES	01/24/2012
CPL-03-00-016 2012 484	<i>Nursing Home NEP</i>	<i>Adoption Required</i>	YES	YES	10/05/2012
CPL-02-00-153 2012 504	<i>Communicating OSHA Fatality Inspection Procedures to a Victim's Family</i>	<i>Adoption encouraged, but not required</i>	YES	NO	N/A
CPL-02-00-154 2012 524	<i>Longshoring and Marine Terminals Tool Shed Directive</i>	<i>Equivalency Required</i>	NO	N/A	N/A

Finding 12-02 (formerly 11-10): The Standards Improvement Process has not been completed.

Recommendation 12-02: Ensure completion of the Standards Improvement Process as soon as feasible.

D. Variances

There were two permanent variances and 21 interim variances granted in FY 2012. All variances were entered into the Automated Tracking System. A list is included below.

Sequence	State Standard Number	Federal Standard Number	Company Name
<u>277</u>	<u>R 408.43209(29)</u>	<u>1926</u>	<u>Davis Construction (2012-07)</u>
<u>278</u>	<u>R 408.41213(1)</u>	<u>1926</u>	<u>Walter Toebe Construction Co (2012-</u>

			<u>08)</u>
<u>279</u>	<u>R 408.41221(1)(c)</u>	<u>1926</u>	<u>Acoustic Ceiling & Partition Co Inc (2012-09)</u>
<u>280</u>	<u>R 408.41213(1)</u>	<u>1926</u>	<u>Seaway Painting, LLC (2012-10)</u>
<u>281</u>	<u>R 408.43216(6)&(7)</u>	<u>1926</u>	<u>Dee Cramer, Inc. (2012-11)</u>
<u>282</u>	<u>R 408.41221(1)(c)</u>	<u>1926</u>	<u>Sterling Contracting Inc (2012-12)</u>
<u>284</u>	<u>R 408.43216(21)</u>	<u>1926</u>	<u>Milbocker & Sons, Inc. (2012-15)</u>
<u>285</u>	<u>R 408.41221(1)(c)</u>	<u>1926</u>	<u>Acoustic Ceiling & Partition Co., Inc (2012-16)</u>
<u>286</u>	<u>R 408.43216(21)</u>	<u>1926</u>	<u>Davis Construction (2012-17)</u>
<u>288</u>	<u>R 408.41221(1)(c)</u>	<u>1926</u>	<u>Barton Malow Company (2012-18)</u>
<u>289</u>	<u>R 408.43216(6)&(7)</u>	<u>1926</u>	<u>Barton Malow Company (2012-19)</u>
<u>290</u>	<u>R 408.43216(6)&(7)</u>	<u>1926</u>	<u>Barton Malow Company (2012-20)</u>
<u>292</u>	<u>R 408.43216(6)&(7)</u>	<u>1926</u>	<u>John E. Green (2012-22)</u>
<u>293</u>	<u>R 408.41301</u>	<u>1926.602</u>	<u>Eagle Excavation, Inc. (2012-23)</u>
<u>294</u>	<u>1926.1000</u>	<u>1926</u>	<u>Eagle Excavation, Inc (2012-21)</u>
<u>295</u>	<u>R 408.43216(6)(7)</u>	<u>1926</u>	<u>Buist Electric (2012-14)</u>
<u>296</u>	<u>R 408.16233(4)</u>	<u>1910</u>	<u>ADCO Products</u>
<u>297</u>	<u>R 408.41221(1)(c)</u>	<u>1926</u>	<u>Ritsema Associates (2012-25)</u>
<u>298</u>	<u>R 408.41015a</u>	<u>1926</u>	<u>Pullman Power (2010-27)</u>
<u>299</u>	<u>R 408.41015a</u>	<u>1926</u>	<u>Pullman Power (2012-</u>

			<u>13)</u>
<u>300</u>	<u>R 408.40115 (4)</u>	<u>1926</u>	<u>Morris Painting, Inc.</u> <u>(2012-24)</u>
<u>301</u>	<u>R 408.43216 (21)</u>	<u>1926</u>	<u>Anlaan Corporation</u> <u>(2012-26)</u>
<u>302</u>	<u>R 408.43216 (6)</u>	<u>1926</u>	<u>Moote Electrical, Inc.</u> <u>(2012-27)</u>

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 175 public sector inspections in FY 2012, or 3.25% of all inspections. These inspections included complaints and programmed activity.

In FY 2012, the Public Sector Consultation Program conducted a total of 12 visits. Of these 12 visits, 10 were classified as initial and two were follow-up. Employees were interviewed during each of these visits. A total of 11 serious hazards were identified and abated within established timeframes. Over 214 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 Michigan Voluntary Protection program (MVPP), Alliance and Partnership Programs.

F. Discrimination Program

During FY 2012, MIOSHA investigated 142 discrimination cases. Approximately, 54% of the investigations were completed within the required 90 days. By the end of FY 2012, 47% of meritorious cases are settled.

As noted earlier in this report, Findings 11-11 and 11-12, from the FY 2011 FAME, have been corrected. No other Findings related to discrimination remain open.

G. Voluntary Compliance Programs

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

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.

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. MIOSHA added three new Partnerships in FY 2012.

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. MIOSHA continues to be an active participant in this Partnership.

3. Voluntary Protection Program (MVPP)

MIOSHA's VPP afforded the same exemptions as the Federal Program. MVPP companies were exempt from programmed inspections while in the Program. MIOSHA maintains a robust VPP program. MIOSHA added six new companies to their VPP program in FY 2012. They conducted eight recertification visits.

H. 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 the OSHA Training Institute (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 on site with a compliance officer or a manager training with an administrative staff member.

2. Funding

During FY 2012, 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 2012 was \$22,413,500. MIOSHA overmatched the Federal grant by \$1,830,300. 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 2012. 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 45 (80%) of these positions filled. The benchmark for health compliance officers is 45 with 28 (62%) filled. This is a slight improvement since FY 2011. 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.

		FY 06	FY 07	FY 08	FY 09	FY 10	FY 11	FY 12
Safety	Benchmark	56	56	56	56	56	56	56
	Positions Allocated	56	49	51	47	47	45	45
	Positions Filled	56	49	50	44	40	42	45
	Vacancies	1	0	1	3	7	3	0
	% of Benchmarks Filled	100%	88%	89%	84%	71%	75%	80%
Health	Benchmark	45	45	45	45	45	45	45
	Positions Allocated	24	23	31	25	25	30	30
	Positions Filled	24	23	30	24	25	26	28
	Vacancies	0	0	1	1	2	4	2
	% of Benchmarks Filled	53%	51%	67%	53%	56%	58%	62%

4. Information Management

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 a 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.

V. State Progress in Achieving Annual Performance Goals

The following summarizes the activities and/or accomplishments for each of the FY 2012 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 fourth year, MIOSHA has already met or exceeded seven 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	10.0	Increase of 8.7% - 5 year goal not met
1.1A-2	Wood Products Manufacturing	8.0	5.3	Decrease of 33.8% - 5 year goal met
1.1A-3	Plastics and Rubber Products Manufacturing	8.3	5.6	Decrease of 32.5% - 5 year goal met

1.1A-4	Nonmetallic Mineral Product Manufacturing	10.0	5.1	Decrease of 49% - 5 year goal met
1.1A-5	Primary Metal Manufacturing	8.4	6.9	Decrease of 17.9% - 5 year goal not met
1.1A-6	Fabricated Metal Product Manufacturing	8.9	6.5	Decrease of 27.0% - 5 year goal met
1.1A-7	Machinery Manufacturing	6.3	6.4	Increase of 1.6% - 5 year goal not met
1.1A-8	Transportation Equipment Manufacturing	8.2	6.3	Decrease of 23.2% - 5 year goal met
1.1A-9	Recyclable Material Merchant Wholesaler			***
1.1A-10	Merchant Wholesalers, Nondurable Goods	5.6	4.4	Decrease of 21.4% - 5 year goal met
1.1A-11	Landscaping Services	N/A	N/A	**
1.1A-12	Hospitals	9.0	7.9	Decrease of 12.2% - 5 year goal not met
1.1A-13	Nursing and Residential Care Facilities	9.0	8.7	Decrease of 3.3% - 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 30 inspections in this industry. A total of 56 serious citations have been issued. MIOSHA will continue to work with BLS to obtain State injury/illness data for this industry.

*** Goal 1.1A-9 - Although Michigan specific BLS injury/illness data is not available for Recyclable Material Merchant Wholesaler, MIOSHA conducted 25 inspections and issued 47 serious violations.

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 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 22.5% reduction to 5.5 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 four in calendar year 2011. This is a reduction of 80.0% and exceeds the goal of 16% for year four.

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 8.0, which is a 26.3% decrease, which exceeds the goal of a 16% 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 2011 was 1.5, which is a 50.0% decrease from the baseline of 3.0. This exceeds the year three goal of a 16% 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. In FY 2012, CET consultants re-evaluated 27 companies; 25 of 27 companies showed improvement

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 by awarding 147 level 1 and advanced certificated.

In FY 2008, a total of 1,801 students attended a course at the MIOSHA Training Institute (MTI). In FY 2012, 2,747 students attended, which was a 53% increase over the baseline.

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

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

	FY 2012 Goal	FY 2012 Results	Comments
MVPP	3	6	Exceeded goal
MSHARP	2	1	Did not meet goal
New CET	10	7	Did not meet goal
Michigan Challenge	6	0	Did not meet goal
Alliances	2	1	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 2012, the Michigan DART of 1.9 and TRC of 3.9 (BLS, 2011) equals a 20.8% decrease and a 20.4% decrease, respectively, for year four.

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

Results: MIOSHA last conducted an Organizational Culture Inventory (OCI) in 2009, a year ahead of the scheduled strategy. The next OCI is scheduled for 2013. In February, the Cross Cultural Team (CCT) conducted the Internal Assessment of Management Strategies (IAMS) for Objective 3.1A of the Strategic Plan. The purpose of the survey is to evaluate the current feelings about the key result areas of management strategies within MIOSHA. The survey consisted of 12 multiple choice questions. A total of 134 out of 227 (59.03%) employees completed the survey. Each question also contained a space to provide additional 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 953 Comment/Suggestion Cards during Fiscal Year 2012. Results included the following.

1. 98.0% “Useful” on “How would you rate your overall experience with MIOSHA?”
2. 99.7% “Yes” on “Did you find the staff to be knowledgeable about employee safety and health issues?”
3. 99.5% “Yes” on “Did the staff explain how to correct the safety and health hazards they identified?”

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

Results: MIOSHA conducted 491 out of 495 complaints within 10 days (99.2%).

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 timelier 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 2012 Results	Comments
General Industry Safety	65.28	45.72	30% decrease
General Industry Health	67.70	67.20	0.7% decrease
Construction Safety	51.9	32.38	37.6% decrease
Construction Health	64.8	45.0	10% 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 25% of original goal.
- Promulgate 80% of other standards within deadlines established by an annual Standards Promulgation Plan. Accomplished 0% of original goal. In FY 2011, the Governor of Michigan, through the Office of Regulatory Reinvention (ORR), created a committee to review all of MIOSHA's standards. The committee recommended over 500 individual changes to MIOSHA standards, which MIOSHA staff drafted during FY 2012. Pending completion of this work, MIOSHA was informed that no significant revisions to existing rules would occur until this review was completed.

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: All staff is outfitted with a computer with a valid warranty. The analyst position is filled and fully utilized. All field staff are outfitted with Secure ID. Support for existing data systems is ongoing. On-line Training information is provided for staff in Microsoft Office 2010 products.

VI. Other Areas of Note

One CASPA related to MIOSHA was filed in FY 2012. The CASPA has been closed, with MIOSHA's policies and procedures found to be at least as effective as Federal OSHA's.

MIOSHA conducted a State Internal Evaluation in FY 2012 which included an audit of closed FY 2011 enforcement inspection files for general industry, construction and asbestos. A total of five Recommendations were made to insure inspections were properly conducted and activities documented. Correction actions are being tracked to completion.

MIOSHA continued several long standing initiatives including Safety Pays, the MIOSHA Training Institute, Connecting MIOSHA to Industry and Take a Stand Day. Each of these initiatives provided employers opportunities to interact with MIOSHA in a cooperative manner. Safety and health training was provide to employers.

MIOSHA was awarded the Sloan Award for Workplace Flexibility and Effectiveness for the fifth year.

In order to address safety and health hazards, MIOSHA developed educational materials on heat, residential fall prevention/protection, and preventing electrocutions.

MIOSHA issued three significant enforcement cases in FY 2012, two of which were in the construction industry and one in general industry.

Appendix A – New and Continued Findings and Recommendations
 FY 2012 Michigan State Plan Abridged FAME Report

Rec #	Findings	Recommendations	FY 11
12-01	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.	11-06
12-02	The Standards Improvement Process has not been completed.	Ensure completion of the Standards Improvement Process as soon as feasible.	11-10

Appendix B – Observations Subject to Continued Monitoring
 FY 2012 Michigan State Plan Abridged FAME Report

Rec # [OB- 1]	Observations	Federal Monitoring Plan	FY 11#
12- OB1	Use of the Good Faith Worksheet should contain enough information to justify each of the ratings/points.	At the end of the third quarter, MIOSHA will provide copies of random forms to OSHA for their review.	

Appendix C - Status of FY 2011 Findings and Recommendations

FY 2012 Michigan State Plan Abridged FAME Report

Rec #	Findings	Recommendations	Corrective Action Plan	State Action Taken	Status
11-01	In the GISHD, the date of receipt for non-formal 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.	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.	GISHD will process complaint information upon receipt of the complaint and will enter the actual date the complaint was received by MIOSHA into IMIS for non-formal complaints. GISHD will reevaluate the complaint process to reduce delays in processing complaints.	As of October 1, 2012, GISHD has implemented new procedures for processing non-formal complaints. The new procedure involves entering the actual date the complaint was received by MIOSHA.	Completed
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 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.	MIOSHA will ensure all OSHA - 170 abstracts provide a detailed summary of the circumstances surrounding the event and are updated at the conclusion of the investigation. MIOSHA has updated the CY2011 and CY2012 OSHA-170 abstracts. Instructions for writing abstracts and entering information into the IMIS system have been provided to staff.	As of October 1, 2012, MIOSHA has implemented procedures to update the OSHA 170 abstracts at the conclusion of the investigation to ensure they provide a detailed summary of the circumstances surrounding the event.	Completed
11-03	Case files lacked documentation to support that employer’s injury and illness records were reviewed in accordance with MIOSHA-	Ensure compliance staff document the review of employer injury and illness records.	MIOSHA will ensure compliance staff review injury and illness records in accordance with MIOSHA-STD-05-2 and	The inspection guidelines form has been revised with an injury and illness check box. Compliance staff will	Completed

Appendix C - Status of FY 2011 Findings and Recommendations

FY 2012 Michigan State Plan Abridged FAME Report

Rec #	Findings	Recommendations	Corrective Action Plan	State Action Taken	Status
	STD-05-2.		document the review of the records on the inspection guidelines form. The inspection guidelines form has been revised with an Injury & Illness check box. Compliance staff has received instruction on the new form and required documentation.	continue to review the injury and illness records and have received instruction on the revised inspection guidelines form and required documentation.	
11-04	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	Ensure management verifies, during case file review, that penalty assessment, severity/probability, and adjustment factors of case files follow MIOSHA guidance in all cases.	All MIOSHA enforcement management staff and appeals staff will undergo retraining on hazard classification severity/probability and adjustment factors by Federal OSHA staff on September 12, 2012. Appeals staff and enforcement management staff have also been advised of the findings and reinstructed on the case file review process with an emphasis on the documentation and verification of proper penalty assessment, severity/probability, and adjustment factors in accordance with MIOSHA FOM, Chapter VI, paragraph IV.B.	Federal OSHA provided training on September 12, 2012 to management and appeals staff. Follow-up training has also been provided by the enforcement divisions at manager/supervisor meetings.	Completed
11-05	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	Develop a document, such as a diary sheet, to note all actions taken while investigating complaints.	GISHD and CSHD have developed and implemented the use of a document (called a diary sheet or chronology) to note actions taken while investigating	GISHD and CSHD have developed and implemented the use of a document (called a diary sheet or chronology) to note actions	Completed

Appendix C - Status of FY 2011 Findings and Recommendations

FY 2012 Michigan State Plan Abridged FAME Report

Rec #	Findings	Recommendations	Corrective Action Plan	State Action Taken	Status
	FOM Chapter 5, paragraph X.		complaints.	taken during inspections or investigations.	
11-06	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.	MIOSHA will begin entering the date abatement was verified when the replacement for the IMIS is operational.	Awaiting IMIS replacement.	Open
11-07	MIOSHA does not use IMIS management reports to track all case file activity.	To prevent duplicative work, MIOSHA should use IMIS management reports to track all case file activity.	MIOSHA does use certain IMIS reports routinely. However retrieving some data from the IMIS system can be cumbersome and takes more time when it is needed quickly. MIOSHA uses an equivalent tracking system to IMIS that is readily available and accessible on a daily basis.	MIOSHA does use certain IMIS reports routinely. However retrieving some data from the IMIS system can be cumbersome and takes more time when it is needed quickly. MIOSHA uses an equivalent tracking system to IMIS that is readily available and accessible on a daily basis.	Completed
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 and Health 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.	CSHD will ensure that staff document in the case file that employee representatives were given an opportunity to participate in all phases of workplace inspections. Compliance staff have been instructed to document this on the inspection guidelines form.	CSHD compliance staff has been trained and are documenting in the case files that employee representatives were given an opportunity to participate in all phases of workplace inspections. The inspection guidelines form is being used to document employee	Completed

Appendix C - Status of FY 2011 Findings and Recommendations

FY 2012 Michigan State Plan Abridged FAME Report

Rec #	Findings	Recommendations	Corrective Action Plan	State Action Taken	Status
				representative involvement.	
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.	Ensure employee interviews are conducted on all inspections and documentation of the interviews is included in the case files.	CSHD will ensure that staff document employee interviews in the case file in accordance with MIOSHA FOM Chapter V, paragraph I.C.8.c. Compliance staff have been instructed to document this on the inspection guidelines form.	CSHD compliance staff will continue to conduct employee interviews and have been trained on how the interviews will be documented in the case files. The inspection guidelines form is being used to document that employees have been interviewed.	Completed
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.	Ensure the adoption of these two standards by MIOSHA is a priority and they are adopted as soon as feasible.	MIOSHA's version of the Cranes and Derrick's standard has been adopted and became effective November 20, 2012. MIOSHA is currently making all of the changes recommended in the Standard Improvement Project in conjunction with the changes recommended in the Office of Regulatory Reinvention (ORR) report issued in March 2012.	MIOSHA's version of the Cranes and Derrick's standard has been adopted and became effective November 20, 2012. MIOSHA is currently making all of the changes recommended in the Standard Improvement Project in conjunction with the changes recommended in the Office of Regulatory Reinvention (ORR) report issued in March 2012.	Open (This item remains open for the completion of changes in regards to the Standards Improvement Process.)
11-11	The evidentiary case file organization does not follow the Whistleblower Investigations Manual (WHIM), as displayed in CPL 02-03-003, Chapter V,	Follow WHIM to ensure consistency with case file organization and contents, including forms, letters, Final Investigative Reports (FIR s)	MIOSHA will follow WHIM to ensure consistency with case file organization and contents, including forms, letters, Final Investigative Reports, and	MIOSHA is following WHIM to ensure consistency with case file organization and contents including forms, letters,	Completed

Appendix C - Status of FY 2011 Findings and Recommendations

FY 2012 Michigan State Plan Abridged FAME Report

Rec #	Findings	Recommendations	Corrective Action Plan	State Action Taken	Status
	Paragraph III.B.1-3	and settlement agreements.	settlement agreements.	Final Investigative Reports, and settlement agreements.	
11-12	MIOSHA enters limited whistleblower information such as, basic allegation and respective information, into the IMIS.	Ensure that all required information is entered into the IMIS.	MIOSHA will ensure that the required whistleblower information is entered into the IMIS.	MIOSHA will ensure that the required whistleblower information is entered into the IMIS.	Completed

Appendix D - FY 2012 State Activity Mandated Measures (SMM) Report

FY 2012 Michigan State Plan Abridged FAME Report

NOV 09, 2012
 State: MICHIGAN
 RID: 0552600

MEASURE	From: 10/01/2011 To: 09/30/2012	CURRENT FY-TO-DATE	REFERENCE/STANDARD
1. Average number of days to initiate Complaint Inspections	2386 4.70 507	179 4.83 37	Negotiated fixed number for each state
2. Average number of days to initiate Complaint Investigations	71 3.08 23	248 5.51 45	Negotiated fixed number for each state
3. Percent of Complaints where Complainants were notified on time	494 100.00 494	29 100.00 29	100%
4. Percent of Complaints and Referrals responded to within 1 day -ImmDanger	3 100.00 3	0 100.00 0	100%
5. Number of Denials where entry not obtained	0	0	0
6. Percent of S/W/R Violations verified			
Private	0 .00 5366	0 .00 5366	100%
Public	0 .00 186	0 .00 186	100%
7. Average number of calendar days from Opening Conference to Citation Issue			
Safety	118247 38.40 3079	12954 35.29 367	2032800 55.9 36336
Health	39832 64.45 618	3738 59.33 63	647235 67.9 9527

Appendix D - FY 2012 State Activity Mandated Measures (SAMM) Report

FY 2012 Michigan State Plan Abridged FAME Report

NOV 09, 2012
RID: 0552600

MEASURE	From: 10/01/2011 To: 09/30/2012	CURRENT FY-TO-DATE	REFERENCE/STANDARD
8. Percent of Programmed Inspections with S/W/R Violations			
	2108	260	76860
Safety	51.49	60.32	58.5
	4094	431	131301
	190	10	9901
Health	34.73	22.22	53.0
	547	45	18679
9. Average Violations per Inspection with Violations			
	6702	849	367338
S/W/R	1.80	1.96	2.1
	3714	431	175950
	7735	856	216389
Other	2.08	1.98	1.2
	3714	431	175950
10. Average Initial Penalty per Serious Violation (Private Sector Only)	4729925	567100	624678547
	805.64	787.63	1990.5
	5871	720	313826
11. Percent of Total Inspections in Public Sector	175	10	550
	3.23	2.87	3.4
	5411	348	16163
12. Average lapse time from receipt of Contest to first level decision	2427	1467	3197720
	71.38	293.40	187.0
	34	5	17104
13. Percent of 11c Investigations Completed within 90 days*	77	20	100%
	54.23	58.82	
	142	34	
14. Percent of 11c Complaints that are Meritorious*	19	7	1619
	13.38	20.59	23.4
	142	34	6921
15. Percent of Meritorious 11c Complaints that are Settled*	9	7	1444
	47.37	100.00	89.2
	19	7	1619

*Note: Discrimination measures have been updated with data from SAMM reports run on 1/3/2013

Appendix E - State OSHA Annual Report (SOAR)
FY 2012 [*State Name*] State Plan Abridged FAME Report

[Available Upon Request]