

# **FY 2013 Comprehensive Federal Annual Monitoring and Evaluation (FAME) Report**

**State of Illinois**

**Illinois Department of Labor  
Safety Inspection and Education Division**



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## **I. Executive Summary**

### **A. Summary of the Report**

The purpose of this comprehensive Federal Annual Monitoring Evaluation (FAME) report is to assess the State Plan's progress towards achieving performance goals established in their federal Fiscal Year (FY) 2013 Annual Performance Plan, to review the effectiveness of programmatic areas related to enforcement activities including a summary of an onsite evaluation, and to describe corrections made by the State Plan in response to the FY 2012 FAME report findings and recommendations. This report fully assesses the current performance of the Illinois Department of Labor – Safety, Inspection and Education Division (IDOL-SIED) compliance program and compares the State Plan's effectiveness to that of OSHA.

A three-person OSHA team was assembled to accomplish the evaluation onsite at IDOL-SIED in Springfield, Illinois, beginning on February 10, 2014. The OSHA team's evaluation consisted of case file reviews, interviews of IDOL-SIED staff, and a special study of the State Plan's targeting programs.

After completing a review of closed case files, a total of 13 recommendations were made. Of these 13 recommendations, six were new and seven were recommendations identified in both the FY 2011 and FY 2012 FAME reports. IDOL-SIED completed training to address each of the recommendations in February 2012. Based on the review of the FY 2013 case files, this training was not effective as seven of the nine FY 2011 and 2012 findings remain open. A status update for each of the FY 2012 findings is included below.

- **12-1** IDOL-SIED currently does not accept/investigate nonformal complaints.  
**Update:** IDOL-SIED continues to accept only signed complaints from current workers per their FOM. Comments noting the requirement to change the FOM prior to approval have been given to IDOL-SIED. See Finding 13-01.
- **12-2** Neither initial nor final next-of-kin letters were included in all fatality investigation files.  
**Update:** While IDOL-SIED noted that training had been conducted in February 2012, review of FY 2013 case files documented that next-of-kin documentation was not complete. Letters with the findings of the fatality investigation were not included in the case file. See Finding 13-2.
- **12-3** The FOM currently in use does not include a process for grouping violations and assessing hazard severity and probability.

- Update:** While IDOL-SIED noted that training had been conducted in February 2012 to address this issue, case file review documented deficiencies. Policies and procedures established in the IDOL-SIED FOM were not followed. Violations were not grouped. Severity and probability evaluations did not follow policies and procedures established in the FOM. See Finding 13-04.
- **12-4** While abatement information is obtained for identified hazards, IDOL-SIED does not enter abatement information into IMIS as reflected in SAMM #6.  
**Update:** During FY 2013, this issue was resolved. Abatement is currently entered into the NCR. This item is completed.
  - **12-5 Copies** of the results of the inspection were sent to only the union worker at the site. Copies were not sent to the local union even when an address was available.  
**Update:** Case file review documented that while copies of the inspection are now sent to the local union, documentation of union participation was not documented. This included participation in opening/closing conferences and informal conferences. See Finding 13-08.
  - **12-6** IDOL-SIED did not respond to the standards changes or Federal Program Changes (FPC) by the required due date.  
**Update:** IDOL-SIED responded to FPC by the required date. This item is closed.
  - **12-7** While IDOL-SIED has a training plan in place, review of the case files noted that not all of the necessary elements of the files was included.  
**Update:** While training has been conducted, case file review found that hazard documentation was deficient. Worker exposure documentation was not included in the files. See Finding 13-11.
  - **12-8** Vacancies continue to remain in the program. The State Plan Coordinator position, which is vital to meeting established Developmental Steps, is vacant along one safety compliance position.  
**Update:** Vacancies remain. The State Plan Coordinator position has never been filled which has led to delays in the completion of the Developmental Steps. See Finding 13-12.
  - **12-9** Illinois did not meet all of the established Developmental Steps during the three year developmental time period. Five Developmental Steps remain incomplete.  
**Update:** IDOL-SIED requested a two-year extension to complete all Developmental Steps. IDOL-SIED completed none of the five remaining Developmental Steps.

In September 2009, IDOL-SIED was approved as a developmental state plan. A three year timeline for the completion of the seven developmental steps was established at that time. At the end of the FY 2012, because IDOL-SIED had only completed two of the seven required developmental steps, IDOL-SIED requested a two-year extension to complete all developmental steps. OSHA approved this request. A new timeline was established to complete all steps by the end of FY 2014. None of the five remaining developmental steps were completed in FY 2013. OSHA provided comments on Illinois's Administrative Rule in

FY 2012. Multiple requests for Administrative Rule updates were made to IDOL-SIED throughout FY 2013. The Administrative Rules were not finalized until early FY 2014. A completed status update for all steps is included in Section V of this report.

Staffing continues to be a problem. In FY 2011, the State Plan Coordinator and one safety compliance position were not filled. A letter was sent to the Governor on February 8, 2012, noting the importance of filling all vacant positions. In FY 2012, vacant positions included the State Plan Coordinator, one safety inspector, and one enforcement Assistant Manager. In FY 2013, there were a total of eight vacant positions. Vacancies include three safety inspectors, one safety consultant, one health consultant, the State Plan Coordinator and one supervisor. While there have been state-wide hiring freezes during the year, IDOL-SIED has been slow to fill vacancies.

In FY 2013, IDOL-SIED conducted a total of 825 inspections which was 61% of the 1,347 projected number of inspections noted in the FY 2013 grant application. In FY 2012, IDOL-SIED conducted 1240 inspections. The decrease in the number of inspections is attributed to the number of vacant positions throughout the year. IDOL-SIED continues to accept and investigate only those complaints that are signed by current workers. OSHA continues to work with IDOL-SIED to address this issue.

OSHA received no Complaints About State Program Administration (CASPA) during FY 2013.

In FY 2013, the funding base award of \$1,584,500 was reduced by \$395,000 to \$1,198,500 due to federal budget sequestration. Illinois did not de-obligate any funds in FY 2013.

## **B. State Plan Introduction**

The IDOL-SIED Public Sector Only State Plan was approved as a Developmental Plan on September 1, 2009. IDOL-SIED originally had three years to complete the developmental steps established in the September 1, 2009 Federal Register so that IDOL-SIED would be at least as effective as OSHA. In September 2012, IDOL-SIED requested a two-year extension to complete the developmental steps. OSHA approved this request. A new timeline was established to complete all developmental steps by the end of FY 2014.

The Safety Inspection and Education Division is a division of the Illinois Department of Labor. Effective April 1, 2011, the Director of the Illinois Department of Labor has been Joseph Costigan. Mr. Costigan is the State Designee. On December 28, 2011, Ms. Cheryl Neff was selected as the Division Manager and remains in that position. She oversees the three offices located in Chicago, Springfield, and Marion. At the time this report was written, there were eight vacant positions: one Enforcement Manager; one Administrative Assistant; one Safety Consultant; three Safety Inspectors; one Health Consultant; and one State Plan Coordinator. Note that since IDOL-SIED was approved as a developmental plan, the State Plan Coordinator position has never been filled

On July 1, 2011, the Illinois On-site Consultation Program moved from the Department of

Commerce and Economic Opportunity to the Illinois Department of Labor (IDOL). The Division Manager manages both the 23(g) and 21(d) programs. Both private and public sector employers receive consultation services through IDOL-SIED.

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

A review of the Illinois Public Sector Only State Plan was conducted February 10, 2014 through February 13, 2014. A total of 97 case files (complaints, programmed, referrals and accidents) were randomly selected for review. A total of 42 complaint files, 30 formal and 12 nonformal complaint files were actually reviewed. No discrimination files were reviewed as the State Plan continues to work with OSHA to develop a program that is at least as effective as OSHA. All cases occurred from October 1, 2012 through September 30, 2013. A database was used to evaluate and track findings providing a consistent review of the files.

Micro to Host SAMM, Enforcement, and Inspection reports run on November 15, 2013 for FY 2013 were also used during this evaluation of the State Plan.

Throughout the entire process, IDOL-SIED 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 development and improvement. A list of some key findings is noted below. A complete list can be found in Appendix A.

1. Finding 13-01 (12-01): IDOL-SIED currently does not inspect or investigate complaints received from non-workers, or those that are unsigned.

Recommendation 13-01(12-01): IDOL-SIED shall develop a protocol to investigate complaints received from non-workers or those that are unsigned.

2. Finding 13-02 (12-02): Final next-of-kin letters were included in only one of seven fatality investigation files.

Recommendation 13-02 (12-02): Ensure that a copy of both the initial and final next-of-kin letters sent to the victim's family are included in the file.

3. Findings 13-03: Case files documentation did not include field notes, worker exposure to hazards, or worker interviews as required in Chapter 5 of the Illinois FOM.

Recommendation 13-03: Ensure that case files documentation requirements, such as complete field notes, worker interviews, and complete hazard assessment, are included in the file.

4. Finding 13-04 (12-03): Similar hazards are not grouped as required in Chapter 4 of the Illinois FOM.

Recommendation 13-04 (12-03): Ensure that staff is trained on the process for grouping violations.

5. Finding 13-05: The hazard probability and severity for each citation was not assessed in accordance with the Illinois FOM. Limited documentation is included to support the assessment.

Recommendation 13-05: Ensure that staff is trained on the process of assessing probability and severity and that the adequate documentation is included in the case file for each violation cited.

6. Finding 13-06: Documentation of an effective evaluation of an employer's respiratory hazards is not included in the file when citations are issued for respiratory protection. This documentation would include the results of any air monitoring completed as required by Chapter 4 of the Illinois FOM.

Recommendation 13-06: Ensure that all hazard documentation, such as air monitoring, is documented in the file when respiratory protection citations are issued.

7. Finding 13-07: Petition for Modification of Abatement Date (PMA) requests from employers did not include information documenting interim worker protection during the abatement period as required by Chapter 7 of the Illinois FOM.

Recommendation 13-07: Ensure that all PMA requests include information documenting interim worker protection during the abatement period.

8. Findings 13-08: Case file review found that documentation of actions with unions during the entire inspection process, from opening conference to informal settlement conference, was not included as required by the Illinois FOM.

Recommendation 13-08: Ensure that documentation verifying all actions with unions, such as onsite inspection participation, sending citations and allowing participation in the informal settlement process, is included in the case file.

9. Finding 13-09: Informal conference and contest data is not entered correctly into IMIS.

Recommendation 13-09: Ensure that all informal conference and contest data is entered into IMIS.

10. Finding 13-10: Documentation for all actions taken during informal conferences is not included in the case file. This would include changes to citations and who participated in the conference as required by Chapter 7 of the Illinois FOM.

Recommendation 13-10: Ensure that all informal conference notes are included in the file. This would include justification for any changes made to the citations and documentation of who participated.

11. Finding 13-11 (12-07): Case file review found that all of the necessary elements for hazard identification and documentation were not included in the case file.

Recommendation 13-11 (12-07): Ensure that all compliance staff receives FOM training covering enforcement documentation policies and procedures.

12. Finding 13-12 (12-08): Vacancies continue to remain a concern; such as the State Plan Coordinator position, which is vital to meeting established Developmental Steps, along with one enforcement manager; one administrative assistant; one office assistant; one safety consultant; three safety inspectors; and one health consultant.

Recommendation 13-12 (12-08): Fill positions by the agreed upon date.

13. Finding 13-13 (12-09): IDOL-SIED did not complete all Developmental Steps. A new timeline was submitted and agreed to in October 2012. At the time of this report, the Administrative Rules have yet to be approved by OSHA.

Recommendation 13-13 (12-09): Complete the remaining Developmental Steps within the agreed upon timeframe.

## **II. Major New Issues**

None.

## **III. Assessment of State Plan Performance**

### **A. Enforcement**

During FY2013, IDOL-SIED conducted 825 inspections: 519 safety and 303 health. This was a decrease in approximately 400 inspections from FY 2012. Of those 825 inspections, 550 were programmed, 85 were complaints, 16 were accidents, and 75 were follow-ups. Of the 2,079 citations issued, 82% were serious. Case files were reviewed using the current draft FOM. While each file reviewed contained a diary sheet, the diary sheet could be used more effectively. Notations could include any delays, contact with the employer, post inspection activity, and receipt of abatement information. The files were generally organized in the same manner.

#### **1. Complaints**



IDOL-SIED inspects safety and health complaints signed by a current worker. In FY 2013, IDOL-SIED conducted 85 complaint inspections. A total of 30 formal complaint files were reviewed. In all but two cases, the files were handled in a timely manner and followed policies in place at that time. Copies of the final citations were sent to the complainant along with the finding(s) for each complaint item. The average number of days to open a complaint inspection was 7.2 days.

IDOL-SIED currently does not inspect nor investigate complaints received which are not from a current worker (signed or unsigned) or any unsigned complaint. Currently, if an unsigned complaint, from a current worker, was received, IDOL-SIED sends a letter to the complainant. This letter could include a request for signature; provide an address for the appropriate agency or notification that IDOL-SIED does not have jurisdiction. If the complainant does not provide a signature, the nonformal complaint is closed. If the complainant is not a current worker, a letter is sent notifying the complainant that the inspection would not be conducted. The employer is not contacted about the complaint issue. Once the FOM is finalized, a mechanism to address unsigned complaints and complaints from non-worker(s) shall be developed and implemented.

**Finding 13-01 (12-01):** IDOL-SIED currently does not inspect or investigate complaints received from non-workers, or those that are unsigned.

**Recommendation 13-01 (12-01):** IDOL-SIED shall develop a protocol to investigate nonformal complaints received from non-workers or those that are unsigned.

## 2. Fatalities

A total of six fatality/catastrophe files were reviewed. Comprehensive inspections were conducted in each of these instances. These files were generally well documented. In five of the six cases, the Opening Conferences were held within 24 hours of notification of the event. In the case where IDOL-SIED did not open within 24 hours, there was no documentation justifying the delay. Citations were issued when the notification of the fatality to IDOL-SIED by the employer was greater than eight hours. Hazards were identified and citations issued.

Copies of the initial next-of-kin letters were found in six of the seven files. Only one of the seven files included a copy of the final findings letter.

**Finding 13-02 (12-02):** Final next-of-kin letters were included in only one of seven fatality investigation files.

**Recommendation 13-02 (12-02):** Ensure that a copy of both the initial and final next-of-kin letters sent to the victim's family are included in the file.

## 3. Targeting and Programmed Inspections

As one of the developmental steps, IDOL-SIED is required to develop a targeting

system. IDOL-SIED developed a plan to inspect all public sector sites over a five year period. IDOL-SIED is in the fourth year of the Plan and expects this process to take an additional three to four years to complete. Once all sites have been inspected, a Targeting Plan will be implemented.

Copies of OSHA's Procedures for Approval of Local Emphasis Programs (LEPs) (CPL 2-0.102A), along with several Region V LEPs, were provided to IDOL-SIED to be used as a guide for development of other targeted industries or hazards.

#### 4. Citations and Penalties

A total of 86 inspection files were reviewed using the April 2011 draft Field Operations Manual (FOM). Comments had previously been shared with the State Plan after a review of the FOM was completed by OSHA.

Approximately 2,079 hazards were identified in FY 13, of which 82% were classified as serious. An average of 3.3 violations per initial inspection was issued. Penalties are assessed for willful and repeat violations.

A review of the citations issued noted that most hazards were identified and almost 74% of the hazards identified were classified correctly as serious, willful or other than serious. In many instances, due to lack of documentation, it appeared that the probability and severity evaluations were not assessed correctly. When the hazards were similar, citations were issued as separate violations rather than grouping the citations as described in Chapter 4 of the IDOL-SIED FOM.

The documentation of the hazards identified was missing information in several areas. Field notes documenting worker exposure, employer knowledge, type of equipment, duration of exposure and proximity to the hazard were not included in the case file. Worker and employer interviews were not documented or included in the file.

IDOL-SIED does not always follow their established policies and procedures. Serious citations were issued for the lack of a respiratory protection program where worker exposure to an inhalation hazard was not documented. Air monitoring had not been conducted by either the IDOL-SIED Inspector or the employer. IDOL-SIED currently follows OSHA's CPL 2-0.120, Inspection Procedures for the Respiratory Protection Standard. In OSHA's guidance document, citations for respiratory protection are issued as serious when over exposures to chemicals are documented.

**Findings 13-03:** Case files documentation did not include field notes, worker exposure to hazards, or worker interviews as required in Chapter 5 of the Illinois FOM.

**Recommendation 13-03:** Ensure that case files documentation requirements such as complete field notes, worker interviews, and complete hazard assessment are included in the file.

**Finding 13-04 (12-03):** Similar hazards are not grouped as required in Chapter 4 of the Illinois FOM.

**Recommendation 13-04 (12-03):** Ensure that staff is trained on the process for grouping violations.

**Finding 13-05:** The hazard probability and severity for each citation was not assessed in accordance with the Illinois FOM. Limited documentation is included to support the assessment.

**Recommendation 13-05:** Ensure that staff is trained on the process of assessing probability and severity and that adequate documentation is included in the case file for each violation cited.

**Finding 13-06:** Documentation of an effective evaluation of an employer's respiratory hazards is not included in the file when citations are issued for respiratory protection. This documentation would include the results of any air monitoring completed as required by Chapter 4 of the Illinois FOM.

**Recommendation 13-06:** Ensure that all hazard documentation, such as air monitoring, is documented in the file when respiratory protection citations are issued.

## 5. Abatement

Review of the abatement dates noted that appropriate abatement dates were established in over 90% of the case files reviewed. In almost 95% of the files, adequate abatement was provided by the employer and maintained in the file.

While written Petition for Modification of Abatement Date (PMA) letters were received from the employer when extensions for abatement dates were requested, the letters did not include information documenting interim worker protection during the abatement period.

**Finding 13-07:** Petition for Modification of Abatement Date (PMA) requests from employers did not include information documenting interim worker protection during the abatement period as required by chapter 7 of the Illinois FOM.

**Recommendation 13-07:** Ensure that all PMA requests include information documenting interim worker protection during the abatement period.

## 6. Worker and Union Involvement

Inspectors are required during the inspection Opening Conference to verify if workers at the facility were represented by a union. Local union contact information, including names, addresses, and phone numbers, was included in the file. If an "authorized union representative" (i.e., union representative) was not available, any worker at the site, who was a member of the union, was asked to participate in the

inspection. Names and addresses were included in the file. Limited documentation was in the file noting the union's participation in the inspection process.

As noted earlier, there were limited field notes or interviews included in the files reviewed. Copies of the findings, including citations, were sent to the union representative at the site or personal mailing address. While IDOL was able to provide copies of emails documenting that copies of citations were sent to the local union address, this documentation was not included in the file.

Informal settlement conferences were held with employers where unions were present. Documentation in the file did not include affording the unions the opportunity to participate in these conferences.

**Findings 13-08:** Case file review found that documentation of actions with unions during the entire inspection process, from opening conference to informal settlement conference, was not included as required by the Illinois FOM.

**Recommendation 13-08:** Ensure that documentation verifying all actions with unions, such as onsite inspection participation, sending citations and allowing participation in the informal settlement process, is included in the case file.

## **B. Review Procedures**

### 1. Informal Conferences

Of the 825 cases conducted in FY 2013, based on the November 14, 2013 *Inspection* IMIS report, no employers requested an Informal Conference. Employers are given 15 working days to request an Informal Conference. Based on case file review, informal conferences were held with six of the 86 employers. IDOL-SIED stated that 16 informal conferences had been conducted. Those files reviewed with informal conferences contained limited documentation, such as rationale for changes and who participated.

### 2. Formal Review of Citations

In FY 13, IDOL-SIED states that one file was settled formally. The *Inspection* IMIS report, run on November 14, 2013, documented five contested cases. Case file review did not document any contested cases. Employers are required to file a letter of Contest within 15 working days of receipt of citation.

**Finding 13-09:** Informal conference and contest data is not entered correctly into IMIS.

**Recommendation 13-09:** Ensure that all informal conference and contest data is entered into IMIS.

**Finding 13-10:** Documentation for all actions taken during informal conferences is

not included in the case file. This would include changes to citations and who participated in the conference as required by Chapter 7 of the Illinois FOM.

**Recommendation 13-10:** Ensure that all informal conference notes are included in the file. This would include justification for any changes made to the citations and documentation of who participated.

**C. Standards and Federal Program Changes (FPC) Adoption**

1. Standards Adoption

In FY 2013, IDOL-SIED responded to two Standard adoptions. They adopted the cranes and derrick standard. The State Plan did not adopt the update to the head protection standard based on national consensus standards. Responses from the State Plan were timely.

**Federally Initiated Standards Log  
Summary for IL Report**

02/24/2014

Subject	Intent to Adopt	Adopt Identical	Date Promulgated	Effective Date
Updating OSHA Standards Based on National Consensus Standards; Head Protection	NO	NO	N/A	N/A
Direct Final Rule - Cranes and Derricks in Construction; Underground Construction and Demolition	YES	YES	12/31/2013	12/31/2013

2. OSHA/State Plan Initiated Changes

IDOL-SIED adopted one out of the four FPCs in FY 2013. Illinois adopted the National Emphasis Program – Occupational Exposure to Isocyanates. Three FPCs were not adopted as they are not applicable to the Public Sector.

**Federal Program Change  
Summary for IL Report**

02/24/2014

Directive Number	Title	Adoption Required, Equivalency Required or Adoption Encouraged/Not Required	Intent to Adopt	Adopt Identical	State Adoption Date
CPL-02-01-054 2013 545	Inspection and Citation Guidance for Roadway and Highway Construction Work Zones	Equivalency Required	NO	N/A	N/A
CPI-02-13-01 2013	Site-Specific Targeting 2012	Equivalency Required	NO	N/A	N/A

564	(SST-12)				
CPL-03-00-017 2013 585	National Emphasis Program – Occupational Exposure to Isocyanates	Adoption Required	YES	NO	2/27/2014
CPL-02-00-155 2013 604	Inspection Scheduling for Construction	Equivalency Required	NO	N/A	N/A
CPL-02-01-055 2014 624	Maritime Cargo Gear Standards and 29 CFR Part 1919 Certification	Equivalency Required	NO	N/A	N/A

#### **D. Variances**

While IDOL-SIED continues to develop Administrative Rules addressing variances, no variances were granted during this timeframe.

#### **E. Public Employee Program**

Since IDOL-SIED is a Public Sector Only State Plan, all inspections, 825, were in the public sector. Hazards were identified in over 90% of all inspections. Over 80% of all hazards cited were classified as serious or repeat. While penalties are not issued for first sanction serious citations, penalties are issued for willful citations. During FY 2013, IDOL-SIED issued a total of \$43,600 in penalties.

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

While IDOL-SIED currently has a Discrimination Program in place, it currently is not at least as effective as OSHA’s program. IDOL-SIED continues to work with OSHA to modify and implement a Discrimination Program that is at least as effective as OSHA. A copy of the draft Investigator Manual (WIM) was provided for review to OSHA July 2013. Comments were provided to IDOL-SIED on December 10, 2013. At the time of this report, no updated WIM had been provided to OSHA for review.

No files were reviewed.

#### **G. Special Study – State Plan Targeting Programs**

##### Development of Targeting Programs

During FY 2013, IDOL-SIED was in the fourth year of their developmental steps. One of the steps is 29 CFR 1956.81(e) - Illinois will develop an inspection scheduling system that targets high hazard establishments within two years of Plan approval.

IDOL-SIED initially developed a plan to inspect all public sector sites over a five year period in order to gather a comprehensive list of public sector employers. IDOL-SIED has determined that this process will take longer than anticipated to complete. While at this time, IDOL-SIED does not have any targeting programs in place, during FY 2014, IDOL-SIED expects to adopt at least one of OSHA’s Emphasis Programs such as trenching, falls or PIV. IDOL-SIED will also develop a protocol for developing Targeting Programs.

### Evaluation of the Targeting Program

At this time, IDOL-SIED did not have any Targeting Programs in place to evaluate.

#### **H. CASPAs**

No CASPAs were filed about IDOL-SIED in FY 2013.

#### **I. Voluntary Compliance Program**

The State Plan is in year four of their Development Plan and is focused on meeting the required developmental steps. At this time, IDOL-SIED does not have any Voluntary Compliance Programs, such as Partnerships, Alliances, and VPP in place.

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

On July 1, 2011, the Illinois Onsite Consultation Program (21d) moved from the Department of Commerce and Economic Opportunity to IDOL-SIED. This program was fully implemented effective October 1, 2011, one year earlier than required by the developmental plan.

In FY 2013, IDOL-SIED conducted a total of 33 consultation visits, 29 initial and four follow-up, which was 41.2% of the 80 visits projected. While hazards were identified in 100% of safety visits, in only 48% of health visits were hazards identified. Abatement was obtained for all serious hazards identified.

Staffing remains a concern. All Consultants are expected to work 90% of their time on the 21d Cooperative Agreement and 10% of their time on the 23g grant. At the time the Plan was approved as developmental, IDOL-SIED noted that the Consultation staff would include three safety and two health Consultants. Currently, there are 0.3 safety and 0.5 health Consultants. OSHA awaits IDOL-SIED justification of this reduction in staff.

#### **K. State Plan Administration**

##### Training

A training plan has been developed, which includes training for compliance staff in-house and also at the OSHA Training Institute (OTI). This training plan mirrors OSHA's training directive.

As noted earlier in the report, deficiencies in documentation were noted in the case files reviewed. This included: union participation during the inspection; fatality files did not include all next-of-kin letters; and missing documentation to support hazards cited.

**Finding 13-11 (12-07):** Case file review found that all of the necessary elements for hazard identification and documentation were not included in the case file.

**Recommendation 13-11 (12-07):** Ensure that all compliance staff receives FOM training covering enforcement documentation policies and procedures.

#### Funding

In FY 2013, the funding base award of \$1,584,500 was reduced by \$395,000 to \$1,198,500 due to federal budget sequestration. Illinois did not de-obligate any funds in FY 2013.

#### Staffing

This is the fourth year of the State Plan. Staffing remains a concern. At the time this report was written, there were eight vacant positions: one Enforcement Manager; one Administrative Assistant; one Safety Consultant; three Safety Inspectors; one Health Consultant, and one State Plan Coordinator. Note that since IDOL-SIED was approved as a developmental plan, the State Plan Coordinator position has never been filled

**Finding 13-12 (12-08):** Vacancies continue to remain a concern; such as the State Plan Coordinator position, which is vital to meeting established Developmental Steps, along with one enforcement manager; one administrative assistant; one office assistant; one safety consultant; three safety inspectors; and one health consultant.

**Recommendation 13-12 (12-08):** Fill positions by the agreed upon date.

#### Information Management (including use of IMIS reports for State Plan management)

IDOL-SIED continues to enter data into the Integrated Management Information System (IMIS). During FY 2013, data entry problems with updating abatement (SAMM 6) were resolved during the second quarter. IDOL-SIED maintains a separate database to manage the inspection activity.

The State Plan planned to move to OSHA Express for data collection rather than using the OSHA Information System (OIS) when the State Plans roll out in FY 2014. In February 2014, the Region was informed that instead of moving to OIS or OSHA Express, a data collection system would be developed by a third party contractor. After discussions, IDOL-SIED has determined that the State Plan will roll out to OIS.

#### State Internal Evaluation Program (SIEP) Report

During the developmental period of time, the State Plan has focused on developmental issues. A State Internal Evaluation Program will be implemented in FY 15.



#### **IV. Assessment of State Plan Progress in Achieving Annual Performance Goals**

The following summarizes the activities and/or accomplishments for each of the FY 2013 performance goals.

**Performance Goal 1:** Improve workplace safety and health for all workers, as evidenced by reducing hazards, exposures, injuries, illnesses and fatalities.

**Results:** This goal was not met.

**Discussion:** The Performance Goals established in the FY 2013 grant remain focused on IDOL-SIED meeting the developmental plan goals rather than setting specific inspection related goals. Draft Illinois Administrative Rules, comparable to OSHA's Regulations, were submitted FY 2013. These Rules were reviewed and comments provided by OSHA to IDOL-SIED. Provisional approval was given pending review of published Rules. The Rules were published for comments in the Illinois Register on January 24, 2014. OSHA provided comments to IDOL-SIED on February 24, 2014. The Annual Performance Plan was submitted in a timely manner.

The number of inspections conducted in FY 2013 dropped from 1240 in FY 2012 to 825 in FY 2013. The average number of hours per case increased from 5.7 to 8.7 (safety) and 6.7 to 9.6 (health).

**Performance Goal 2:** Promote a safe and healthy culture through compliance assistance, cooperative programs and strong leadership.

**Results:** This goal was not met.

**Discussion:** IDOL-SIED projected 15 outreach events would be conducted in FY 2013. The Staff conducted 10 educational activities for over 2200 participants. The Public Sector Consultants projected 80 visits for FY2013. They conducted a total of 33 consultation visits which was only 41% of the projected goal. Of the 33 total visits, hazards were not identified during 13 visits. They identified approximately 70 hazards, reduced from 130 in FY 2012, removing 1359 workers from serious hazards.

**Performance Goal 3:** Maximize IDOL-SIED's effectiveness and efficiency by strengthening its capability and infrastructure.

**Results:** This goal was not met.

**Discussion:** It was difficult for IDOL-SIED to fill positions due to more than 10 state-wide hiring freezes during FY 2013. At the time this report was written, there were eight vacant positions: one enforcement manager; one administrative assistant; one safety consultant; three safety inspectors; one health consultant, and one State Plan Coordinator. Note that

since IDOL-SIED was approved as a developmental plan, the State Plan Coordinator position has never been filled

## **V. Other Special Measures of Effectiveness and Areas of Note**

Illinois is entering the fourth year of its developmental period as a public worker only State Plan. In September 2012, OSHA approved the State Plan's request for an additional two years to complete all developmental steps. During FY 2013, while review and approval of Illinois' Administrative Rules moved forward, none of the Developmental Steps were completed.

1. 29 CFR 1956.81(b) - Illinois will update and adopt amendments to the Illinois Administrative Rules (56 ILAC 350) regarding identical standards, variances, inspections, review system for contested cases and worker access to information equivalent to 29 CFR parts 1903, 1905, 1911 and 2200 within two years after plan approval.

**Status:** Illinois did not meet this Developmental Step in FY 2013. The Administrative Rules (Rules) were reviewed and comments provided to IDOL in FY 2013. The Rules were published for comment in January 2014. The published Administrative Rules were reviewed by OSHA and formal comments were provided to Illinois. The final Rules are expected to be published in Spring 2014.

2. 29 CFR 1956.81(c) - Illinois will adopt amendments to rules regarding recordkeeping substantially identical to 29 CFR Part 1904, within two years after Plan approval.

**Status:** Illinois did not meet this Developmental Step in FY 2013. The Administrative Rules (Rules) were reviewed and comments provided to IDOL in FY 2013. The Rules were published for comment in January 2014. The published Administrative Rules were reviewed by OSHA and formal comments were provided to Illinois. The final Rules are expected to be published in Spring 2014.

3. 29 CFR 1956.81(e) - Illinois will develop an inspection scheduling system that targets high hazard establishments within two years of Plan approval.

**Status:** Illinois did not meet this Developmental step in FY 2013. IDOL-SIED initially developed a plan to inspect all public sector sites over a five year period in order to gather a comprehensive list of public sector employers. IDOL-SIED is in the fourth year of the Plan and has determined that this process will take longer than anticipated to complete. During FY 2014, IDOL-SIED expects to adopt at least one of OSHA's Emphasis Programs, such as trenching, falls or PIV.

4. 29 CFR 1956.81(f) - Illinois will develop a comprehensive field operations manual that is at least as effective as the federal Field Operations Manual (FOM), within two years after Plan approval.

**Status:** Illinois did not meet this Developmental Goal in FY 2013. This project was placed

on hold until the Administrative Rules are finalized and in place. A copy of the draft FOM was provided to OSHA on January 22, 2014. OSHA's comments were provided to IDOL-SIED on March 10, 2014.

5. 29 CFR 1956.81(i) - Illinois will fully implement and staff a public employer/worker Consultation Program equivalent to 29 CFR part 1908, and training and education programs separate from Enforcement, within three years after Plan approval.

**Status:** Completed

6. 29 CFR 1956.81(j) - Illinois will have an authorized compliance staff of 11 Safety Inspectors and 3 Industrial Hygienists (non-supervisory) and a public sector consultation staff of 3 Safety Consultants and 2 Industrial Hygiene Consultants within three years of plan approval Illinois will hire the additional Enforcement program field and support staff within two years of Plan approval.

**Status:** Illinois did not meet this Developmental step in FY 2013. This is the fourth year of the State Plan. Staffing remains a concern. At the time this report was written, there were eight vacant positions: one Enforcement Manager; one Administrative Assistant; one Safety Consultant; three Safety Inspectors; one Health Consultant; and one State Plan Coordinator. Note that since IDOL-SIED was approved as a developmental plan, the State Plan Coordinator position has never been filled. In FY 2013, the State Plan's base award was reduced by \$385,000 due to the federal budget sequestration. The State Plan has put a hold on filling the State Plan Coordinator position until funds are re-instated.

7. 29 CFR 1956.81(l) - Illinois will coordinate with the Illinois Department of Public Health and the Bureau of Labor Statistics to expand the current Illinois survey to provide more detailed injury/illness/fatality rates on state and local government, within two years of Plan approval.

**Status:** Completed

**Finding 13-13 (12-09):** IDOL-SIED did not complete all Developmental Steps. A new timeline was submitted and agreed to in October 2012. At the time of this report, the Administrative Rules have yet to be approved by OSHA.

**Recommendation 13-13 (12-09):** Complete the remaining Developmental Steps within the agreed upon timeframe.

Appendix A – New and Continued Findings and Recommendations  
 FY 2013 Illinois State Plan Comprehensive FAME Report

Rec #	Findings	Recommendations	FY 2012
13-01	IDOL-SIED currently does not inspect or investigate complaints received from non-workers, or those that are unsigned.	IDOL-SIED shall develop a protocol to investigate complaints received from non-workers or those that are unsigned.	12-01
13-02	Final next-of-kin letters were included in only one of seven fatality investigation files.	Ensure that a copy of both the initial and final next-of-kin letters sent to the victim's family are included in the file.	12-02
13-03	Case files documentation did not include field notes, worker exposure to hazards, or worker interviews as required in Chapter 5 of the Illinois FOM.	Ensure that case files documentation requirements, such as complete field notes, worker interviews, and complete hazard assessment, are included in the file.	
13-04	Similar hazards are not grouped as required in Chapter 4 of the Illinois FOM.	Ensure that staff is trained on the process for grouping violations.	12-03
13-05	The hazard probability and severity for each citation was not assessed in accordance with the IL FOM. Limited documentation is included to support the assessment.	Ensure that staff is trained on the process of assessing probability and severity and that adequate documentation is included in the case file for each violation cited.	
13-06	Documentation of an effective evaluation of an employer's respiratory hazards is not included in the file when citations are issued for respiratory protection. This documentation would include the results of any air monitoring completed as required by Chapter 4 of the Illinois FOM.	Ensure that all hazard documentation, such as air monitoring, is documented in the file when respiratory protection citations are issued.	
13-07	Petition for Modification of Abatement Date (PMA) requests from employers did not include information documenting interim worker protection during the abatement period as required by Chapter 7 of the Illinois FOM.	Ensure that all PMA requests include information documenting interim worker protection during the abatement period.	
13-08	Case file review found that documentation of actions with unions during the entire inspection process, from opening conference to informal settlement conference, was not included. As required by the Illinois FOM.	Ensure that documentation verifying all actions with unions, such as onsite inspection participation, sending citations and allowing participation in the informal settlement process, is included in the case file.	12-05
13-09	Informal conference and contest data is not entered correctly into IMIS.	Ensure that all informal conference and contest data is entered into IMIS.	
13-10	Documentation for all actions taken during informal conferences is not included in the case file. This would include changes to citations and who participated in the conference as required by Chapter 7 of the Illinois FOM.	Ensure that all informal conference notes are included in the file. This would include justification for any changes made to the citations and documentation of who participated.	
13-11	Case file review found that all of the necessary elements for hazard identification and documentation were not included in the case file.	Ensure that all compliance staff receives FOM training covering enforcement documentation policies and procedures.	12-07
13-12	Vacancies continue to remain a concern; such as the State Plan Coordinator position, which is vital to meeting established Developmental Steps, along with one enforcement manager; one administrative assistant; one office assistant; one safety consultant; three safety inspectors; and one health consultant.	Fill positions by the agreed upon date.	12-08

13-13	IDOL-SIED did not complete all Developmental Steps. A new timeline was submitted and agreed to in October 2012. At the time of this report, the Administrative Rules have yet to be approved by OSHA.	Complete the remaining Developmental Steps within the agreed upon timeframe.	12-09
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Appendix B – Observations Subject to Continued Monitoring  
FY 2013 Illinois State Plan Comprehensive FAME Report

Rec # [OB-1]	Observations	Federal Monitoring Plan	FY 2012
	None		

Appendix C – Status of FY 2012 Findings and Recommendations  
 FY 2013 Illinois State Plan Comprehensive FAME Report

FY 2013 Illinois State Plan Comprehensive FAME Report					
FY 12-Rec #	Finding	Recommendation	State Plan Response/Corrective Action	Completion Date	Current Status
12-1	IDOL-SIED currently does not accept/investigate nonformal complaints.	Before finalizing the FOM, develop a procedure to investigate nonformal complaints.	The Act(s) prescribe the ability to investigate formal complaints. If a non-formal complaint is valid, every attempt is made to formalize it so that an investigation can be conducted under the Act(s). The actual number of non-formal valid occupational safety and health complaints are well less than 1% of complaints received, therefore no procedure for investigating non-formal complaints will be implemented.	No later than 9/14	Open
12-2	Neither initial nor final next-of-kin letters were included in all fatality investigation files.	Before finalizing the FOM, develop and implement a policy requiring both initial and final next-of-kin letters be sent to the family and a copy included in the file.	The Illinois State Plan was notified of these new OSHA requirements during the review of files in February 2012. IDOL implemented procedures and drafted letters for notifying the next-of-kin of the investigation and the findings.	No later than 9/14	Open
12-3	The FOM currently in use does not include a process for grouping violations and assessing hazard severity and probability.	Prior to finalizing the FOM, ensure that a process for grouping violations, assessing hazard severity and probability is included.	The Illinois State Plan was notified of these OSHA requirements during the review of files in February 2012. IDOL implemented procedures and conducted training on the process of grouping violations. The severity and probability assessments were tied to the penalty chapter of the OSHA FOM, therefore not implemented in Illinois due to the fact that first instance sanctions are not issued for all violations. IDOL has incorporated this characterization for NCR input but has not added to IL FOM.	No later than 9/14	Closed
12-4	While abatement information is obtained for identified hazards, IDOL-SIED does not enter abatement information into IMIS as reflected in SAMM #6.	Enter all abatement information into IMIS.	The Illinois State Plan was insufficiently trained on the proper certifying of abatement actions in the IMIS system. The input of specific dates of verification on the OSHA 1B for each violation so that this SAMM measure can be calculated will be initiated. The Illinois State Plan has ensured abatement information is obtained for the identified hazards. This is a clerical issue.	Sept - 13	Closed
12-5	Copies of the results of the inspection were sent	Prior to finalizing the FOM, develop a	The Illinois State Plan was notified of these OSHA requirements during the review of files in February 2012.	No later than 9/14	Open

	to only the union worker at the site. Copies were not sent to the local union even when an address was available.	protocol to ensure that copies of all appropriate inspection findings are sent to the local union.	The public sector has union representation assigned to each site which was the contact used for mailing inspection information. OSHA prefers the union hall be copied/notified. This change in procedure was implemented however, IDOL does not believe that any worker representatives' rights were compromised.		
12-6	IDOL-SIED did not respond to the standards changes or Federal Program Changes (FPC) by the required due date.	Respond to all standard and Federal Program changes within the established due dates.	The Illinois State Plan will respond to all standard and Federal Program changes within the established due dates.	Aug - 13	Closed
12-7	While IDOL-SIED has a training plan in place, review of the case files noted that not all of the necessary elements of the files was included.	Once the final FOM is in place, ensure that all compliance staff receives FOM training covering enforcement policies and procedures.	IDOL conducted training and provided samples of proper abatement documentation. Staff and Supervisors have implemented a more thorough review of abatement documentation.	No later than 9/14	Open
12-8	Vacancies continue to remain in the Program. The State Plan Coordinator position, which is vital to meeting established Developmental Steps, is vacant along one safety compliance position.	Fill positions as soon as possible, but not later than the end of the third quarter of FY 12.	The Illinois State Plan has filled all of its vacancies in accordance with the current AFSMCE contract. All positions are posted as soon as possible and interviews conducted forthwith. The sequestration has impacted the ability to hire and may initiate layoffs.	Aug - 13	Open
12-9	Illinois did not meet all of the established Developmental Steps during the three year developmental time period. Five Developmental Steps remain incomplete.	Ensure that all Developmental Steps are completed by September 30, 2014 as requested in the September 28, 2012 letter submitted to the Chicago Regional Office.	The Illinois State Plan will meet the established/published comprehensive developmental steps in the agreed upon timeframe.	No later than 9/14	Open



**Appendix D – FY 2013 State Activity Mandated Measures (SAMM) Report**  
**FY 2013 Illinois State Plan Comprehensive FAME Report**

OSHA is in the process of moving operations from a legacy data system (IMIS) to a modern data system (OIS). During FY 2013, OSHA case files were captured on OIS, while State Plan case files continue to be processed through IMIS. The SAMM, which is native to IMIS, is not able to access data in OIS, which impacts OSHA's ability to process SAMM standards pinned to national averages (the collective experience of State Plans and OSHA). As a result, OSHA has not been able to provide an accurate reference standard for SAMM 18, which has experienced fluctuation in recent years due to changes in OSHA's penalty calculation formula. Additionally, OSHA is including FY 2011 national averages (collective experiences of State Plan and OSHA from FY 2009-2011) as reference data for SAMM 20, 23 and 24. OSHA believes these metrics are relatively stable year-over-year, and while not exact calculations of FY 2013 national averages, they should provide an approximate reference standard acceptable for the FY 2013 evaluation. Finally, while SAMM 22 was an agreed upon metric for FY 2013, OSHA was unable to implement the metric in the IMIS system. OSHA expects to be able to implement SAMM 22 upon the State Plan's migration into OIS.

<b>U.S. Department of Labor</b>				
Occupational Safety and Health Administration State Activity Mandated Measures (SAMMs)				
State: Illinois			FY 2013	
SAMM Number	SAMM Name	State Plan Data	Reference/Standard	Notes
<b>1</b>	Average number of work days to initiate complaint inspections	7.2	(Negotiated fixed number for each state) 5 - Safety; 10 - Health	State data taken directly from SAMM report generated through IMIS.
<b>2</b>	Average number of work days to initiate complaint investigations	0	Negotiated fixed number has not been submitted	State data taken directly from SAMM report generated through IMIS.
<b>4</b>	Percent of complaints and referrals responded to within 1 work day (imminent danger)	100%	100%	State data taken directly from SAMM report generated through IMIS.
<b>5</b>	Number of denials where entry not obtained	0	0	State data taken directly from SAMM report generated through IMIS.
<b>9a</b>	Average number of violations per inspection with violations by violation type	2.74	SWR: 2.04	State data taken directly from SAMM report generated through IMIS; national data was manually calculated from data pulled from both IMIS and OIS for Fiscal Years (FY) 2011-2013.
<b>9b</b>	Average number of violations per inspection with violations by violation type	0.47	Other: .88	

<b>11</b>	Percent of total inspections in the public sector	100	(Negotiated fixed number for each state) - 100%	State data taken directly from SAMP report generated through IMIS.
<b>13</b>	Percent of 11c Investigations completed within 90 calendar days	5.56	100%	State data taken directly from SAMP report generated through IMIS.
<b>14</b>	Percent of 11c complaints that are meritorious	25.93	24.8% meritorious	State data taken directly from SAMP report generated through IMIS; National data was pulled from webIMIS for FY 2011-2013.
<b>16</b>	Average number of calendar days to complete an 11c investigation	54.57	90 Days	State data taken directly from SAMP report generated through IMIS.
<b>17</b>	Planned vs. actual inspections - safety/health	519/306	(Negotiated fixed number for each state) - 1174/171	State data taken directly from SAMP report generated through IMIS; the reference standard number is taken from the FY 2013 grant application.
<b>18a</b>	Average current serious penalty - 1 -25 Employees			Not applicable to state and local government only State Plans.
<b>18b</b>	Average current serious penalty - 26-100 Employees			
<b>18c</b>	Average current serious penalty - 101-250 Employees			
<b>18d</b>	Average current serious penalty - 251+ Employees			
<b>18e</b>	Average current serious penalty - Total 1 - 250+ Employees			
<b>19</b>	Percent of enforcement presence		National Average 1.5%	Not applicable to state and local government only State Plans.
<b>20a</b>	20a) Percent In Compliance – Safety	Safety - 20.35	Safety - 29.1	State data taken directly from SAMP report generated through IMIS; current national data is not available. Reference data is based on the FY 2011 national average, which draws from the collective experience of State Plans
<b>20b</b>	20b) Percent In Compliance – Health	Health - 29.46	Health - 34.1	

				and federal OSHA for FY 2009-2011.
<b>21</b>	Percent of fatalities responded to in 1 work day	0%	100%	State data is manually pulled directly from IMIS for FY 2013
<b>22</b>	Open, Non-Contested Cases with Abatement Incomplete > 60 Days			Data not available
<b>23a</b>	Average Lapse Time - Safety	44.05	43.4	State data taken directly from SAMM report generated through IMIS; current national data is not available. Reference data is based on the FY 2011 national average, which draws from the collective experience of State Plans and federal OSHA for FY 2009-2011.
<b>23b</b>	Average Lapse Time - Health	54.26	57.05	
<b>24</b>	Percent penalty retained			Not applicable to state and local government only State Plans.
<b>25</b>	Percent of initial inspections with employee walk around representation or employee interview	100%	100%	State data taken directly from SAMM report generated through IMIS.