

# **FY 2014 Follow-up Federal Annual Monitoring and Evaluation (FAME) Report**

**State of Indiana  
Indiana Occupational Safety and Health Administration (IOSHA)**



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## I. Executive Summary

### A. State Plan Activities, Themes and Progress

The purpose of this follow-up Federal Annual Monitoring Evaluation (FAME) report is to assess the State Plan's progress towards achieving performance goals established in their fiscal year (FY) 2014 Annual Performance Plan, to review the effectiveness of programmatic areas related to enforcement activities, including an on-site evaluation, and to describe corrections made by the State Plan in response to the FY 2013 FAME report findings and recommendations. This report fully assesses the current performance of Indiana Department of Labor–Indiana Occupational Safety and Health Administration (IOSHA) 23(g) program and compares the state's program to OSHA.

As a result of the FY 2013 FAME, there were 34 findings and recommendations. Of these 34 findings, 14 have been corrected and 3 have had corrective action taken and are currently awaiting verification during the next comprehensive FAME. Seventeen recommendations are continuing items. There are three new findings and four new observations. A summary of all the findings and recommendations noted, as a result of OSHA's evaluation, are found in *Appendix A, New and Continued Findings and Recommendations*.

Of positive note, the State Plan achieved 10 of the 12 annual performance goals. In addition, in February of 2014 IOSHA implemented an appeal board for the Whistleblower Protection Program, which reviews appeals for the whistleblower decisions filed with the Whistleblower Protection Program. Previously, these cases were reviewed by an attorney, who would decide the outcome of the appealed cases.

There were a few concerning aspects of the program's performance in FY 2014. The State Activity Mandated Measure (SAMM) Report noted a decline in several of the measures. While the State Plan made positive progress in six SAMMs, two SAMMs remained the same and 17 SAMMs saw a decline. Refer to *Appendix D - FY 2014 State Activity Mandated Measures (SAMM) Report* for detailed statistics.

The State Plan is operating below their staffing benchmark level of 70 compliance officers. Currently, the State Plan allocates for 63 compliance officers and there are only 38 compliance officers on-board. Ten compliance officers were hired into the program in FY 2014. The effect of this personnel deficiency is evident in the number of inspections the State Plan completed. Their FY 2014 inspection goal was 2,019 but IOSHA only completed 1,135 inspections (56% of the goal).

IOSHA implemented new software, OSHA Express, in February 2014. The software allowed better electronic use and sharing of information and improved data input. However, it has been determined that IOSHA does not currently have the funds that will allow them to build an interface to transfer data from OSHA Express directly to OSHA Information System (OIS). The estimated cost to complete the interface project is \$150,000.

OSHA received and investigated two Complaints About State Program Administration (CASPA) during FY 2014. The first CASPA alleged that IOSHA failed to properly inspect a complaint in which the complainant was denied their medical and exposure records. The second complaint alleged that IOSHA did not conduct a thorough investigation based on safety issues that were reported, in addition to the complainant being denied access to medical reports. Findings were identified in both investigations and IOSHA immediately implemented corrective measures.

## **B. State Plan Introduction**

The Indiana Department of Labor administers the IOSHA program. The IOSHA plan was approved on February 25, 1974 and certified on October 16, 1981. On September 26, 1986, IOSHA received final approval. During FY 2014, there were no changes to the current administration. The State Plan Designee is Rick Ruble, Commissioner of the Indiana Department of Labor.

The manager of the state's OSHA program is Tim Maley, Deputy Commissioner for IOSHA. IOSHA includes the Occupational Safety and Health (OSH) Compliance Division, which is responsible for compliance program administration through conducting enforcement inspections (general industry and construction), adoption of standards, and operation of other OSHA-related activities.

The Whistleblower Protection Program is responsible for protecting workers from discrimination when taking part in activities covered under the Indiana Occupational Safety and Health Act.

Indiana operates a "mirror" enforcement program, as state law does not allow for the agency to be more stringent than OSHA. According to IC 22-8-1.1-17.5, "The Commissioner may not adopt or enforce any provision used to carry out the enforcement of this chapter that is more stringent than the corresponding federal provision enforced by the United States Department of Labor under the Occupational Safety and Health Act of 1970."

The State Plan adopts all standards and program changes identically, with the exception of those standards and changes that are not within their jurisdiction. The Indiana State Plan covers all private sector and state and local government workers within the state with the exception of railroad workers, federal workers, maritime workers (longshoring, shipbuilding, shipbreaking, and marine terminal operations), and private contractors working at government owned/contractor operated (GOCO) facilities, as well as United States Postal Service workers.

The table below shows IOSHA's funding levels through the grant from FY 2010 thru FY 2014.

<b>FY 2010-2014 Funding History</b>					
<b>Fiscal Year</b>	<b>Federal Award (\$)</b>	<b>State Plan Match (\$)</b>	<b>100% State Funds (\$)</b>	<b>Total Funding (\$)</b>	<b>% of State Plan Contribution</b>
<b>2014</b>	\$2,253,300	\$2,253,300	\$130,744	\$4,637,344	51%
<b>2013</b>	\$2,188,000	\$2,188,000	0	\$4,376,000	50%
<b>2012</b>	\$2,188,000	\$2,188,000	0	\$4,376,000	50%
<b>2011</b>	\$2,188,000	\$2,188,000	0	\$4,376,000	50%
<b>2010</b>	\$2,188,000	\$2,188,000	0	\$4,376,000	50%

The table below shows the number of IOSHA's full-time and part-time staff as of FY 2014

<b>FY 2014 Staffing</b>					
<b>23(g) Grant Positions</b>	<b>Allocated FTE* Funded 50/50</b>	<b>Allocated FTE 100% State Plan Funded</b>	<b>Total</b>	<b>50/50 Funded FTE On Board per 2015 grant</b>	<b>100% State Plan Funded FTE On Board per 2015 grant</b>
Managers/ Supervisors (Administrative)	3.60	0.00	3.60	3.60	0.0
First Line Supervisors (Program)	6.00	0.00	6.00	6.00	0.00
Safety Compliance Officers	42.00	0.00	42.00	20.00	0.00
Health Compliance Officers	21.00	0.00	21.00	18.00	0.00
Public Sector Safety Consultants	0.15	0.00	0.15	0.15	0.00
Public Sector Health Consultants	0.10	0.00	0.10	0.10	0.00
Compliance Assistance Specialist	0.00	0.00	0.00	0.00	0.00
Clerical/Admin/ Data System	6.80	0.00	6.80	6.20	0.00
Discrimination Investigator	2.00	0.00	2.00	2.00	0.00
Other (all positions not elsewhere)	1.00	0.00	1.00	1.00	0.00
<b>Total 23(g) FTEs</b>	<b>82.65</b>	<b>0.00</b>	<b>82.65</b>	<b>57.05</b>	<b>0.00</b>

\*FTE=Full-Time Equivalent

## **C. Data and Methodology**

OSHA has established a two-year cycle for the FAME process. This is the follow-up year and as such, OSHA was not required to perform an on-site evaluation and case file review. However, due to the need to review key findings and verify completion of items in the Corrective Action Plan (CAP) from FY 2013, OSHA conducted a case file review as well as a review of directives and procedures.

The evaluation consisted of reviewing discrimination files, non-formal complaints, inspection files, procedures, directives and the SAMM report. Discussions were also held with personnel from the State Plan.

For FY 2014, there were 1,135 inspection case files, 55 fatality/catastrophe inspections, 501 non-formal complaints and 74 whistleblower investigations. All inspection types were part of case files that were selected for review.

The OSHA team reviewed a total of 41 closed enforcement inspection case files. They were broken down as follows:

- Eight Health Manufacturing files, of which all were complaints or referrals
- Twelve Safety Manufacturing files, of which five were complaints or referrals
- Twenty-one Safety Construction files, of which ten were complaints or referrals

Additionally, the following types of case files were reviewed:

- Eight fatality files
- Ten non-formal complaint investigation files
- Ten Whistleblower files

Files were randomly selected based on limitations set by completion dates that were established in the corrective action plan. The reviewed files were all opened after April 1, 2014.

## **D. Findings and Observations**

This FY 2014 Follow-up FAME Report includes three new findings and four new observations, resulting in a total of 23 findings and four observations. Fourteen findings were corrected and one observation from FY 2013 will be closed. Corrective action has been taken on three findings, but they are continued until they can be verified as complete during the comprehensive FAME next year. Seventeen findings from the FY 2013 report are continued.

New findings address concerns related to appropriate investigation of complaints, correct documentation of fatalities, and timely response to imminent danger complaints. Four new observations were created to monitor documentation, data input, and inspection concerns. Continued findings include those related to the timely issuance of citations, initiating complaints and inspections within 10 days and fatality inspections within one day, and proper identification and documentation of violations. There are several continued findings related to whistleblower

investigations, documentation, and interviews. However, several recommendations related to whistleblower cases have been completed, including staff investigators receiving whistleblower training.

A complete summary of the FY 2013 findings and recommendations, and IOSHA's progress in addressing the findings, are found in *Section III, Assessment of State Plan Corrective Actions*. A list of the new and continued findings is found in *Appendix A, New and Continued Findings and Recommendations*. A list of observations is found in *Appendix B, Observations Subject to New and Continued Monitoring*; and a list of the FY 2013 findings and recommendations is found in *Appendix C, Status of FY 2013 Findings and Recommendations*.

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

### **A. Major New Issues**

Several new issues were discovered during the case file review and in analyzing FY 2014 performance measures. Three new findings were added to address issues pertaining to investigating complaints as appropriate (FY 2014-21), documenting fatalities correctly (FY 2014-22), and responding to imminent danger complaints within the one-day standard (FY 2014-23). Four new observations were created to monitor complaint form documentation (2014-0B-1), fatality intake documentation (2014-0B-2), the coding of inspections (2014-0B-3), and proper citation and documentation of violations (2014-0B-4).

Another issue of concern is IOSHA's use of the OSHA Express software. In FY 2013, IOSHA completed installation and implementation of OSHA Express. However, the software was linked to the OSHA NCR database, even though IOSHA had the option to utilize the new OIS internet-based software. IOSHA now needs to purchase a software update to link OSHA Express to OIS, for which they do not have the necessary funds in their budget.

OSHA received and investigated two Complaints About State Program Administration (CASPA) during FY 2014. The first CASPA, 2014-33 IN, alleged that IOSHA failed to properly inspect a complaint in which a complainant was denied their medical and exposure records. After investigating the CASPA allegations, it was determined that IOSHA failed to properly inspect the complaint. The Intake Supervisor and staff were counseled on how to properly handle future cases. In addition, the CSHOs were instructed to review the original complaint to ensure that all concerns have been addressed.

The second CASPA, 2014-34 IN, alleged that IOSHA did not conduct a thorough investigation of additional safety issues submitted after a complaint was received regarding the complainant being denied access to medical reports. It was determined that the CSHO failed to speak with the complainant about their records request. It was also determined that IOSHA did not conduct an investigation of the complainant's safety complaint. All supervisors were informed that if additional information is submitted after the initial complaint is received, the items must be addressed.

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

In the FY 2014 SOAR, IOSHA provided information that outlined their accomplishments in meeting the second year goals in their five-year Strategic Plan. IOSHA shares their Strategic Plan and their goals with INSafe, the State Consultation Project. IOSHA has 6 strategic goals and 12 performance goals, which are shared with the Indiana consultation project. IOSHA met 10 of the 12 performance goals. Information provided by IOSHA has been reviewed and analyzed to assess their progress in meeting performance plan goals.

**Strategic Goal #1 - Focus resources of INSafe, the Indiana Occupational Safety and Health Administration (IOSHA) and Quality, Metrics and Statistics (QMS) in the underserved Hoosier healthcare industry, which currently has one of the highest single injury and illness rates (5.9 per 100 workers) of all major industries in Indiana.**

**Performance Goal 1.1:** Reduce injuries and illnesses in the healthcare industry by 3% each year.

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

**Discussion:** The 2013 Hoosier non-fatal occupational injury and illness rate for the healthcare industry remained unchanged from the 2012 rate of 5.3% per 100 workers.

**Performance Goal 1.3:** Conduct four inspections in the healthcare industry by the end of each year.

**Results:** This goal was met.

**Discussion:** The Indiana Occupational Safety and Health Administration (IOSHA) conducted six inspections in the healthcare industry during FY 2014.

**Strategic Goal #2 - Effect improved occupational injury and illness rates in the Hoosier manufacturing industry.**

**Performance Goal 2.1:** Reduce injuries and illnesses in the manufacturing industry by 3% each year.

**Results:** This goal was met.

**Discussion:** The Hoosier manufacturing industry non-fatal occupational injury and illness rate declined from 5.3 per 100 workers in 2012 to 4.8 per 100 workers in 2013. This represents a one-year decline of 9.4%.

**Strategic Goal #3 - Effect improved occupational injury and illness rates in the Hoosier construction industry.**

**Performance Goal 3:** Reduce injuries and illnesses in the construction industry by 3% each year.

**Results:** This goal was met.

**Discussion:** The 2013 Indiana non-fatal construction industry injury and illness rate is 2.8 per 100 workers. This represents a one-year decrease of 9.67%.

**Strategic Goal #4 - Increase the number of stakeholder contacts by all Indiana Department of Labor divisions to reach at least 500,000 unique individuals of Indiana's 2.8 million workers. This will include enforcement inspections and consultations, as well as speeches, printed materials, resource tools distributed, web tools, seminars and conferences.**

**Performance Goal 4.1:** Reach 90,000 individuals each year.

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

**Discussion:** In FY 2014, INSafe affected 29,353 individuals through their consultation efforts. In FY 2014, IOSHA impacted 51,815 individuals through inspection-related activities. Total individuals impacted by IOSHA and INSafe were 81,168 individuals.

**Performance Goal 4.2:** Reach 10,000 individuals by end of FY 2014 through speeches, trainings, events and other outreach.

**Results:** This goal was met.

**Discussion:** In FY 2014, INSafe affected 33,452 individuals through speeches, presentations, trainings and other events (interventions).

**Performance Goal 4.3:** Develop two electronic outreach products or resources by the end of each year.

**Results:** This goal was met.

**Discussion:** Two outreach products were needed to meet the goal.

- IN Review – 2014, annual occupational safety and health publication
- Fall Prevention webpage [www.in.gov/dol/2876.htm](http://www.in.gov/dol/2876.htm)

**Strategic Goal #5 - Strengthen the cooperative programs of VPP, INSHARP, Partnerships and Alliances to provide support, mentoring, industry best practices, and acknowledgment of top performers without incentivizing mediocre review or diminished credibility of the program in an effort to encourage duplication of exemplary programs throughout Indiana industries. Actively promote employer and employee awareness of the VPP and INSHARP cooperative programs.**

**Performance Goal 5.1:** Conduct at least 30 combined preliminary site visits and new or recertification visits for employer participation in VPP or INSHARP by the end of each year.

**Results:** This goal was met.

**Discussion:** There were 25 SHARP activities conducted and 20 VPP visits completed for a total of 45 site visits.

**Performance Goal 5.2:** Develop two Partnerships or Alliances by the end of each year.

**Results:** This goal was met.

**Discussion:** During FY 2014, the Indiana Department of Labor amended and renewed two Partnerships, entered into one new Partnership, and entered into one new Alliance.

**Strategic Goal #6 - Foster a culture of professional growth and development among IOSHA Compliance Safety and Health Officers and INSafe Safety and Health Consultants. Improve the division processes and skills of staff so as to employ the best trained, most technically proficient compliance officers, consultants and supervisory staff throughout State Plan programs working at top efficiency.**

**Performance Goal 6.1:** Provide two non-OSHA Training Institute (OTI) training opportunities.

**Results:** This goal was met.

**Discussion:** Select IOSHA CSHOs, supervisors and managers and INSafe Safety and Health Consultants participated in more than eight non-OTI training opportunities during FY 2014.

**Performance Goal 6.2:** Have one staff member attain a professional certification or advanced degree.

**Results:** This goal was met.

**Discussion:** Two IOSHA CSHOs achieved the Certified Hazardous Materials (CHMM) Manager and Certified Safety Professional (CSP) certifications.

### **C. Highlights from the State Activity Mandated Measures (SAMM) Report**

Data from the FY 2014 State Activity Mandated Measures (SAMM) Report was reviewed for deficiencies and notable changes. The SAMM Report consists of performance indicators, the expected performance reference or standard and the State Plan's performance data. The State Plan's performance is compared to the criteria established by regulation, grant agreement, negotiation with OSHA, or national data.

Overall, the SAMM data depicted a decline in several of the measures. Out of 25 measures, the State Plan had positive progress in six, maintained status quo in two, and digressed in 17 measures.

The following summary discusses several SAMMs where the results were troubling for FY 2014.

There were five imminent danger complaints and referrals. Only 60%, or three, were responded to within one day (reference SAMM 4 in Appendix D). In FY 2013, all three of the imminent danger complaints were responded to within one day. This item is a new finding.

In FY 2013, the average lapse time for a safety inspection from the date of opening to the date of issuance of the violations was 64.02 days, and for a health inspection, it was 72.45 days. In FY 2014, this increased to 81.5 days for safety inspections and 103.03 days for health inspections. IOSHA's lapse time for safety inspections is 185% higher than the national average of 43.4 days, and IOSHA's lapse time for health inspections is 194% higher than the national average of 57 days (reference SAMM 23 in Appendix D). This item is a new finding which will be combined with item FY 2014-02 (previously FY 2013-02).

In FY 2014, the average number of days to complete an OSHA whistleblower investigation increased 51% from 75.95 days in FY 2013 to 114.84 days in FY 2014. Twenty-eight investigations took over 90 days to complete (reference SAMM 16 in Appendix D).

The complete FY 2014 SAMM is located in Appendix D.

### **III. Assessment of State Plan Corrective Actions**

In the FY 2013 FAME, IOSHA received 34 findings for the State Plan to address and one observation that needed to be monitored. As part of this FY 2014 FAME, OSHA reviewed a sampling of case files and the documentation provided by the State Plan. IOSHA's current progress on these FY 2013 recommendations and observation is addressed in this section.

**Finding FY 2013-01 (FY 2014-01):** IOSHA conducted a total of 1,513 inspections (1285 safety and 228 health). The negotiated SAMM 17 value is 2,039 inspections (1747 safety and 292 health).

**Status: Open.** FY 2014, IOSHA planned to conduct 2,019 inspections. IOSHA conducted 1,135 (56%) inspections in FY 2014 (see SAMM 17 in Appendix D). IOSHA continued to struggle to meet inspection goals in FY 2014. The agency should review its 2013-2017 Strategic Plan and revise goals as appropriate to ensure they are achievable and consistent with the mission of the agency.

**Finding FY 2013-02 (FY 2014-02):** For 17% of the cases reviewed, it took 55 days or more for cases to be issued after the CSHO turned them in to their Supervisor with one file awaiting issuance for 135 days.

**Status: Open.** Citations for eight of the thirteen closed cases reviewed were issued more than 50 days after being submitted to a supervisor. This appears to be contributing to a high overall lapse time for enforcement cases (SAMM 23). In FY 2014, IOSHA's lapse time for safety inspections was 81.5 days and 103 days for health inspections. These are almost double the national averages of 43.4 and 57 days, respectively.

IOSHA prioritized improving complaint processing times and is now focusing on improving case file processing times. IOSHA should review the policies and processes in place to identify bottlenecks and inefficiencies.

**Finding FY 2013-03 (FY 2014-03):** Sampling results were not being provided to the employer as required in the IOSHA FOM.

**Status: Open.** Eight health files were reviewed. Three of these files contained sampling results. Of the three files, two of the files did not contain letters showing that the sampling results were sent to the employer.

IOSHA did not successfully implement a consistent process for sending sampling results. A written letter containing all sampling results should be sent to the employer as per the IOSHA FOM.

**Finding FY 2013-04 (FY 2014-04):** IOSHA exceeded the negotiated further review level of 10 days to initiate a complaint inspection. The average time to initiate a complaint inspection was 37.71 days. Two cases were identified where the complaint was not opened within six months of receipt.

**Status: Open.** The average time to initiate a complaint inspection (SAMM 1) was 13.94 days. This is a 170% decrease from the FY 2013 total of 37.71 days.

IOSHA made great progress in this area, and should continue to reduce the number of days to initiate a complaint inspection. It is recommended that IOSHA utilize administrative controls to ensure that complaint inspections are initiated in a timely manner in order to meet the negotiated SAMM 1 value of 10 days.

**Finding FY 2013-05 (FY 2014-05):** IOSHA exceeded the negotiated further review level of five days to initiate a complaint investigation. The average time to initiate a complaint investigation was 36.19 days.

**Status: Open.** According to SAMM 2 for FY 2014, the average number of days to initiate a complaint investigation was 71.64 days, which is a 98% increase from the previous 36.19 days in FY 2013.

IOSHA regressed in this area in FY 2014. It is recommended that IOSHA utilize administrative controls to ensure that complaint investigations are initiated in a timely manner in order to meet the negotiated SAMM 2 value of five days.

**Finding FY 2013-06 (FY 2014-06):** As required in Chapter 8 of the IOSHA FOM, IOSHA failed to provide copies of the results of non-formal complaints to 60% of the complainants in which an address or some other form of contact information was provided.

**Status: Open.** Three complainants received letters stating companies were in-compliance and the investigation was closed. Three complainants had not been sent a letter apprising them of the results of their complaint.

IOSHA did not successfully implement a consistent process for providing non-formal complaint results. IOSHA shall provide copies of non-formal complaint results to complainants that have provided an address or some other form of contact information.

**Finding FY 2013-07:** Non-construction related vehicle accidents, murders, suicides, non-work related injuries and illnesses, and other areas where IOSHA does not have jurisdiction were inspected.

**Status: Completed.** IOSHA successfully corrected this process. This item is verified as completed.

**Finding FY 2013-08:** Only 8% of files had the required next of kin letters sent.

**Status: Completed.** IOSHA successfully corrected this process.

**Finding FY 2013-09 (FY 2014-07):** Forty-five of 62 (73%) of fatality inspections were responded to in one day.

**Status: Open.** According to SAMM 21, 54% of fatalities were responded to in one work day. Of the eight inspections reviewed, one was not responded to within one day.

IOSHA showed improvement in this measure in FY 2014, but should continue to work on fatality response time. It is recommended that IOSHA utilize the use of administrative controls to

ensure that fatality investigations are responded to in one day in order to meet the one day as required by SAMM 21 and the Indiana FOM.

**Finding FY 2013-10:** Complaints alleging hazards associated with targeted programs were being converted into programmed planned inspections. No complaint information was being entered or maintained beyond the hazard allegations.

**Status: Completed.** Six complaint files reviewed were properly coded. This item is verified as completed.

**Finding FY 2013-11 (FY 2014-08):** All apparent violations were not cited in 11 of the 88 case files (12%) that were reviewed.

**Status: Open.** Photos showed evidence of workers exposed to hazards, such as amputations due to inadequate guarding of machinery, electrical shock and falls that were not cited. In addition, there were personal protective equipment (PPE) and hazard communication program violations not cited. Case file narratives also detailed these hazards.

IOSHA continued to struggle in this area in FY 2014. IOSHA should ensure that Compliance Officers are not penalized for taking additional time to conduct complex inspections and appropriately identify and document all observed hazards during inspections, including industrial hygiene sampling. All hazards in plain view during the course of an inspection within the scope of that inspection should be addressed.

**Finding FY 2013-12 (FY 2014-09):** Inadequate documentation was present in the worksheets and file to support that all required elements for a citation existed.

**Status: Open.** Two of the thirteen inspection files with citations, which were opened after April 1, 2014 and closed, contained no worksheets for the violations cited. One of the six fatality inspections with violations, which was opened after April 1, 2014 and was closed, was also missing the worksheets. One fatality inspection failed to have adequate evidence in the worksheet to support the violations.

IOSHA continued to struggle in this area. Per the IOSHA FOM, inspection files should contain adequate worker exposure, employer knowledge, and evidence that the violation exists.

**Finding FY 2013-13:** None of the violations were correctly classified in 11% of the reviewed case files.

**Status: Completed.** Of the 13 inspection files reviewed with violations, all violations were correctly classified.

**Finding FY 2013-14 (FY 2014-10):** The safety inspection in-compliance rate was 61.17% and the health inspection in-compliance rate was 54.13%

**Status: Open.** IOSHA's in-compliance rate for safety inspections was 66.9%, and the national average was 29.1%. IOSHA's in-compliance rate for health inspections was 48.03%, and the national average was 34.1%.

IOSHA made progress in the in-compliance rate for health inspection, but regressed in the in-compliance rate for safety inspections. IOSHA has developed an internal "hazard recognition" course that will be delivered to all IOSHA personnel during the first quarter of FY 2015. It is recommended that IOSHA utilize administrative controls in order to meet the SAMM 20a value of 29.1% for safety inspections and the SAMM 20b value of 34.1% for health inspections.

**Finding FY 2013-15 (FY 2014-11):** IOSHA failed to follow the Petition for Modification of Abatement (PMA) procedure. All of the required items were not in the files.

**Status: Awaiting Verification.** Only one fatality included a PMA. It appeared to be adequate, but the paperwork had not been completed.

IOSHA appears to have corrected this procedure, but this will be verified in FY 2015.

**Finding FY 2013-16 (FY 2014-12):** Interviews are not being documented, or the interviews are insubstantial in their content.

**Status: Awaiting Verification.** Nine of forty-one (22%) inspection files reviewed were missing interviews or had insubstantial or inadequate interviews and did not address all relevant concerns.

IOSHA has implemented corrective procedures. CSHOs have been informed of the need to document a refusal to answer questions if the employee is unresponsive. In addition, supervisors have been reminded to insist on complete interview statements from CSHOs. It is expected that this will be verified as corrected in FY 2015.

**Finding FY 2013-17:** IOSHA had not developed written procedures for implementing an Expedited Informal Settlement Agreement (EISA).

**Status: Completed.** IOSHA has developed written procedures for implementing an Expedited Informal Settlement Agreement (EISA), which has been placed in the IFOM. During the review, the item was verified as complete.

**Finding FY 2013-18:** IOSHA failed to provide all updates for federally initiated standard and program plan changes.

**Status: Completed.** Only one standard was required to be adopted during this time period, the Federal Rule for Electric Power Generation, Transmission and Distribution; Electrical Protective Equipment. The response was due on June 11, 2014 and was received on June 13, 2014. The adoption due date was January 11, 2015. It was adopted on February 1, 2015.

**Finding FY 2013-19:** The IOSHA was still utilizing the FIRM; even though, they adopted the FOM, CPL 02-00-148, on January 4, 2010.

**Status: Completed.** IOSHA completed the IFOM at the end of CY 2014, and implemented its use on February 3, 2015.

**Finding FY 2013-20 (FY 2014-13):** Investigators failed to follow the Whistleblower Investigator Manual (WIM) policies and procedures. The required documentation, intake and screening of cases, and file organization were not being completed per the WIM.

**Status: Open.** Only five of the ten cases reviewed contained the required documentation, proper intake and screening and file organization

IOSHA added an additional supervisor position whose responsibility is to supervise, train and review the work of the whistleblower staff. A quality checklist is being utilized to ensure that all whistleblower cases follow the appropriate procedures. However, additional oversight and improvement are needed in this area. Every case file needs to be reviewed by a Supervisor to show compliance with the WIM, policies and procedures. Ensure that all investigative staff is following the same Whistleblower Program policies and procedures.

**FY 2013-21:** Not all of the whistleblower staff members have received the required whistleblower training courses at the OSHA Training Institute (OTI).

**Status: Completed.** The region provided training on August 22, 2013 for the state's whistleblower investigators.

**Finding FY 2013-22 (FY 2014-14):** Whistleblower Investigators are not completing thorough investigations. Interviews are not conducted, complainants are not provided opportunities for rebuttal, and testing the employer's defense is not conducted.

**Status: Open.** Three of the ten (30%) whistleblower files reviewed were found to have inadequate interviews, interviews of relevant witnesses were not performed, complainants were not provided opportunities for rebuttal, and the testing of the employer's defense was not performed.

Region V OSHA personnel conducted a comprehensive OSHA whistleblower training for all Indiana OSHA whistleblower investigative staff and Indiana OSHA management personnel in August of 2013. Indiana OSHA is now utilizing all Whistleblower Protection Program

procedures. Management is monitoring to ensure that WPP procedures are followed. However, additional oversight and improvement are needed in this area. Whistleblower Investigators should follow policies and procedures as outlined in the WIM for performing investigations.

**Finding FY 2013-23 (FY 2014-15):** Whistleblower Investigators are not always recognizing or applying the prima facie elements correctly in analyzing the cases, causing cases to be investigated which should not be. Cases are being closed without merit prior to a thorough investigation being completed.

**Status: Awaiting Verification.** One of the ten whistleblower cases reviewed was found to not have the prima facie elements correctly analyzed. Cases are being closed without merit prior to a thorough investigation being completed.

IOSHA has implemented corrective procedures, but this will await verification during the full case file review in FY 2015.

**Finding FY 2013-24 (FY 2014-16):** Merit whistleblower cases, for which a settlement was not reached, must be filed in state court within 120 days. However, whistleblower investigators are no longer restricted to 60 days to complete these cases.

**Status: Open.** Progress was made in eliminating the 60 day investigative restriction. The IDOL Commissioner is currently working with the legislature to extend or repeal the 120 day deadline. IOSHA should continue to seek revision of the 120 day statutory deadline for filing in court in order to allow investigators the needed time to complete a thorough investigation.

**Finding FY 2013-25:** Settlement agreements are not completed in accordance with the Whistleblower Investigation Manual. Checks are made payable to and accepted by IOSHA and not returned to the employer for reissuance to the complainant.

**Status: Completed.** IOSHA is now ensuring that settlement agreements are completed in accordance with the Whistleblower Investigation Manual.

**Finding FY 2013-26:** Settlement agreements are not completed in accordance with the Whistleblower Investigation Manual. Reasonable efforts are not made to obtain monetary restitution and employment reinstatement in order to make-whole the complainant. The State Plan is telling complainants that failure to accept the agreement will result in the closing of their case even though there is no make-whole remedy.

**Status: Completed.** All investigators and supervisors were re-trained on the proper remedies to be sought during settlement negotiations. All investigators were directed to document settlement negotiations and reinstatement status, where applicable. Indiana OSHA management routinely reviews settlement terms and documentation.

**Finding FY 2013 -27:** Settlement agreements are not completed in accordance with the Whistleblower Investigation Manual. The State Plan is entering into unilateral settlement agreements on behalf of the complainant without a make-whole remedy.

**Status: Completed.** Three of the ten reviewed whistleblower cases were settled. No unilateral settlement agreements were found. This item is verified as completed.

**Finding FY 2013-28:** Complainants are not provided information regarding their right to appeal.

**Status: Completed.** Four of the ten reviewed whistleblower cases were found to be without merit. The four complainants in the non-merit cases were informed of their right to appeal.

**Finding FY 2013-29 (FY 2014-17):** IOSHA had not developed a procedure to approve Local Emphasis Programs which includes, but, is not necessarily limited to, a rationale, selection process, industries covered, and an evaluation for effectiveness of the program.

**Status: Open.** The Director of Construction was assigned to complete the LEP procedure by the second quarter of FY 2015. Progress has been made in developing draft LEP's. An extension was requested for the end of FY 2015 to complete this assignment.

**Finding FY 2013-30:** While IOSHA uses OSHA's VPP Policy and Procedure Manual (VPPPPM) as their reference document; the written report did not follow the required format nor were acceptance letters sent to the employer when an application is submitted.

**Status: Completed.** All administrative VPP activities have been consolidated under one staff assistant. The staff assistant has a checklist to follow and it includes mailing out acceptance letters to employers when an application is accepted. The head of VPP created a new policies and procedures program.

**Finding FY 2013-31 (FY 2014-18):** While IOSHA stated that they followed OSHA's Alliance Program directive (CSP 04-01-001), the Alliance signed agreements did not follow the required format.

**Status: Open.** An extension was requested until the end of FY 2015. IOSHA should draft and implement an Alliance Guidance document.

**Finding FY 2013-32 (FY 2014-19):** While IOSHA stated that they followed OSHA's Partnership Program directive (CSP 03-02-003), the Partnership signed agreements did not follow the required format.

**Status: Open.** IOSHA intends to develop and implement a slightly modified version of the federal Partnership Guidance document. Expected completion date is by the end of the second quarter of FY 2015.

**Finding FY 2013-33 (FY 2014-20):** While IOSHA currently allocates compliance staff levels that meet the required benchmark of 70 positions; only 37 enforcement positions are filled.

**Status: Open.** For FY 2014, IOSHA has allocated 63 compliance officer positions, which is below the total benchmark. The on-board staffing level is at 38 compliance officer positions. The Indiana Commissioner of Labor will continue to discuss the feasibility of filing a petition for a re-evaluation of staffing levels with OSHA.

**Finding: FY 2013-34:** Injuries and illnesses were not reduced by 3% in the manufacturing industry. (Strategic Goal 2.1)

**Status: Completed.** Injuries and illnesses were reduced by 9.4% in the manufacturing industry, which is greater than the requirements for FY 2013 and 2014 combined. (Strategic Goal 2.1)

**Observation FY 2013-01:** The files, while organized, were using several different types of organization, creating difficulty in finding documents.

**Status: Closed.** Upon review of the inspection case files, it was determined that one method to organize case files had been developed and was being utilized by the enforcement staff.

**Appendix A – New and Continued Findings and Recommendations**  
**FY 2014 Indiana State Plan Follow-up FAME Report**

FY 2014-#	Finding	Recommendation	FY 2013-#
FY 2014-01	In FY 2014, IOSHA planned to conduct 2,019 inspections. IOSHA conducted 1,135 or 56% of the planned inspections in FY 2014.	The agency should review its 2013-2017 Strategic Plan and revise goals as appropriate to ensure they are achievable and consistent with the mission of the agency.	FY 2013-01
FY 2014-02	In FY 2014, IOSHA’s lapse time for safety inspections was 81.5 days and 103 days for health inspections. These are almost double the national averages of 43.4 and 57 days, respectively.	IOSHA should review the policies and processes in place to identify bottlenecks and inefficiencies.	FY 2013-02
FY 2014-03	Sampling results were not being provided to the employer as required in the IOSHA FOM.	A written letter containing all sampling results should be sent to the employer as per the IOSHA FOM.	FY 2013-03
FY 2014-04	IOSHA exceeded the negotiated further review level of 10 days to initiate a complaint inspection. The average time to initiate a complaint inspection (SAMM 1) was 13.94 days.	It is recommended that IOSHA implement administrative controls to ensure that complaint inspections are initiated in a timely manner in order to meet the negotiated SAMM 1 value of 10 days.	FY 2013-04
FY 2014-05	IOSHA exceeded the negotiated further review level of five days to initiate a complaint investigation. The average time to initiate a complaint investigation was 71.64 days.	It is recommended that IOSHA implement administrative controls to ensure that complaint investigations are initiated in a timely manner in order to meet the negotiated SAMM 2 value of five days.	FY 2013-05
FY 2014-06	As required in Chapter 8 of the IOSHA FOM, IOSHA failed to provide copies of the results of non-formal complaints in 3 of the 6 case files reviewed.	IOSHA shall provide copies of non-formal complaint results to complainants that have provided an address or some other form of contact information.	FY 2013-06
FY 2014-07	54% of fatality inspections were responded to in one day.	It is recommended that IOSHA utilize the use of administrative controls to ensure that fatality investigations are responded to in one day in order to meet the standard as required by SAMM 21 and the Indiana FOM.	FY 2013-09
FY 2014-08	Case files contained photos and narrative description of hazards that amounted to violations and were not cited.	Ensure that Compliance Officers are not penalized for taking additional time to conduct complex inspections and appropriately identify and document all observed hazards during inspections, including industrial hygiene sampling. Address all hazards in plain view during the course of an inspection within the scope of that inspection.	FY 2013-11
FY 2014-09	Inadequate documentation was present in the worksheets and file to support that all required elements for a citation existed.	Per the IOSHA FOM, inspection files should contain adequate worker exposure, employer knowledge, and evidence that the violation exists.	FY 2013-12
FY 2014-10	IOSHA’s in-compliance rate for safety inspections was 66.9%, and the national average was 29.1%. IOSHA’s in-compliance rate for health inspections was 48.03%, and the national average was 34.1%.	It is recommended that IOSHA utilize administrative controls in order to meet the SAMM 20a value of 29.1% for safety inspections and the SAMM 20b value of 34.1% for health inspections.	FY 2013-14
FY 2014-11	IOSHA failed to follow the Petition for Modification of Abatement (PMA) procedure. All of the required items were not in the files.	IOSHA should follow the petition for modification of abatement (PMA) procedures per the IOSHA FOM.	FY 2013-15

**Appendix A – New and Continued Findings and Recommendations**  
**FY 2014 Indiana State Plan Follow-up FAME Report**

FY 2014-#	Finding	Recommendation	FY 2013-#
		(Corrective action complete, awaiting verification.)	
FY 2014-12	Nine of forty-one (22%) inspection files reviewed were missing interviews or had insubstantial or inadequate interviews and did not address all relevant concerns.	Per the IOSHA FOM, interviews should be documented and contain content that addresses the safety and health concerns at the establishment being inspected. (Corrective action complete, awaiting verification.)	FY 2013-16
FY 2014-13	Investigators failed to follow the Whistleblower Investigator Manual (WIM) policies and procedures. The required documentation, intake and screening of cases, and file organization were not being completed per the WIM.	Every case file needs to be reviewed by a Supervisor to show compliance with the WIM, policies and procedures. Ensure that all investigative staff is following the same Whistleblower Program policies and procedures.	FY 2013-20
FY 2014-14	Three of the ten (30%) whistleblower files reviewed were found to have inadequate interviews, interviews of relevant witnesses were not performed, complainants were not provided opportunities for rebuttal, and the testing of the employer's defense was not performed.	Whistleblower Investigators should follow policies and procedures as outlined in the WIM for performing investigations.	FY 2013-22
FY 2014-15	One of the ten whistleblower cases reviewed was found to not have the prima facie elements correctly analyzed. Cases are being closed without merit prior to a thorough investigation being completed.	Provide additional training to staff to ensure that the Whistleblower Investigators understand the application of the prima facie elements and the proper way to correctly analyze evidence for the determination. (Corrective action complete, awaiting verification.)	FY 2013-23
FY 2014-16	Merit whistleblower cases, for which a settlement was not reached, must be filed in state court within 120 days. However, whistleblower investigators are no longer restricted to 60 days to complete these cases.	Seek revision of the 120 day statutory deadline for filing in court in order to allow investigators the needed time to complete a thorough investigation.	FY 2013-24
FY 2014-17	IOSHA had not developed a procedure to approve Local Emphasis Programs which includes, but, is not necessarily limited to, a rationale, selection process, industries covered, and an evaluation for effectiveness of the program.	Develop a procedure to approve local emphasis programs. As a guide, follow OSHA directive CPL 04-00-001, development of local emphasis programs, and/or develop a procedure for approval similar to this directive.	FY 2013-29
FY 2014-18	While IOSHA stated that they followed OSHA's Alliance Program directive (CSP 04-01-001), the Alliance signed agreements did not follow the required format. IOSHA should draft and implement an Alliance Guidance document.	IOSHA should draft and implement an Alliance Guidance document that is at least effective as OSHA's.	FY 2013-31
FY 2014-19	While IOSHA stated that they followed OSHA's Partnership Program directive (CSP 03-02-003), the Partnership signed agreements did not follow the required format.	IOSHA should draft and implement a slightly modified version of the federal Partnership Guidance document.	FY 2013-32
FY 2014-20	IOSHA currently allocates compliance staff levels at 63 positions, which falls below the required benchmark of 70 positions and only	IOSHA should continue to try and fill allocated benchmark positions while pursuing a modification of the benchmark level	FY 2013-33

## Appendix A – New and Continued Findings and Recommendations

### FY 2014 Indiana State Plan Follow-up FAME Report

FY 2014-#	Finding	Recommendation	FY 2013-#
	38 positions are filled.	with OSHA.	
FY 2014-21	All reported complaints are not being investigated. A file review of ten complaints indicated that three were not investigated. Also, when non-formal complaints are received and investigated, they are not closed in a timely manner.	It is recommended that IOSHA implement administrative controls such as running a weekly inspection report to ensure that all open files are being handled timely.	
FY 2014-22	IOSHA is not documenting fatalities as detailed in the IOSHA FOM. The OSHA-36 report was not completed for all fatalities. These must be completed for reported fatalities, even if they are not work-related and no inspection is opened.	Per the IOSHA FOM, the OSHA-36 Fatality/Catastrophe Report should be completed for all reported fatalities.	
FY 2014-23	IOSHA is not responding to imminent danger complaints within one day. Of five imminent danger complaints and referrals, only 60% were responded to within one day.).	All imminent danger complaints should be responded to within one day, per the IOSHA FOM.	

**Appendix B – Observations Subject to New and Continued Monitoring**  
 FY 2014 Indiana State Plan Follow-up FAME Report

<b>Observation # FY 2014-OB-#</b>	<b>Observation# FY 2013-OB-#</b>	<b>Observation</b>	<b>Federal Monitoring Plan</b>	<b>Current Status</b>
	2013-OB-1	The files, while organized, were using several different types of organization, creating difficulty in finding documents.	One method to organize case files should be used.	Closed
2014-OB-1		The OSHA-7, Alleged Notice of Safety and Health Hazards, was not being filled out to the fullest extent possible; items were left blank. It was found that the complaint duty officer was not completing the section of the form that explains the relationship of the complainant to the employer.	The need to fill out the forms as completely as possible will be discussed with the state. OSHA will monitor to ensure that the forms are being filled out as fully as possible during the next case file review.	New
2014-OB-2		Intake documentation was not being placed in the fatality/catastrophe inspection files. Three of eight fatality files, reviewed did not contain intake documentation for the fatality. IOSHA stated that many of these fatalities were obtained from the telephone hotline, which was why no intake had been performed.	OSHA will monitor to ensure that all intake documents are being placed in fatality files as appropriate during the next case file review.	New
2014-OB-3		Complaint inspections were not properly coded per IOSHA policy in the database. A review of files between April 1 and September 30, 2014 indicated the type of inspection was often coded as program-related instead of complaint. Also, safety inspections were coded as industrial hygiene and industrial hygiene inspections were coded as safety inspections.	OSHA will review the coding of complaint inspections quarterly and discuss any issues with the state.	New
2014-OB-4		In one inspection file reviewed, the inspector cited all violations as general duty even when there were OSHA standards present that addressed the violations. Additionally, the required documentation to support the general duty violations was not present.	OSHA will review violations and documentation of violations during the next case file review.	New

**Appendix C - Status of FY 2013 Findings and Recommendations**  
**FY 2014 Indiana State Plan Follow-up FAME Report**

FY 2013-#	Finding	Recommendation	State Plan Response/Corrective Action	Completion Date	Current Status and Date
FY 2013-01	IOSHA conducted a total of 1,513 inspections (1285 safety and 228 health). The negotiated SAMM 17 value is 2,039 inspections (1747 safety and 292 health).	The agency should review its 2013-2017 Strategic Plan and revise goals as appropriate to ensure they are achievable and consistent with the mission of the agency.	IOSHA has set a realistic goal of conducting 1,502 inspections in FY 2014, based upon the number and experience of existing staff.  The FY 2015 grant was submitted with a more realistic number of inspections forecasted in Appendix D.	Not Completed	Open 2/13/15
FY 2013-02	For 17% of the cases reviewed, it took 55 days or more for cases to be issued after the CSHO turned them into their Supervisor with one file awaiting issuance for 135 days.	IOSHA should review the policies and processes in place to identify bottlenecks and inefficiencies.	IOSHA prioritized improving complaint processing times and is now focusing on improving case file processing times. A Six-Sigma project will be initiated in FFY 2015 Q1 to make improvements in this area.	Not Completed	Open 2/13/15
FY 2013-03	Sampling results were not being provided to the employer as required in the IOSHA FOM.	A written letter containing all sampling results should be sent to the employer.	The correct process has been implemented and sampling results are now being sent to employers.	Not Completed	Open 2/13/15

**Appendix C - Status of FY 2013 Findings and Recommendations**  
 FY 2014 Indiana State Plan Follow-up FAME Report

FY 2013-#	Finding	Recommendation	State Plan Response/Corrective Action	Completion Date	Current Status and Date
FY 2013-04	IOSHA exceeded the negotiated further review level of 10 days to initiate a complaint inspection. The average time to initiate a complaint inspection was 37.71 days. Two cases were identified where the complaint was not opened within six months of receipt.	It is recommended that IOSHA utilize the use of administrative controls to ensure that complaint inspections are initiated in a timely manner in order to meet the negotiated SAMM 1 value of 10 days.	IOSHA considers this item to be complete. IOSHA has corrected procedures and enhanced oversight, and the SAMM 1 numbers for April, May and June 2014 are all less than 10 days.	Not Completed	Open 2/13/15
FY 2013-05	IOSHA exceeded the negotiated further review level of five days to initiate a complaint investigation. The average time to initiate a complaint investigation was 36.19 days.	It is recommended that IOSHA utilize the use of administrative controls to ensure that complaint investigations are initiated in a timely manner in order to meet the negotiated SAMM 2 value of five days.	IOSHA changed complaint-handling procedures. Complaint average response time is presently in the 10 day range. For the month of July 2014, response time to informal complaints was 2.05 days. Further improvements are being implemented.	Not Completed	Open 2/13/15
FY 2013-06	As required in Chapter 8 of the IOSHA FOM, IOSHA failed to provide copies of the results of non-formal complaints to 60% of the complainants in which an address or some other form of contact information was provided.	IOSHA shall provide copies of non-formal complaint results to complainants that have provided an address or some other form of contact information.	IOSHA is now providing copies of non-formal complaint results to all complainants for which we have contact information.	Not Completed	Open 2/13/15
FY 2013-07	Non-construction related vehicle accidents, murders, suicides, non-work related injuries and illnesses, and other areas where IOSHA does not have jurisdiction were inspected.	Fatalities and catastrophes not under the jurisdiction of IOSHA should be coded as a no inspection and no jurisdiction. Appropriate referrals should be made	This process has been corrected.	3/1/14	Completed 2/13/15

**Appendix C - Status of FY 2013 Findings and Recommendations**  
 FY 2014 Indiana State Plan Follow-up FAME Report

<b>FY 2013-#</b>	<b>Finding</b>	<b>Recommendation</b>	<b>State Plan Response/Corrective Action</b>	<b>Completion Date</b>	<b>Current Status and Date</b>
		as necessary.			
FY 2013-08	Only 8% of files had the required next of kin letters sent.	Both next of kin letters should be sent as required by CPL 02-00-153 Communicating OSHA Fatality Procedures to a Victim's Family.	The Deputy Commissioner has reviewed this finding with the administrative personnel who send the next of kin letters and instructed them of the correct procedure.	7/1/14	Completed 2/13/15
FY 2013-09	Forty-five of 62 (73%) of fatality inspections were responded to in one day.	It is recommended that IOSHA utilize the use of administrative controls to ensure that fatality investigations are responded to in one day in order to meet the one day as required by SAMM 21 and the Indiana FOM.	It is IOSHA practice to respond to fatalities in 24 hours. Some cases that occur on the weekend may not be opened within the 24 hour requirement. IOSHA will make every attempt to open fatality investigations with 24 hours.	Not Completed	Open 2/13/15
FY 2013-10	Complaints alleging hazards associated with targeted programs were being converted into programmed planned inspections. No complaint information was being entered or maintained beyond the hazard allegations.	If a complaint alleging hazards associated with targeted programs is received, it should remain a complaint, and the complainant should be offered the opportunity to provide contact information and receive the results about their complaint.	This has been corrected. It was a past practice of the Construction Division, however, now all construction complaints are following the appropriate complaint process.	4/1/14	Completed 2/13/15
FY2013-11	All apparent violations	Address all hazards in	This issue was addressed in CASPA IN-13-30	Not Completed	

**Appendix C - Status of FY 2013 Findings and Recommendations**  
 FY 2014 Indiana State Plan Follow-up FAME Report

<b>FY 2013-#</b>	<b>Finding</b>	<b>Recommendation</b>	<b>State Plan Response/Corrective Action</b>	<b>Completion Date</b>	<b>Current Status and Date</b>
	were not cited in 11 of the 88 case files (12%) that were reviewed.	plain view during the course of an inspection within the scope of that inspection. Ensure that Compliance Officers are not penalized for taking additional time to conduct complex inspections and appropriately identify and document all observed hazards during inspections, including industrial hygiene sampling.	recommendation #18. After thorough inquiry, IOSHA has not found a single instance where an Indiana OSHA Compliance Officer was penalized for taking the time to properly identify and document workplace hazards. Work activity expectations were established taking into consideration the varying complexity of investigations and additional time required for IH sampling. However, new supervisors are in place and will be thoroughly reviewing case files to ensure all apparent violations are cited.		Open 2/13/15
FY 2013-12	Inadequate documentation was present in the worksheets and file to support that all required elements for a citation existed.	Per the IOSHA FOM, inspection files should contain adequate employee exposure, employer knowledge, and evidence that the violation exists.	It is unclear from the recommendation the extent of the finding. However, new supervisors are in place to thoroughly review files and training of CSHOs has been a priority since 2013. The OSHA Express will not allow the closing of a file without information entered regarding all elements of a violation.	Not completed	Open 2/13/15
FY 2013-13	None of the violations were correctly classified in 11% of the reviewed case files.	CSHOs should check for repeat violations, and correctly assess severity and probability as per the definition in the IOSHA FOM.	Supervisors and CSHOs were informed of the need to classify nearly all electrical violations as High/Greater. A detailed policy for making the determinations will be completed by January 1, 2015.	1/1/15	Completed 2/13/15
FY 2013-14	The safety inspection in-compliance rate was 61.17% and the health inspection in-compliance rate was 54.13%	It is recommended that IOSHA utilize the use of administrative controls in order to meet the SAMM 20a value of 29.1% for safety inspections and the SAMM 20b value of 34.1% for health	IOSHA is communicating correct procedures to CSHOs, and Supervisors are shadowing officers with high in compliance rates. IOSHA has developed an internal "hazard recognition" course that will be delivered to all IOSHA personnel during FY 2015 Q1.	Not Completed	Open 2/13/15

**Appendix C - Status of FY 2013 Findings and Recommendations**  
 FY 2014 Indiana State Plan Follow-up FAME Report

FY 2013-#	Finding	Recommendation	State Plan Response/Corrective Action	Completion Date	Current Status and Date
		inspections.			
FY 2013-15	IOSHA failed to follow the Petition for Modification of Abatement (PMA) procedure. All of the required items were not in the files.	IOSHA should perform the petition for modification of abatement (PMA) procedure per the IOSHA FOM.	Although it appears that IOSHA failed to follow the PMA procedure in a very small number of cases, the PMA procedure was reaffirmed and supervisors were reminded to follow the appropriate PMA procedures already in place.	3/1/14	Awaiting Verification 2/13/15
FY 2013-16	Interviews are not being documented, or the interviews are insubstantial in their content.	Per the IOSHA FOM, interviews should be documented and contain content that addresses the safety and health concerns at the establishment being inspected.	CSHOs have been informed of the need to document a refusal to answer questions if the employee is unresponsive. In addition, supervisors have been reminded to insist on complete interview statements from CSHOs.	4/4/14	Awaiting Verification 2/13/15
FY 2013-17	IOSHA had not developed written procedures for implementing an Expedited Informal Settlement Agreement (EISA).	Ensure that a written EISA policy is developed and that the purpose, scope, application and staff training are identified in order to ensure consistent implementation throughout the staff.	The written procedures are in every letter sent out to employers. However, a written policy will be completed by November 1, 2014.	11/1/14	Completed 2/13/15
FY 2013-18	IOSHA failed to provide all updates for federally-initiated standard and program Plan changes.	IOSHA shall provide all updates for federally-initiated standards in a timely manner.	IOSHA is now documenting this communication and has developed a promulgation log to track updates to all program changes.	2/1/14	Completed 2/13/15

**Appendix C - Status of FY 2013 Findings and Recommendations**  
 FY 2014 Indiana State Plan Follow-up FAME Report

FY 2013-#	Finding	Recommendation	State Plan Response/Corrective Action	Completion Date	Current Status and Date
FY 2013-19	The IOSHA was still utilizing the FIRM; even though, they adopted the FOM, CPL 02-00-148, on January 4, 2010.	Ensure that the FIRM is updated to be “at least as effective” as federal OSHA’s FOM and submit the accompanying Plan supplemented as required by the FOM directive.	This issue was addressed in CASPA IN-13-30 recommendation #22. In progress. Indiana OSHA needs to make some modifications to the FOM to make it compliant with nuances of Indiana state law and plans to adopt the FOM ( <i>as the Indiana FOM</i> ) as soon as those modifications are completed. IOSHA anticipates this project will be completed by the end of 2014.	12/31/14	Completed 2/13/15
FY 2013-20	Investigators failed to follow the Whistleblower Investigator Manual (WIM) policies and procedures. The required documentation, intake and screening of cases, and file organization were not being completed per the WIM.	Every case file needs to be reviewed by a Supervisor to show compliance with the WIM, policies and procedures. Ensure that all investigative staff is following the same Whistleblower Program policies and procedures.	IOSHA considers this item to be complete. IOSHA added an additional supervisor position whose responsibility is to supervise, train and review the work of the whistleblower staff. A quality checklist is being utilized to ensure that all whistleblower cases follow the appropriate procedures.	Not Completed	Open 2/13/15
FY 2013-21	Not all of the whistleblower staff members have received the required whistleblower training courses at the OSHA Training Institute (OTI).	All of the whistleblower staff shall complete the required training courses and complete any additional training when it is made available.	This issue was addressed in CASPA IN-13-30. IOSHA considers this item to be complete. Region V OSHA personnel conducted a comprehensive OSHA whistleblower training for all Indiana OSHA whistleblower investigative staff and Indiana OSHA management personnel during the week of August 19, 2013 – August 22, 2013. Indiana OSHA is now utilizing all Whistleblower Protection Program procedures. Management is monitoring to ensure that WBP procedures are followed.	8/22/13	Completed 2/13/15

**Appendix C - Status of FY 2013 Findings and Recommendations**  
 FY 2014 Indiana State Plan Follow-up FAME Report

FY 2013-#	Finding	Recommendation	State Plan Response/Corrective Action	Completion Date	Current Status and Date
FY 2013-22	Whistleblower Investigators are not completing thorough investigations. Interviews are not conducted, complainants are not provided opportunities for rebuttal, and testing the employer's defense is not conducted.	Whistleblower Investigators should follow policies and procedures as outlined in the WIM for performing the investigations.	This issue was addressed in CASPA IN-13-30 Recommendation #6. IOSHA considers this item to be complete. Region V OSHA personnel conducted a comprehensive OSHA whistleblower" training for all Indiana OSHA whistleblower investigative staff and Indiana OSHA management personnel during the week of August 19, 2013 – August 22, 2013. Indiana OSHA is now utilizing all Whistleblower Protection Program procedures. Management is monitoring to ensure that WPP procedures are followed.	Not Completed	Open 2/13/15
FY 2013-23	Whistleblower Investigators are not always recognizing or applying the prima facie elements correctly in analyzing the cases, causing cases to be investigated which should not be. Cases are being closed without merit prior to a thorough investigation being completed.	Provide additional training to staff to ensure that the Whistleblower Investigators understand the application of the prima facie elements and the proper way to correctly analyze evidence for the determination.	This issue was addressed in CASPA IN-13-30 Recommendation #8. IOSHA considers this item to be complete. Region V OSHA personnel conducted a comprehensive OSHA whistleblower training for all Indiana OSHA whistleblower investigative staff and Indiana OSHA management personnel during the week of August 19, 2013 – August 22, 2013. Indiana OSHA is now utilizing all Whistleblower Protection Program procedures. Management is monitoring to ensure that WPP procedures are followed.	8/22/13	Awaiting Verification 2/13/15
FY 2013-24	Merit whistleblower cases, for which a settlement was not reached, must be filed in state court within 120 days. However, whistleblower investigators are restricted to 60 days to complete these cases	Eliminate the 60 day investigative restriction and seek revision of the 120 day statutory deadline for filing in court in order to allow Investigators the needed time to complete a thorough investigation.	This issue was addressed in CASPA IN-13-30 Recommendation #12. First part is done. Second part is in progress. During calendar year 2013, the 60-day investigative restriction was extended to 80-days. In CY2014, the investigative restriction was eliminated altogether. The IDOL Commissioner met with the Chairmen of both Indiana Legislative committees that would customarily consider Bills of this nature to	Not Completed	Open 2/13/15

**Appendix C - Status of FY 2013 Findings and Recommendations**  
**FY 2014 Indiana State Plan Follow-up FAME Report**

FY 2013-#	Finding	Recommendation	State Plan Response/Corrective Action	Completion Date	Current Status and Date
			discuss filing a Bill to either extend or repeal the statutory 120-day limitation. The Commissioner provided supporting information and will meet with them again before the legislative session begins to finalize plans.		
FY 2013-25	Settlement agreements are not completed in accordance with the Whistleblower Investigation Manual. Checks are made payable to and accepted by IOSHA and not returned to the employer for reissuance to the complainant.	In accordance with the WIM Chapter 6, Section IV (C), the settlement should require that a certified or cashier's check, or where installment payments are agreed to, the checks to be made out to the complainant, but sent to IOSHA. IOSHA shall promptly note receipt of the checks, copy the check(s), and mail the checks to the complainant.	Region V OSHA personnel conducted a comprehensive OSHA "Whistleblower" training for all Indiana OSHA Whistleblower investigative staff and Indiana OSHA management personnel during the week of August 19, 2013 – August 22, 2013. Indiana OSHA is now utilizing all Whistleblower Protection Program procedures. Management is monitoring to ensure that WPP procedures are followed.	8/22/13	Completed 2/13/15
FY 2013-26	Settlement agreements are not completed in accordance with the Whistleblower Investigation Manual. Reasonable efforts are not made to obtain monetary restitution and employment reinstatement in order to make-whole the complainant. The State Plan is telling complainants that failure to accept the agreement will result in the	In accordance with the WIM Chapter 6, Section IV (C), if a settlement does not contain a make-whole remedy, the justification must be documented and the complainant's concurrence must be noted in the case file. IOSHA shall ensure that all settlement negotiations seek and make reasonable efforts	This issue was addressed in CASPA IN-13-30 Recommendation #14. IOSHA considers this item to be complete. All investigators and supervisors were re-trained on the proper remedies to be sought during settlement negotiations. All investigators were directed to document settlement negotiations and reinstatement status, where applicable. Indiana OSHA management routinely reviews settlement terms and documentation.	6/25/14	Completed 2/13/15

**Appendix C - Status of FY 2013 Findings and Recommendations**  
 FY 2014 Indiana State Plan Follow-up FAME Report

FY 2013-#	Finding	Recommendation	State Plan Response/Corrective Action	Completion Date	Current Status and Date
	closing of their case even though there is no make-whole remedy.	to obtain make-whole remedies, including reinstatement for complainants when termination is the alleged adverse employment action.			
FY 2013-27	Settlement agreements are not completed in accordance with the Whistleblower Investigation Manual. The State Plan is entering into unilateral settlement agreements on behalf of the complainant without a make-whole remedy.	Cease acceptance and approval of unilateral settlement agreements that do not make complainants whole.	This issue was addressed in CASPA IN 13-30 Recommendation #15. IOSHA considers this item to be complete. This practice was stopped immediately. We are conducting settlement agreements according to the WB manual.	3/1/14	Completed 2/13/15
FY 2013-28	Complainants are not provided information regarding their right to appeal.	Ensure those complainants are provided information regarding their right to appeal as a routine part of the IOSHA whistleblower program.	This issue was addressed in CASPA In 13-30 Recommendation #10. IOSHA considers this item to be complete. Whistleblower investigators were trained and directed to orally advise complainants of their appeal rights. Complainants are also advised of their appeal rights ( <i>and time within which to file an appeal</i> ) in writing as a part of every investigation.	8/22/13	Completed 2/13/15
FY 2013-29	IOSHA had not developed a procedure to approve local emphasis programs, which includes, but is not necessarily limited to, a rationale, selection process, industries covered, and an evaluation for effectiveness of the program.	Develop a procedure to approve local emphasis programs. As a guide follow OSHA directive CPL 04-00-001, Development of Local Emphasis Programs and/or develop a procedure for approval	The IOSHA Construction Director has been assigned the task of developing a procedure to approve local emphasis programs. This will be completed by the end of FY 2015.	Not Completed	Open 2/13/15

**Appendix C - Status of FY 2013 Findings and Recommendations**  
 FY 2014 Indiana State Plan Follow-up FAME Report

<b>FY 2013-#</b>	<b>Finding</b>	<b>Recommendation</b>	<b>State Plan Response/Corrective Action</b>	<b>Completion Date</b>	<b>Current Status and Date</b>
		similar to this directive.			
FY 2013-30	While IOSHA uses OSHA's VPP Policy and Procedure Manual (VPPPPM) as their reference document; the written report did not follow the required format nor were acceptance letters sent to the employer when an application is submitted.	Ensure that the VPP Tem follows all aspects of the VPPPPM.	All administrative VPP activities have been consolidated under one staff assistant. The staff assistant has a checklist to follow and it includes mailing out acceptance letters to employers when an application is accepted.	5/31/14	Completed 2/13/15
FY 2013-31	While IOSHA stated that they followed federal OSHA's Alliance Program directive (CSP 04-01-001), the Alliance signed agreements did not follow the required format.	IOSHA should draft and implement an Alliance Guidance document that is at least effective as federal OSHA's.	Indiana OSHA will develop and implement a slightly modified version of the federal Alliance Guidance document. Expected completion is by the end of FY 2015.	Not Completed	Open 2/13/15
FY 2013-32	While IOSHA stated that they followed federal OSHA's Partnership Program directive (CSP 03-02-003), the Partnership signed agreements did not follow the required format.	IOSHA should draft and implement a Partnership Guidance document.	Indiana OSHA will develop and implement a slightly modified version of the federal Partnership Guidance document. Expected completion is by the end of FY 2015.	Not Completed	Open 2/13/15
FY 2013-33	While IOSHA currently allocates compliance staff levels that meet the required benchmark of 70 positions; only 37 enforcement positions are filled.	IOSHA should continue to try and fill allocated benchmark positions while pursuing a modification of the benchmark level with OSHA.	The Indiana Commissioner of Labor will discuss with federal OSHA the feasibility of filing a petition for a re-evaluation of staffing levels with federal OSHA.	Not Completed	Open 2/13/15
FY 2013-34	Injuries and illnesses were not reduced by 3% in the	Evaluate the strategic plan in order to identify	IOSHA will evaluate the strategic plan to target high hazard areas and couple this effort with the	3/30/15	Completed

**Appendix C - Status of FY 2013 Findings and Recommendations**  
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FY 2013-#	Finding	Recommendation	State Plan Response/Corrective Action	Completion Date	Current Status and Date
	manufacturing industry. (Strategic Goal 2.1)	areas that will allow for a decrease in the rate of injuries. Build it into a specific targeting program, such as but not limited to, amputations and powered industrial vehicles (PIV).	action identified with recommendation 13-29 of this report. This will be completed by the end of FY2015 Q2.		2/13/15

## Appendix D - FY 2014 State Activity Mandated Measures (SAMM) Report

### FY 2014 Indiana State Plan Follow-up FAME Report

OSHA is in the process of moving operations from a legacy data system (NCR) to a modern data system (OIS). During FY 2014, federal OSHA case files were captured on OIS, while most State Plan case files continued to be processed through NCR. Indiana opened 1,135 enforcement inspections in FY 2014. Of those, 1,135 inspections were captured in NCR, while 0 were captured in OIS. The SAMM Report, which is native to IMIS (a system that generates reports from the NCR), is not able to access data in OIS. Additionally, certain algorithms within the two systems are not identical. These challenges impact OSHA's ability to combine the data. For FY14 we will use a format very similar to the one used for FY13. Below is an explanation of which data OSHA was able to use when calculating each metric.

- a. Measures 1 & 2 will use State Plan data for FY14 as captured in NCR and compared to the State Plan's negotiated number. Any State Plan data from OIS will not be considered due to irregularities in the algorithm between OIS and NCR.
- b. Measures 20a-b, 23, and 24 will use State Plan data for FY14 as captured in NCR and compared to the historical FY2011 national average (FY09-11). Any State Plan data from OIS will not be considered due to irregularities in the algorithm between OIS and NCR.
- c. Measures 5, 9, 11, 17, 19, 21, and 25 will use State Plan data for FY14 as tabulated manually to include both OIS and NCR data and compared to the fixed/negotiated/national numbers associated with them.
- d. Measures 13, 14 and 16 will be extracted from NCR (OIS conversion should not impact). National data will be pulled from WebIMIS for FY12-14.
- e. Measures 18a-e will use State Plan data for FY14 as captured in NCR. Any data from OIS will not be considered due to irregularities in the algorithm between OIS and NCR. Much like FY13, no national data will be available for comparison.
- f. Measure 22 will be excluded from the report (other than as a placeholder to demonstrate that it is one of the agreed upon metrics, but not one we can currently generate).
- g. Measure 4 will use State Plan data for FY 14 as captured in NCR.

<b>U.S. Department of Labor</b>				
Occupational Safety and Health Administration State Plan Activity Mandated Measures (SAMMs)				
State Plan: Indiana			FY 2014	
SAMM Number	SAMM Name	State Plan Data	Reference/Standard	Notes
1	Average number of work days to initiate complaint inspections	13.94	10 days	State Plan data taken directly from SAMM report generated through IMIS. The reference/standard is a negotiated number for each State Plan.

## Appendix D - FY 2014 State Activity Mandated Measures (SAMM) Report

FY 2014 Indiana State Plan Follow-up FAME Report

<b>2</b>	Average number of work days to initiate complaint investigations	71.64	5 days	State Plan data taken directly from SAMM report generated through IMIS. The reference/standard is a negotiated number for each State Plan.
<b>4</b>	Percent of complaints and referrals responded to within 1 work day (imminent danger)	60.0%	100%	
<b>5</b>	Number of denials where entry not obtained	0	0	State Plan data taken directly from SAMM report generated through IMIS and Open Inspection OIS report.
<b>9a</b>	Average number of violations per inspection with violations by violation type	3.15	SWR: 1.99	
<b>9b</b>	Average number of violations per inspection with violations by violation type	0.44	Other: 1.21	
<b>11</b>	Percent of total inspections in the public sector	1.94%	0.79%	State Plan data taken from SAMM report generated through IMIS and the Inspection summary report generated in OIS. The reference/standard is derived from the FY 14 grant application.
<b>13</b>	Percent of 11c Investigations completed within 90 calendar days	28%	100%	State Plan data taken directly from SAMM report generated through IMIS; National data was pulled from webIMIS for FY 2012-2014.
<b>14</b>	Percent of 11c complaints that are meritorious	17.39	24.8% meritorious	State Plan data taken directly from SAMM report generated through IMIS; National data was pulled from webIMIS for FY 2012-2014.
<b>16</b>	Average number of calendar days to complete an 11c investigation	114.84	90 Days	State Plan data taken directly from SAMM report generated through IMIS; National data was pulled from webIMIS for FY 2012-2014.

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<b>17</b>	Planned vs. actual inspections - safety/health	921/214	1710/309	State Plan data taken from SAMM report generated through IMIS and the Inspection summary report generated in OIS; the reference standard number is taken from the FY 2014 grant application. The reference/standard is a negotiated number for each State Plan.
<b>18a</b>	Average current serious penalty - 1 - 25 Employees	574.85		State Plan data taken directly from SAMM report generated through IMIS.
<b>18b</b>	Average current serious penalty - 26-100 Employees	804.87		
<b>18c</b>	Average current serious penalty - 101-250 Employees	112.35		
<b>18d</b>	Average current serious penalty - 251+ Employees	2074.96		
<b>18e</b>	Average current serious penalty - Total 1 - 250+ Employees	860.85		
<b>19</b>	Percent of enforcement presence	0.97%	National Average 1.51%	Data is pulled and manually calculated based on FY 2014 data currently available in IMIS and County Business Pattern data pulled from the US Census Bureau.
<b>20a</b>	20a) Percent In Compliance – Safety	66.94	Safety - 29.1	State Plan data taken directly from SAMM report generated through IMIS; current national data is not available. Reference data is based on the FY 2014 national average, which draws from the collective experience of State Plans and federal OSHA for FY 2009-2011.
<b>20b</b>	20b) Percent In Compliance – Health	48.03	Health - 34.1	
<b>21</b>	Percent of fatalities responded to in 1 work day	54%	100%	State Plan 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.

## Appendix D - FY 2014 State Activity Mandated Measures (SAMM) Report

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<b>23a</b>	Average Lapse Time - Safety	81.5	43.4	State Plan 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	103.03	57.05	
<b>24</b>	Percent penalty retained	63.25	66	State Plan 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>25</b>	Percent of initial inspections with employee walk around representation or employee interview	100	100%	State Plan data taken from SAMM report generated through IMIS and the Inspection where Workers Involved report generated in OIS.