

**FY 2015 Comprehensive  
Federal Annual Monitoring and Evaluation (FAME) Report**

**Iowa Workforce Development  
Iowa Division of Labor  
Iowa Occupational Safety and Health Administration**



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## **I. Executive Summary**

### **A. State Plan Activities, Trends, and Progress**

This Federal Annual Monitoring Evaluation (FAME) assesses the Iowa Occupational Safety and Health Administration's (Iowa OSHA) performance during Fiscal Year (FY) 2015, and Iowa OSHA's progress in completing recommendations that were developed as a result of the FY 2014 Follow-up FAME Report and Corrective Action Plan (CAP).

Iowa continued a long-term trend in reduction of injuries and illnesses. The US Department of Labor (USDOL), Bureau of Labor Statistics (BLS) reported an injury and illness rate of 4.8 for calendar year (CY) 2013 and a 4.4 for CY 2014. This is an 8.3% reduction from the 2013 baseline. Another highpoint for Iowa OSHA in FY 2015 was a 33% reduction in work related fatalities, down from 27 in the FY 2014 baseline year to 18 in FY 2015.

Iowa OSHA received a temporary increase in the State of Iowa appropriation for their State Fiscal Years (SFY) 2016 and 2017 programs. This \$668,877 increase was received in the fourth quarter of Federal Fiscal Year 2015. The additional appropriation allowed Iowa OSHA to regain some of the personnel loss that began with the sequestration budget cuts in FY 2013 and the Iowa Legislature not overmatching the State Plan funding during FY 2014. Personnel turnover of approximately 47% beginning at the end of FY 2013 and stabilizing at the beginning of FY 2015 was a significant factor in only 88% completion of projected inspections. Additionally, the turnover impacted complaint inspections and investigations response time with an increase of 4.6 and 3.9 days respectively.

During FY 2015, Iowa OSHA made progress in addressing the recommendations from the FY 2014 Follow-up FAME. Iowa OSHA showed a 25% improvement in completing its projected safety inspections (FY 2014-OB-01). Iowa OSHA showed a 23% improvement in meeting the coding parameters of the zip code targeting program (FY 2014-OB-05) which will enable Iowa OSHA to accurately determine the effectiveness of its targeting efforts. Additionally, notification to complainants for complaints handled non-formally (FY 2014-OB-03) shows a 25% improvement. Therefore, observations 2014-OB-01, 2014-OB-03, and 2014-OB-05 are closed.

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

The State of Iowa operates a program in accordance with Section 18(e) of the Occupational Safety and Health (OSH) Act of 1970. Iowa OSHA remains an essential member of the Region VII team. Iowa OSHA is part of Iowa Workforce Development, Labor Services Division and is administered by the Commissioner of Labor and the Iowa OSHA Administrator. The department has two supervisors who report directly to the Iowa OSHA Administrator. The supervisors are responsible for the direct daily supervision of enforcement which includes 11 safety inspectors and 11 industrial hygienists.

The enforcement program is benchmarked for 16 safety compliance officers and 13 health compliance officers. By the end of FY 2015, the program was staffed with 11 safety compliance officers and 11 health compliance officers. Iowa's State Plan is supported by approximately 43 positions of which 37 are currently staffed.

Iowa OSHA adopts most OSHA instructions as promulgated and its enforcement program functions very similar to OSHA's enforcement program. Like most States Plans, Iowa OSHA did not adopt the enhanced penalty structure. However, there were no significant differences from the federal program and during FY 2015 Iowa OSHA adopted the structure by adopting the most recent Field Operations Manual. Adoption of the FOM is currently pending. Iowa OSHA conducted inspections including programmed National Emphasis (NEP) and Local Emphasis Programs (LEP) in the same manner as OSHA.

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

OSHA has established a two-year cycle for the FAME process. This is the comprehensive year, and as such, OSHA performed on-site case file reviews. The evaluation of Iowa OSHA covered the FY 2015 performance period which was October 1, 2014 through September 30, 2015, and included review of the State Activity Mandated Measures (SAMM) Report. The five member OSHA team was assembled from the Kansas City Regional Office and the Des Moines Area Office of Region VII. The team conducted an on-site comprehensive evaluation of the Iowa OSHA program. Three of the team members conducted the safety and health evaluation, and two team members conducted the Whistleblower Protection Program evaluation.

#### **1. Safety and Health Program Evaluation**

The on-site portion of the evaluation was conducted January 4-22, 2015. The evaluation of the enforcement program included an overall review of safety and health enforcement case files as well as a review of complaints handled non-formally.

A randomly selected sample of OIS data was taken from all closed inspections conducted in FY 2015 and resulted in 142 case files reviewed. The inspection categories were 15 fatality investigations, 59 complaint inspections, 13 referral inspections, 17 un-programmed related inspections, and 38 programmed and programmed related inspections.

A review of FY 2015 OIS data identified 581 valid private, local, and state complaints of which 403 complaints were handled non-formally. Sixty (60) randomly selected complaints handled non-formally were reviewed.

State Activity Mandated Measures (SAMM) data was reviewed as part of the safety and health evaluation. The Duty Officer and Management responsible for enforcement activity were interviewed in conjunction with the evaluation.

## **2. Whistleblower Protection Program (WPP) Evaluation**

The on-site portion of the Whistleblower Protection Program (WPP) evaluation was conducted from January 11-13, 2015. The WPP team reviewed the case files for 16 cases that were both docketed and closed in FY 2015, all of which were randomly selected for review. The team reviewed all complaints that were administratively closed in FY 2015 and conducted interviews with the IOSH Administrator, the IOSH discrimination investigator and the IOSH attorney assigned to provide technical and legal assistance to the program.

Of the 16 reviewed docketed cases, one case was withdrawn, 10 were dismissed, one was recommended as litigation/merit, and four were settled or settled-other. SAMM data for FY 2015 was reviewed as part of the evaluation.

## **3. Voluntary Compliance Programs Evaluation**

The on-site portion of the Voluntary Compliance Programs evaluation was conducted on February 25-26, 2016 to determine the state's management of the programs in accordance with applicable instructions. Thirteen (30%) of the 44 active Voluntary Protection Program (VPP) files were randomly selected and reviewed. Information pertinent to the eight (8) partnerships and two (2) alliances was evaluated as well. Management responsible for the programs and staff members primarily responsible for the VPP, Partnership and Alliance Programs were also interviewed in conjunction with the evaluation.

## **D. Findings and Observations**

This FY 2015 FAME Report discusses several new finding and observations, as well as the progress in resolving outstanding findings and observations from the FY 2014 Follow-Up FAME.

Appendix A describes three new findings and recommendations. Two of the findings are associated with the Whistleblower Protection Program (WPP) and are related to providing administrative closure letters to complainants and organization of case files. The third finding is associated with the safety and health program related to obtaining injury and illness logs during inspections. There were no findings and resulting corrective action plan for the FY 2014 Follow-up FAME.

Appendix B describes five new observations, one continued observation subject to monitoring, and five closed observations from FY 2014. The five new observations are related to contacting families of fatality victims, complaint and investigation response times, penalty assessment, VPP communication, and issues in WPP case file documentation. The one continued observation is related to WPP back up personnel.

## **II. Major New Issues**

In the second quarter of FY 2015, the Iowa OSHA Administrator unexpectedly departed and the position was not permanently filled for approximately two (2) months. In the interim, one of the Iowa OSHA Public Service Executive IIs (PSE) acted as the Administrator while still providing daily supervision to the compliance staff and performing all required PSE II responsibilities.

This PSE II was appointed the Iowa OSHA Administrator, which left his position open and left only one PSE supervisor for approximately three (3) months to manage the program's PSE enforcement responsibilities. In addition, three (3) long-term administrative personnel retired during the second and third quarters of the fiscal year. This sudden transition in leadership and administrative staff placed a strain on the administration of the program.

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

### **A. STATE PLAN ADMINISTRATION**

#### 1) Training

Iowa OSHA adopted the most recent Compliance Safety and Health Officer (CSHO) training directive TED 01-00-019. The Public Service Executive II supervisors developed protocols to track individual enforcement officer training. The Consultation Project Manager and Administrative Assistant II track the individual training protocols for the compliance assistance and 21(d) programs staff. Although Iowa OSHA faces funding challenges in providing training to its staff, it has made an effort to ensure available training funds are spent to benefit as many staff members as possible. After projecting funding for all required training, Iowa OSHA endeavored to bring as many courses as possible to the state for fiscal management and deliver training to all enforcement and consultation officers.

#### 2) Funding

The Iowa Occupational Safety and Health Administration completed the first year of its strategic plan cycle that began in FY 2015. Iowa OSHA held several field staff vacancies unfilled to allow funding for operating expenses.

The table below shows Iowa OSHA's funding levels from FY 2011 through FY 2015:

<b>FY 2011-2015 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>2015</b>	2,000,600	2,000,600	0	4,001,200	50.0
<b>2014</b>	1,991,600	1,991,600	0	3,983,200	50.0
<b>2013</b>	1,984,550	1,984,550	659,752	4,628,852	57.1
<b>2012</b>	2,078,000	2,078,000	468,770	4,624,770	55.1
<b>2011</b>	2,073,408	2,073,408	498,017	4,644,833	55.4

3) Staffing (including benchmarks, furloughs, hiring freezes, etc.)

Of the 20 positions that became vacant during FY 2014 – 2015, Iowa OSHA filled 13 positions. These 13 positions were filled by four Compliance Safety and Health Officers (CSHO); three Sr. Industrial Hygienists (IH); two Administrative Assistant II positions; one Secretary II; one Clerk Specialist; one IH position in compliance assistance and one Investigator II Discrimination Officer. Seven field positions remain open to include five enforcement CSHOs and two enforcement IHS.

The table below shows the number of Iowa OSHA's staff as of the end of FY 2015.

<b>FY 2015 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 as of 09/30/15</b>	<b>100% State Plan Funded FTE On Board as of 09/30/15</b>
Managers/ Supervisors (Administrative)	0.75	0	0.75	0.75	0
First Line Supervisors (Program)	2.5	0	2.5	2.5	0
Safety Compliance Officers	15	0	15	11	0

Health Compliance Officers	12	0	12	11	0
Discrimination Investigator	1	0	1	1	0
Public Sector Safety Consultants	1.5	0	1.5	1.0	0
Public Sector Health Consultants	2.5	0	2.5	2.5	0
Compliance Assistance Specialist	1	0	1	1	0
Clerical	5.0	0	5.0	5.0	0
Other ( <i>all other positions</i> )	1.3	0	1.3	1.3	0
<b>Total 23(g) FTEs</b>	<b>42.55</b>	<b>0</b>	<b>42.55</b>	<b>37.05</b>	<b>0</b>

\*FTE=Full-Time Equivalent

4) OSHA Information System (OIS) – use of OIS reports for State Plan management

Iowa OSHA uses various reports as: Area Office Operational Reports, Audit and Data Reports, DCAT Reports, Enforcement Activity Reports, State Program Performance Measures Reports, and Trending/ Statistic Reports. These reports aid in Iowa OSHA’s enforcement management.

5) State Internal Evaluation Program (SIEP) Report

Iowa OSHA internally evaluates its program throughout the year on a quarterly basis and incorporates the evaluated results in its State OSHA Annual Report (SOAR).

**B. ENFORCEMENT**

Of the 142 files reviewed, 91 (64.1%) case files had copies of OSHA 300 injury and illness logs in the file. Of the 51 that did not have the OSHA 300 logs, eight (8) had fewer than 11 workers where documentation is not required. A total of 43 (30.3%) of 142 had no record of 300 logs in the file nor in OIS.



**Finding FY 2015-3:** In accordance with Iowa FOM, OSHA-300 injury/illness records shall be requested. A total of 43 (30.3%) case files of 142 reviewed had no record of 300 logs in the file or in OIS.

**Recommendation FY 2015-3:** Iowa OSHA should provide additional training to CSHOs to ensure that CSHOs are requesting the injury/illness logs during inspections and inputted into OIS. Supervisors should ensure that case files are reviewed more carefully to ensure the logs are collected and inputted into OIS.

1) Complaints

The FY 2015 SAMM report indicated the average number of workdays was 8.93 to initiate a formal, complaint based inspection. This is a 53.7% increase in time over FY 2014 and outside the further review level of five days. (SAMM 1A). During case file review, 59 complaint based inspections were reviewed and the average number of days to initiate the inspection was 4.29 days for the sample set. The majority (86%) of all complaint items were addressed appropriately during the reviewed inspections. The FY 2015 SAMM report indicated the average number of workdays was 4.21 to initiate a complaint investigations. (SAMM 2A) This is outside the further review level of one day.

The review identified that of the 59 complaint based inspections reviewed, there were 44 (75%) letters sent to the complainant. Previous data from FY 2013 and FY 2014 indicated that Iowa OSHA notified the complainant 76% of the time. The FY 2015 percentage appeared to improve in the second quarter.

In addition to the case file review, 60 complaints handled non-formally were also reviewed. The average number of workdays to initiate these complaints was 0.05. In accordance with the Iowa FOM, complainants were notified of the results of the inquiry in 28 (90%) cases where contact information was known. In 15 cases the complainant was anonymous and in 12 cases the complainant was a former employee.

**Observation 15-OB-02:** The SAMM data shows average number of work days to initiate complaint inspections and complaint investigations to be 8.93 and 4.21 respectively. The case file review noted the average number of days to initiate a complaint inspection was 4.29 days and the average number of workdays to initiate a complaint investigation was 0.05 for the sample set.

**Federal Monitoring Plan 15-OB-02:** Region VII will monitor SAMM data in conjunction with case file data to determine data congruence.

## 2) Fatalities

The FY 2015 SAMM report indicated 88.2% of fatalities were responded to within one workday. (SAMM 10). Out of the 15 fatality files reviewed, one was a no inspection due to a medical condition. Of the 14 remaining, 12 (85.7%) were inspected within one day. For the two that were not inspected within one day, a valid explanation for the delay was noted in the case files. All case files reviewed had appropriate Fatality Investigation reports and all had the Fatality Catastrophe report.

Iowa OSHA contacted and involved families of victims, including notification of enforcement action. There was a 10% improvement in notification and involvement of families of victims over FY 2013.

**Observation 15-OB-01:** Although Iowa OSHA sent a letter to ten (71%) families, only six 6 (60%) families received all letters. The compliance directive discusses the types of contact with next of kin, including letters to be sent within 5 working days of determining the next of kin's identity and upon issuance of any citations provide family members or their legal representatives with a copy of all citations and subsequent settlement agreements.

**Federal Monitoring Plan 15-OB-01:** Region VII will monitor during next year's FAME to determine if this reflects the data trend.

Case file review indicated that Iowa OSHA applied appropriate use of "no inspection" or "no jurisdiction".

## 3) Targeting and Programmed Inspections

Iowa OSHA participated in National Emphasis programs as well as conducted inspections under State Developed Emphasis Programs.

An OIS data report identified 189 programmed and program-related inspections. Some of the programs included 60 Asbestos inspections; 3 Site Specific Targeted inspections; 76 CTARGET (construction); 50 falls and scaffold inspections; and 44 zip code inspections. A total of 80 (42.3%) inspections were in compliance. Inspections not in-compliance had 1.23 violations per inspection. There were 131 serious, willful, and repeat violations identified in these targeted inspections.

Of the 30 programmed and eight program related inspections reviewed, 18 (47.3%) were in-compliance. Inspections not in-compliance had an average of 1.21 violations per inspection and there were 24 serious, willful, and repeat violations identified.

In the FY 2014 Follow-up FAME, observation 2014-OB-05 was to be monitored during the FY 2015 evaluation period. The observation was whether improper

coding leads to the inability to accurately determine the effectiveness of targeting efforts within Iowa OSHA. The FY 2013 data indicated that 12 of 23 (52%) of the zip code targeted inspections were coded as programmed other instead of programmed planned. This trend continued in FY 2014 as 13 of the 20 (65%) zip code targeted inspections that were reviewed were not coded as programmed planned and comprehensive, and did not meet the parameters of the Local Emphasis Program.

During the FY 2015 review, nine (9) inspections were coded as zip code targeted. Of these, eight (88.9%) were coded as comprehensive programmed planned or program-related. One was coded as not programmed-related. Iowa OSHA continues to show improvement in meeting the parameters of this targeting program. Therefore observation 14-OB-05 has been closed.

The FY 2015 SAMM report indicated 34.5% of the safety inspections were in-compliance and 37.1% of the health inspections were noted as in-compliance. (SAMM 9). The further review levels for SAMM 9 are 34.16% for safety and 40.29% for health. Iowa OSHA is close to or within the further review levels for both. Of the 142 case files reviewed, 64 (45%) of case files were in-compliance inspections. Safety inspections accounted for 48 (33.8%) in-compliance case files of which 20 (14%) were construction-related emphasis program inspections. Health inspections accounted for 16 (11.2%) in-compliance case files.

#### 4) Citations and Penalties

The FY 2015 SAMM report indicated that Iowa OSHA had an average of 2.32 violations per inspection were serious, willful, and repeat violations and 0.47 other than serious violations per inspection. (SAMM 5). Iowa OSHA is within the further review levels for serious, willful and repeat violations, and just barely below the further review level for other than serious.

Of the 142 case files reviewed, 78 (54.2%) were not in-compliance and correlated to an average of 1.14 violations per inspection for serious, willful, and repeat violations and 0.44 other than serious violations per inspection. Of these 77 case files, 98.7% had adequate evidence to support violations. In 97.2% of the case files all apparent violations were cited.

In 72 (93.5%) of these case files, the violations were appropriately classified as serious, willful, repeat or other than serious. For these files, the average initial penalty was \$1918. In 65 (83.1%) of the 78 case files, the penalties were appropriately calculated. In the other 13 case files, the severity assessment was not applied in accordance with the Iowa FOM Chapter 6.

**Observation 15-OB-03:** While Iowa OSHA had a penalty assessment system equivalent to OSHA, they did not follow it in all cases. It appeared that in 13 of the 78 not in-compliance case files, the severity assessment and violation classification was not applied in accordance with the Iowa FOM Chapter 6.

**Federal Monitoring Plan 15-OB-03:** Region VII will monitor during next year's FAME to determine if this reflects the data trend. Establish a policy to ensure that penalty assessments are applied in accordance with the FOM.

Iowa OSHA's average current penalty per serious violation in the private sector (SAMM 8: 1-250+ workers) was \$1,020.69 in FY 2015. The Further Review Level (FRL) is -25% of the National Average (\$2,002.86), which equals \$1,502.14. Penalty levels are at the core of effective enforcement, and State Plans are therefore required to adopt penalty policies and procedures that are "at least as effective as" (ALAE) those contained in the FOM, which was revised on October 1, 2015 to include changes to the penalty structure in Chapter 6 – Penalty and Debt Collection.

Note that with the passage of the Bipartisan Budget Bill on November 2, 2015, OSHA is now required to raise its maximum penalties in 2016 and to increase penalties according to the Consumer Price Index (CPI) each year thereafter. State Plans are required to follow suit. As a result of this increase in maximum penalties, OSHA will be revising its penalty adjustment factors in Chapter 6 of the FOM. Following completion of the FOM revision and after State Plans have the opportunity to adopt the required changes in a timely manner, OSHA will be moving forward with conducting ALAE analysis of State Plan penalty structures, to include evaluation of average current penalty per serious violation data.

5) Abatement

Of the 78 case files reviewed that were not in-compliance, 73 (93.5%) had appropriate abatement periods, including the use of extensions and overall timeliness, and 71 (91.0%) had timely verification or evidence of abatement. Iowa OSHA did not conduct any follow-up inspections during FY 2015.

6) Worker and Union Involvement

Iowa OSHA has policies and procedures for ensuring worker involvement during inspections. The FY 2015 SAMM report indicated 97.9% of the initial inspections had employee walk around representation or employee interviews. (SAMM 13).

Of the 142 case files reviewed, workers were interviewed in 137 (96.5%) cases and of these 134 (97.8%) were adequately documented. There were 35 files reviewed that had Union representation and in 23 cases the union was involved with the inspection.

## **C. REVIEW PROCEDURES**

1) Informal Conferences

The FY 2015 report indicated 61.5% penalty retention. (SAMM 12). Of the 78 case files that were not in-compliance, 28 requested informal conferences.

Penalties were reduced in 22 (78.5%) case files and in ten (45.4%) of these case files the violation was not reclassified. Documentation of the reasons for changes were included in 25 (89.2%) of the case files.

## 2) Formal Review of Citations

Based on OIS data, Iowa OSHA had 23 case files that were contested. Alleged violations were either vacated or reclassified in 17% of the cases. Penalties were reduced in 12% of the cases. All or 100% of the contested cases were properly and timely filed.

## **D. STANDARDS AND FEDERAL PROGRAM CHANGES (FPCs) ADOPTION**

### 1) Standards Adoption

Standards adoption is conducted in accordance with state statutes. Standard adoptions or changes are published for public and or legislative comment prior to acceptance. If the designated comment period ends and no negative comment remains, standard adoptions are scheduled and adopted on a specified date. This is a legal process within state statutes and lead times vary.

During the FY2015 evaluation period, three (3) standard adoptions or changes were received. All three (3) were responded to and adopted in FY2015 (100%).

No State Plan standards were initiated or adopted in FY2015.

### 2) OSHA or State Plan-Initiated Changes

Federal Program Changes are adopted at the discretion of the State Plan Administrator.

During the FY2015 evaluation period, seven (7) Federal Program Changes were received for adoption. Of those, six required a response in 2015. Of the six Federal Program Changes received in FY2015 that required a response in 2015, one was adopted in FY2015 (16.6%). The remaining five were adopted in FY 2016 (83.4%). There were no State Plan initiated changes in FY2015.

Two National Emphasis Programs, (NEP) were addressed by the State. CPL-03-00-018, Primary Metals, effective October 20 2014, was adopted in May of 2015. CPL-03-00-019, Amputations, effective June 30, 2015 was adopted in February of 2016.

The State will adopt the FOM to include the penalty policy structure as put forward in the Field Operations Manual (FOM) CPL 02-00-019 effective October 1, 2015.

## **E. VARIANCES**

Iowa OSHA did not have State Plan variances in FY 2015.

## **F. STATE AND LOCAL GOVERNMENT WORKER PROGRAM**

Iowa OSHA has policies and procedures for conducting inspections involving state and local government workers. Per OIS data, Iowa OSHA conducted 14 state government inspections and 16 local government inspections.

The FY 2015 SAMM report indicated that 4.78% percent of total inspections were in the state and local government sector. (SAMM 6). Iowa OSHA was within the further review level of 4.13. Of the 142 case files reviewed, 13 were state and local government inspections. Of these 13, 6 cases or 46.2% were not in-compliance and Iowa OSHA imposed monetary penalties. Iowa OSHA follows policy and procedures for informal conferences. Of the 6 cases, penalties were reduced in 2 informal conferences.

## **G. WORKPLACE RETALIATION PROGRAM**

The FY 2015 SAMM report indicated that 41% of the 11(c) investigations were completed within 90 days. (SAMM 14). Thirty-one percent of Iowa OSHA's 11(c) complaints were meritorious. (SAMM 15). Iowa OSHA on average took 126 days to complete an 11(c) investigation. (SAMM 16).

Iowa OSHA completed 39 docketed and 52 administratively closed cases during FY 2015. The cases reviewed were selected at random based on case type, determination and completion during FY 2015. Sixteen (16) of the docketed cases files were reviewed. All administratively closed files were reviewed. Sixteen (41%) cases were completed within 90 days. Of the 16 docketed cases, one was withdrawn, ten were dismissed, and five (12.8%) received merit determination or were settled. It took an average of 124 days to complete an 11(c) investigation.

Additionally, administratively closed seventeen cases were referred to the Iowa Human Rights Council. One case was withdrawn. Eight cases were dual filed, and subsequently closed within FY 2015 with OSHA.

**Finding FY 2015-01:** For administratively closed whistleblower complaints, a letter to the complainant documenting the discussion and the reasons why the case is not appropriate for investigation was not sent in nine of 52 cases reviewed (17%), contrary to the Iowa Whistleblower Manual.

**Recommendation FY 2015-01:** Iowa OSHA should ensure that administrative closure letters are sent to the complainant for each complaint administratively closed, and preserve a copy of the letter with proof of receipt, along with any related

documents, for five years in accordance with Chapter V, Section II of the Whistleblower Manual. CPL 02-03-005.

**Finding FY 2015-02:** All of the 16 (100%) docketed whistleblower cases reviewed were organized improperly, contrary to the Iowa Whistleblower Manual. For example, Reports of Investigation and settlement materials, were placed on top of the Tables of Contents, often with its own separate Table of Contents.

**Recommendation FY 2015-02:** Iowa OSHA should ensure that each case file is organized in accordance with Chapter V, Section III of the Whistleblower Manual. CPL 02-03-005.

**Observation 15-OB-05:** Iowa OSHA Whistleblower Protection Program (WPP) does not have any personnel available to investigate Whistleblower complaints in case the only trained Investigator departs or is removed from the WPP Investigator position.

**Federal Monitoring Plan 15-OB-05:** Region VII will monitor the number and training status of Iowa OSHA WPP Investigators to ensure the departure of one Investigator does not result in the inability of Iowa OSHA to continue to investigate WPP Complaints.

**Observation 15-OB-06:** One withdrawal utilized improper verbiage, implying that the investigator was withdrawing the complaint for the complainant, in lieu of the complainant withdrawing their complaint. This complaint also lacked a Report of Investigation, whereas the IMIS entry indicated a report was completed.

**Federal Monitoring Plan 15-OB-06:** Iowa OSHA should ensure proper emphasis on correct verbiage on all official documentation relating to the proper withdrawal of a complaint in accordance with Chapter I, Section VIII of the Whistleblower Manual. CPL 02-03-005.

## **H. COMPLAINT ABOUT STATE PLAN ADMINISTRATION (CASPA)**

Region VII did not receive any CASPAs pertaining to Iowa OSHA in FY 2015.

## **I. VOLUNTARY COMPLIANCE PROGRAM**

Iowa OSHA's written policies and procedures for voluntary and cooperative programs are substantially the same as OSHA's and are adequate to accomplish the program's goals. The federal directives for the Voluntary Protection Program (VPP) and the Safety and Health Achievement Recognition Program (SHARP) were adopted. Iowa OSHA published its own instruction for its partnership program, which is substantially similar to the federal partnership directive and appropriately provides exemptions and other enforcement incentives. There were no changes made to the State Plan's voluntary and cooperative programs during FY 2015.

Thirteen files or 30% of its active 44 voluntary protection program cases were randomly selected and reviewed for program management in accordance with Cooperative and State Programs (CSP) 03-01-003. The file review revealed that although Iowa OSHA adopted the CSP, its organizational alignment is different than OSHA's regional and national offices organizational alignments, which prevents it from fully implementing all aspects of the CSP.

One observation (FY 2015-OB-04) is the managing of 90-day items resulting from onsite evaluations. The applicant or participant may be given a maximum of 90 days to correct uncontrolled hazards, as long as interim protection is provided, and must be corrected before the final onsite evaluation report can be processed. The CSP requires the applicant's or participant's management to provide the onsite evaluation team leader with a signed letter indicating how and when the correction will be made. Iowa OSHA did not require a letter from management stating how and when the correction will be made. Instead, the communication of the 90 day items and the applicant or participant submitting the corrections within 90 days was relied upon.

**Observation 15-OB-04:** A VPP applicant or participant may be given a maximum of 90 days to correct uncontrolled hazards, as long as interim protection is provided, and must be corrected before the final onsite evaluation report can be processed. Iowa OSHA does not require a letter from management stating the interim protection methods nor how and when the correction will be made. Instead, Iowa OSHA relies on the applicant or participant to submit the corrections within 90 days.

**Federal Monitoring Plan 15-OB-04:** Region VII will monitor onsite evaluation completions for applicants and participants, to ensure submission of letters to the VPP team leader stating the interim protection, and how and when the correction will be made.

Iowa OSHA's partnerships are managed under IOSH Instruction IACSP 03-02-003, effective date July 1, 2014. Iowa OSHA's partnerships remained constant throughout the fiscal year with an average of eight active partnerships per quarter, helping provide the participant's workers with heightened safety and health protections.

The compliance assistant is the primary partnership manager and responsible for signed partnership documents, evaluations, and performing monthly jobsite walkthroughs of each site with the site's general and subcontractor representatives. Upon accomplishing the walkthroughs, hazards, and other issues identified during the walkthroughs were used to develop focused training for workers across Iowa OSHA's partnership spectrum. During FY 2015, two new partnerships were signed and three closed out with final evaluations. Iowa OSHA managed its program in accordance with its Instruction and retained a viable strategic partnership program.

Iowa OSHA had two active alliances during FY 2015, which included the Renewable Fuels Association and the Master Builders of Iowa. The focus of the Renewable



Fuels Association alliance is to share information on hazard recognition and best management practices among association members and Iowa OSHA personnel. The alliance with Master Builders of Iowa focused on Iowa Consultation and Education staff providing assistance through presentations at conferences and providing materials that included topics such as fall protection and heat stress.

#### **J. STATE AND LOCAL GOVERNMENT 23(g) ON-SITE CONSULTATION PROGRAM**

There were 25 public sector consultation visits where 14 serious hazards were identified. As in previous years, the majority of the requests were for indoor air issues most often related to mold or inadequate ventilation. The identified hazards were corrected in a timely manner.

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

During FY-2015, Iowa OSHA's main goal was to reduce Iowa's incident rate of occupational injuries and illnesses to at least the national average. Iowa OSHA planned to reach this main performance goal by breaking it down into two performance goals.

**Performance Goal 1.1:** Improve workplace safety and health through compliance assistance and the enforcement of safety and health regulations and standards. Reduce occupational injury and illness rates and the number of fatalities by three percent (3%).

Iowa OSHA continued providing traditional direct interventions through mandated enforcement activities, consultation activities and compliance assistance and outreach activities.

Iowa OSHA enforcement completed 88% of their projected inspections. The reduced number of inspections was directly related to the learning curve for seven (7) newly hired enforcement officers who started during the third and fourth quarters of FY 2015.

Iowa OSHA worked to reduce hazards by intervening at targeted work sites by focusing on inspections at high hazard and injury industries and by increasing participation of high-hazard work sites in recognition programs.

Iowa OSHA used US DOL BLS data to identify industries with higher injury and illness incident rates specifically for Iowa. Targeted inspection lists for all LEPs were based on Iowa data and used for inspections at work sites that experienced fatalities, employee complaints, and high injury rates.

Iowa OSHA continued to focus on amputations and researched successful LEPs in other states and regions as well as reviewed opportunities for targeting programs unique to Iowa.

Iowa OSHA adopted the revised OSHA incident reporting recordkeeping rule on January

14, 2015. The Iowa OSHA Administrator and the Sr. Industrial Hygienist duty officer took most of the 147 Rapid Response Incident reports received during FY 2015 including 18 work-related fatalities inspected by Iowa OSHA.

**Performance Goal OSHA 1.2:** Improve workplace safety and health through compliance assistance outreach programs.

**Compliance Assistance:**

Iowa Education staff continued to promote and educate employers on the use of safety and health management programs through direct contact as well as through training programs. Iowa OSHA provided training to 40,366 outreach participants, a 59% increase from 25,394 in FY 2014..

The compliance assistant continued to identify methods to educate and engage youth in safety. Trainings were held at a high school, a community college and one of the state universities. Topics included both general industry and construction.

Iowa OSHA again participated in the National Stand Down for Falls held during the 3rd Quarter of FY 2015. There were 14 activities and 731 workers participated. These activities included fall protection training and demonstrations of fall protection equipment. All of the Iowa partnership sites, including those participating in the alliance with Master Builders of Iowa, included fall protection as a topic for training. In addition, heat stress materials were distributed.

Construction partnerships during FY 2015 had impact on approximately 40,366 workers. The compliance assistant continued to work with the Employer's Councils of Iowa to provide training to employers and workers throughout the state. The compliance assistant focused on four hour workshops on topics such as falls, electrical, lockout/tagout, machine guarding and ergonomics.

Iowa has 44 companies in VPP Star status and is working with additional companies to achieve the designation. Eight new partnerships were developed.

**Consultation Program Activities:**

Iowa Consultation and Education continued to support the Local and National Emphasis Programs of Iowa OSHA Enforcement. Iowa OSHA consultants were requested to give talks and training on nursing homes, trenching, silica, grain, asbestos and falls in construction.

Iowa Consultation and Education staff also gave talks or manned booths at the annual Governor's Safety Conference, the Iowa Illinois Safety Conference and the Master Builders of Iowa Conference.

Forty five (45) outreach letters were sent to small Iowa establishments who were covered under the Primary Metals National Emphasis Program. Three hundred and three (303)

outreach letters were sent to small Iowa establishments who were covered under the Metal Fabricated Products National Emphasis Program. One hundred ninety-eight (198) letters were sent to small Iowa establishments who were covered under the Isocyanates' National Emphasis Program. These outreach letters resulted in eight consultation visits to primary metals establishments, 18 requests for visits to metal fabricated product establishments and 16 visits to establishments using isocyanates. Iowa Consultation and Education continued to promote SHARP and to improve tracking capabilities for those companies who work toward achieving that status. There were no new companies who achieved SHARP status during FY 2015.

Iowa Consultation and Education supports the National Emphasis Programs and Local Emphasis Programs adopted by Iowa OSHA through outreach, education and consultation visits focusing on nursing and residential care facilities, grain bin safety, and construction. The total number of one-on-one outreach contacts made through compliance assistance efforts totaled 16,318.

In response to the OSHA emphasis on falls in construction Iowa OSHA focused additional time for outreach on fall protection in construction, particularly in the residential construction sector. Iowa OSHA relied heavily on Iowa's Spanish speaking staff to disseminate information as part of its Hispanic outreach mission. The Training and Education section maintains an inventory of 19 Spanish-speaking safety videos that are available for lending to those employers seeking assistance in training their employees. A supply of QuickCards and other OSHA publications printed in Spanish is maintained for distribution as needed.

**Performance Goal 2.1:** Protect worker rights to file health and safety complaints and prevent discrimination against workers who report hazards.

The Iowa OSHA discrimination officer position was open during the first quarter of FY 2015. The investigator that reviewed whistleblower cases in FY 2014 assisted the Iowa OSHA Administrator with screening 11(c) complaints during this time. The Kansas City 11(c) section of the OSHA Regional Office processed complaints for Iowa OSHA while the investigator position was open. The investigator that left the job at the end of FY 2014 ultimately returned to it during the second quarter of FY 2015 and worked diligently to bring the program back into balance.

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

None.

**Appendix A – New and Continued Findings and Recommendations**  
 FY 2015 Iowa Comprehensive FAME Report

FY 2015-#	Finding	Recommendation	FY 20XX-# or FY 20XX-OB-#
FY 2015-1	For administratively closed whistleblower complaints, a letter to the complainant documenting the discussion and the reasons why the case is not appropriate for investigation was not sent in nine cases reviewed (17%), contrary to the Iowa Whistleblower Manual.	Iowa OSHA should ensure that administrative closure letters are sent to the complainant for each complaint administratively closed, and preserve a copy of the letter with proof of receipt, along with any related documents, for five years in accordance with Chapter V, Section II of the Whistleblower Manual. CPL 02-03-005.	
FY 2015-2	All of the 16 (100%) docketed whistleblower cases reviewed were organized improperly, contrary to the Iowa Whistleblower Manual. For example, Reports of Investigation and settlement materials were placed on top of the Tables of Contents, often with its own separate Table of Contents.	Iowa OSHA should ensure that each case file is organized in accordance with Chapter V, Section III of the Whistleblower Manual. CPL 02-03-005.	
FY 2015-3	In accordance with Iowa FOM, OSHA-300 injury/illness records shall be requested. A total of 43 (30.3%) case files of 142 reviewed had no record of 300 logs in the file or in OIS.	Iowa OSHA should provide additional training to CSHOs to ensure that CSHOs are requesting the injury/illness logs during inspections and inputted into OIS. Supervisors should ensure that case files are reviewed more carefully to ensure the logs are collected and inputted into OIS.	

## Appendix B – Observations Subject to New and Continued Monitoring

FY 2015 Iowa Comprehensive FAME Report

Observation # FY 2015-OB-#	Observation# FY 2014-OB-# or FY 2014-#	Observation	Federal Monitoring Plan	Current Status
FY 2015-OB-01		Although Iowa OSHA sent a letter to ten (71%) families, only six 6 (60%) families received all letters. The compliance directive discusses the types of contact with next of kin, including letters to be sent within 5 working days of determining the next of kin's identity and upon issuance of any citations provide family members or their legal representatives with a copy of all citations and subsequent settlement agreements.	Region VII will monitor during next year's FAME to determine if this reflects the data trend.	New
FY 2015-OB-02		The SAMM data shows average number of work days to initiate complaint inspections and complaint investigations to be 8.93 and 4.21 respectively. The case file review noted the average number of days to initiate a complaint inspection was 4.29 days and the average number of workdays to initiate a complaint investigation was 0.05 for the sample set.	Region VII will monitor SAMM data in conjunction with case file data to determine data congruence.	New
FY 2015-OB-03		While Iowa OSHA had a penalty assessment system equivalent to OSHA, they did not follow it in all cases. It appeared that in 13 of the 78 not in-compliance case files, the severity assessment and violation classification was not applied in accordance with the Iowa FOM Chapter 6.	Region VII will monitor during next year's FAME to determine if this reflects the data trend.	New

## Appendix B – Observations Subject to New and Continued Monitoring

FY 2015 Iowa Comprehensive FAME Report

FY 2015-OB-04		A VPP applicant or participant may be given a maximum of 90 days to correct uncontrolled hazards, as long as interim protection is provided, and must be corrected before the final onsite evaluation report can be processed. Iowa OSHA does not require a letter from management stating the interim protection methods nor how and when the correction will be made. Instead, Iowa OSHA relies on the applicant or participant to submit the corrections within 90 days.	Region VII will monitor onsite evaluation completions for applicants and participants, to ensure submission of letters to the VPP team leader stating the interim protection, and how and when the correction will be made.	New
FY 2015-OB-05	FY 2014-OB-02	The Iowa OSHA Whistleblower Protection Program (WPP) does not have any personnel available to investigate Whistleblower complaints in case the only trained Investigator departs or is removed from the WPP Investigator position.	Region VII will monitor the number and training status of Iowa OSHA WPP Investigators to ensure the departure of one Investigator does not result in the inability of Iowa OSHA to continue to investigate WPP Complaints.	Continued as an Observation
FY 2015-OB-06		One withdrawal utilized improper verbiage, implying that the investigator was withdrawing the complaint for the complainant, in lieu of the complainant withdrawing their complaint. This complaint also lacked a Report of Investigation, whereas the IMIS entry indicated a report was completed.	Iowa OSHA should ensure proper emphasis on correct verbiage on all official documentation relating to the proper withdrawal of a complaint in accordance with Chapter I, Section VIII of the Whistleblower Manual. CPL 02-03-005.	New
	FY 2014-OB-01	Iowa completed only 63% of its projected safety inspections.		Closed
	FY 2014-OB-03	In only 65% of the e-complaints handled as non-formal that were reviewed, a response to the complainant was documented in IMIS.		Closed

## Appendix B – Observations Subject to New and Continued Monitoring

### FY 2015 Iowa Comprehensive FAME Report

	FY 2014-OB-04	The investigator did not adequately analyze Respondent's defense in the Report of Investigation (ROI) regarding non-merit determinations.		Closed
	FY 2014-OB-05	52% of the Zip Code Targeted Inspections reviewed during the FY 2013 FAME were not coded properly. In FY 2014, 13 of 20 (65%) Zip Code inspections were not coded properly.		Closed
	FY 2014-OB-06	Of 55 reviewed complaints that resulted in an inspection, only 42 (76%) were noted in IMIS that a response was sent to the complainant.		Closed

## Appendix C - Status of FY 2014 Findings and Recommendations

FY 2015 Iowa Comprehensive FAME Report

FY 2014-#	Finding	Recommendation	State Plan Response/Corrective Action	Completion Date	Current Status and Date

There were no findings in FY 2014.



## Appendix D - FY 2015 State Activity Mandated Measures (SAMM) Report

### FY 2015 IOWA OSHA Comprehensive FAME Report

OSHA is in the final stages of moving operations from NCR, a legacy data system, to OIS, a modern data system. During FY 2015, OSHA case files and most State Plan case files were captured on OIS. However, some State Plan case files continued to be processed through NCR. 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. In addition, SAMMs 5, 8, 9, 11, 12, 15, and 17 have further review levels that should rely on a three-year national average. However, due to the transition to OIS, the further review levels for these SAMMs in this year's report will rely on a one-year national rate pulled only from OIS data. Future SAMM year-end reports for FY 2016 and FY 2017 should rely on a two-year national average and three-year national average, respectively. All of the State Plan and federal whistleblower data is captured directly in OSHA's WebIMIS System. See the Notes column below for further explanation on the calculation of each SAMM. All of the Iowa State Plan's enforcement data was captured in OIS during FY 2015. The Iowa State Plan opened 607 enforcement inspections, and they were all captured in OIS.

U.S. Department of Labor				
Occupational Safety and Health Administration State Plan Activity Mandated Measures (SAMMs)				
State Plan: <b>Iowa - IOWA OSHA</b>			FY 2015	
/SAMM Number	SAMM Name	State Plan Data	Further Review Level	Notes
<b>1a</b>	Average number of work days to initiate complaint inspections (state formula)	8.93	5	State Plan data is pulled from OIS. Further review level is negotiated by OSHA and the State Plan.
<b>1b</b>	Average number of work days to initiate complaint inspections (federal formula)	6.62	N/A	State Plan data is pulled only from OIS. This measure is for informational purposes only and is not a mandated measure.
<b>2a</b>	Average number of work days to initiate complaint investigations (state formula)	4.21	1	State Plan data is pulled from OIS. Further review level is negotiated by OSHA and the State Plan.

## Appendix D - FY 2015 State Activity Mandated Measures (SAMM) Report

### FY 2015 IOWA OSHA Comprehensive FAME Report

<b>2b</b>	Average number of work days to initiate complaint investigations (federal formula)	.48	N/A	State Plan data is pulled only from OIS.  This measure is for informational purposes only and is not a mandated measure.
<b>3</b>	Percent of complaints and referrals responded to within one workday (imminent danger)	N/A	100%	State Plan data is pulled from OIS.  Further review level is fixed for all State Plans.  N/A – The State Plan did not receive any imminent danger complaints and referrals in FY 2015.
<b>4</b>	Number of denials where entry not obtained	0	0	State Plan data is pulled from OIS.  Further review level is fixed for all State Plans.
<b>5</b>	Average number of violations per inspection with violations by violation type	SWRU: 2.32	+/-20% of SWRU: 1.92	State Plan data is pulled from OIS.  Further review level is based on a one-year national rate, pulled only from OIS.
		Other: .47	+/-20% of Other: .87	
<b>6</b>	Percent of total inspections in state and local government workplaces	4.78%	+/- %5 of 4.35%	State Plan data is pulled from OIS.  Further review level is based on a number negotiated by OSHA and the State Plan through the grant application.
<b>7</b>	Planned v. actual inspections – safety/health	S: 410	+/- %5 of S: 485	State Plan data is pulled from OIS.  Further review level is based on a number negotiated by OSHA and the State Plan through the grant application.
		H: 176	+/- %5 of H: 205	
<b>8</b>	Average current serious penalty in private sector - total (1 to greater than 250 workers)	\$1,020.69	+/-25% of \$2,002.86	State Plan data is pulled from OIS.  Further review level is based on a one-year national rate, pulled only from OIS.

## Appendix D - FY 2015 State Activity Mandated Measures (SAMM) Report

### FY 2015 IOWA OSHA Comprehensive FAME Report

	<b>a.</b> Average current serious penalty in private sector (1-25 workers)	\$566.44	+/-25% of \$1,402.49	State Plan data is pulled from OIS. Further review level is based on a one-year national rate, pulled only from OIS.
	<b>b.</b> Average current serious penalty in private sector (26-100 workers)	\$985.55	+/-25% of \$2,263.31	State Plan data is pulled from OIS. Further review level is based on a one-year national rate, pulled only from OIS.
	<b>c.</b> Average current serious penalty in private sector (101-250 workers)	\$1,262.18	+/-25% of \$3,108.46	State Plan data is pulled from OIS. Further review level is based on a one-year national rate, pulled only from OIS.
	<b>d.</b> Average current serious penalty in private sector (greater than 250 workers)	\$1,851.21	+/-25% of \$3,796.75	State Plan data is pulled from OIS. Further review level is based on a one-year national rate, pulled only from OIS.
<b>9</b>	Percent in compliance	S: 34.53%	+/-20% of S: 28.47%	State Plan data is pulled from OIS. Further review level is based on a one-year national rate, pulled only from OIS.
		H: 37.13%	+/-20% of H: 33.58%	
<b>10</b>	Percent of work-related fatalities responded to in one workday	88.24%	100%	State Plan data is pulled from OIS. Further review level is fixed for all State Plans.
<b>11</b>	Average lapse time	S: 40.12	+/-20% of S: 42.78	State Plan data is pulled from OIS. Further review level is based on a one-year national rate, pulled only from OIS.
		H: 36.63	+/-20% of H: 53.48	
<b>12</b>	Percent penalty retained	60.69%	+/-15% of 67.96%	State Plan data is pulled from OIS. Further review level is based on a one-year national rate, pulled only from OIS.
<b>13</b>	Percent of initial inspections with worker walk around representation or worker	97.95%	100%	State Plan data is pulled from OIS. Further review level is fixed for all State Plans.

## Appendix D - FY 2015 State Activity Mandated Measures (SAMM) Report

### FY 2015 IOWA OSHA Comprehensive FAME Report

	interview			
<b>14</b>	Percent of 11(c) investigations completed within 90 days	41%	100%	State Plan data is pulled from WebIMIS. Further review level is fixed for all State Plans.
<b>15</b>	Percent of 11(c) complaints that are meritorious	31%	+/- 20% of 24%	State Plan data is pulled from WebIMIS. Further review level is based on a three-year national average, pulled from WebIMIS.
<b>16</b>	Average number of calendar days to complete an 11(c) investigation	126	90	State Plan data is pulled from WebIMIS. Further review level is fixed for all State Plans.
<b>17</b>	Percent of enforcement presence	0.90%	+/- 25% of 1.35%	State Plan data is pulled from OIS. Further review level is based on a one-year national rate, pulled only from OIS.