Appendix A

FY 2009 Iowa State Plan (IOSH) Enhanced FAME Report Prepared by Region VII

Summary of Findings and Recommendations

	Findings	Recommendations
1	Iowa periodically sees a reduction in fatalities but the average number of fatalities for the past eleven (11) years is twenty (20). Seven (7) of eleven (11) years (64%) have experienced more than twenty (20) fatalities. Beginning in FY 2003 every year experienced more than 20 workplace fatalities.	Review the previous ten (10) years of fatality data and compare this to the fatality rates for construction and general industry. After the evaluation, develop enforcement and compliance assistance programs to target industries or hazards associated with the fatalities which have occurred during the previous ten (10) years.
2	Iowa OSHA did not ensure that adequate abatement was received for all phone and fax investigations.	Review with employees, who review abatements for phone and fax complaints, the FOM and what is considered adequate abatement.
3	The IMMLANG policy is not consistently followed.	Review the IMMLANG policy with all employees and ensure that information is entered into the IMIS system.
4	Families of victims are not always contacted when a fatality investigation is initiated, citations are issued, a settlement conference is held or when the case is closed. There is limited additional communication with family members once the investigation has begun.	We suggest communication with families when the investigation is initiated, when citations are issued, when informal settlement agreements are signed, when the case is contested and when the case is closed. Additionally, a tracking system should be developed and implemented to help ensure that required correspondence is sent to families of victims.
5	LEP and NEP inspections were not coded properly in the IMIS system.	Provide refresher training to all employees on LEP and NEP program and IMIS requirements.
6	Excessive and inappropriate grouping issues were identified.	Iowa OSHA must review its current citation grouping policies and procedures and issue citations in accordance with its FOM.
7	Fifty-three percent (53%) of the programmed safety inspections resulted in Serious/Willful/Repeat violations.	(Repeat) Iowa OSHA must evaluate its safety targeting system and make modification to ensure that its limited resources are inspecting locations where serious hazards are present. Iowa OSHA must also ensure that violations are being classified in accordance with the FOM and other policy directives.
8	[In 35 percent of the cases reviewed], hazards that were identified during inspections were not addressed in citations or a letter to the employer.	All hazards identified during inspections must be addressed. Case files must be reviewed more thoroughly including review of photographs for hazards not identified or addressed by CSHOs.
9	Employees are unclear what constitutes employer knowledge to document a prima facie case.	Iowa OSHA must work with the legal staff to provide training to employees to ensure violations are supportable and have all elements for a prima facie case.
10	Severity assessments are inaccurate which result in incorrect penalty assessments. Other than serious violations had injuries and illnesses described as eye injuries and hearing loss which should have been classified as serious. In addition machine guarding and fall protection violations were classified as other-than-serious and should have been classified as serious.	Iowa OSHA must review the FOM requirements for severity assessments with employees and ensure that severity assessments are evaluated during case file reviews conducted by PSE2s.
11	The Open Inspection Report is not effectively utilized to track cases with incomplete abatement with twenty-three percent (23%) of the cases having abatement more than thirty (30) days past due.	Iowa OSHA must develop a procedure to analyze the Open Inspection Report, identify cases with past due abatement and obtain timely abatement.
12	Abatement dates are not assigned in accordance with the FIRM.	Provide training to employees on the current FOM and other adopted directives to ensure that abatement dates are assigned in accordance with current policy.

	Findings	Recommendations
13	Iowa OSHA does not conduct follow-up inspections when they are indicated.	Iowa OSHA must evaluate the Candidates for Follow-Up Inspection Report to identify inspections without adequate abatement and where follow-up inspections could be conducted.
14	The LEP table included inactive LEP codes for use by employees.	Update the IMIS LEP tables to reflect active LEPs and ensure proper IMIS coding.
15	The TRC and DART rates for public sector employers are higher than private sector employers and Iowa OSHA conducts approximately twenty (20) inspections in the public sector each year.	Iowa OSHA must identify a targeting measure to address the high incidence rates for public sector employers.
16	Iowa has experienced a reduction in the TRC and DART rates for private sector employers, but the rates still remain above the national rates for employers.	Iowa OSHA must identify enforcement activities that will reduce TRC and DART rates for private industry.
17	Notifications for Federal Program Changes were not provided by the specified dates.	Iowa OSHA must implement a procedure to ensure that Federal Program Change notifications are provided by the specified date.
18	Yearly partnership evaluations were not completed and placed in the partnership files.	Complete the yearly evaluations in accordance IOSH Instruction CSP 03-02-002 and place in the partnership files.
19	Partnership employers were not required to provide notification to Iowa OSHA abatement information for hazards identified during non-enforcement on-site visits.	Request that partnership employers submit documentation to Iowa OSHA of abatement actions taken for hazards identified during non-enforcement verification inspections.
20	Employers were not provided with formal notification of receipt of their VPP applications.	Provide formal acknowledgement of receipt of the application within fifteen (15) days for receipt. This should be completed in accordance with CSP 03-01-003.
21	Iowa OSHA did not utilize 90 day items to ensure uncontrolled hazards were corrected prior to the final on-site evaluation report.	Implement the use of 90 day items to ensure uncontrolled hazards are corrected prior to the final on-site evaluation report.
22	Iowa OSHA employees have not received all required training.	Iowa OSHA must review their training directive IOSH Instruction TED 01-00-018 and ensure that employees receive the required training.
23	No IDPs were developed for Iowa OSHA personnel.	Iowa OSHA must work with compliance officers to develop initial IDPs and update them annually.

FY 2009 Iowa State Plan (IOSH) Enhanced FAME Report
Discrimination Program Review Prepared by Region VII
Summary of Findings and Recommendations

	Findings	Recommendations
1	A copy of the closing letter to the Complainant was not provided to federal OSHA upon completion of the dual filed complaint investigation.	Provide federal OSHA with a copy of the closing letter to the Complainant upon completion of the dual filed complaint investigation.
2	[47 percent] of 11(c) investigations were not completed within the 90 day goal.	Review the 11(c) investigation process and identify process improvements to ensure 11(c) investigations are completed within 90 days.
3	Adequate allegation summary statements were not entered into IMIS for all 11(c) cases and IMIS updates were not recorded to track all actions taken on each 11(c) case.	Draft adequate allegation summary statements for entry into IMIS which clearly convey Complainant's alleged protected activity and adverse action. Update IMIS entries for whistleblower cases as each new action occurs throughout the investigative and appeal stages until final case closure.
4	Adequate and timely opening letters were not provided to all Complainants and Respondents for notification purposes that a whistleblower case had been opened for investigation.	Draft adequate opening letters and send or deliver them to the parties in a timely manner.
5	Face-to-face interviews were not conducted by the investigator with all Complainants in a timely manner to obtain signed statements documenting detailed information as evidence in 11(c) cases.	Schedule a meeting of the investigator with the Complainant as soon as possible after a prima facie allegation has been presented in order to conduct a face-to-face interview and obtain a signed statement.
6	Adequate case file organization was not accomplished in all 11(c) case files.	Utilize adequate case file organization techniques to aid review of investigations.
7	Face-to-face interviews were not conducted by the investigator with all relevant witnesses to obtain signed statements documenting detailed information as evidence in 11(c) cases. Documentation was not present on interview forms to verify that confidentiality was offered to non-management witnesses.	Schedule a meeting of the investigator with all relevant witnesses during the whistleblower investigation in order to conduct face-to-face interviews and obtain signed statements. Include a confidentiality statement on all non-management witness interview statement forms.
8	Settlement agreements were not negotiated and documented per established policies and procedures.	Accomplish early resolution of 11(c) complaints through implementation of established settlement agreement policies and procedures.
9	Adequate evaluation of the elements of a work refusal was not performed during the investigation of a whistleblower complaint.	Conduct a thorough evaluation of all the elements of a work refusal in order to determine if a valid work refusal complaint has been filed.
10	Adequate Final Investigation Reports for 11(c) case files were not prepared per established policies and procedures.	Draft Final Investigation Reports that effectively communicate results of investigations as required by established policies and procedures.
11	Adequate documentary evidence was not gathered in all 11(c) cases to determine if a violation had occurred.	Seek and obtain all necessary documentary evidence to reach a conclusion.
12	IOSH Discrimination Program investigators and supervisors have not attended the most current 11(c) training provided by federal OSHA.	Accomplish training for all IOSH Discrimination Program investigators and supervisors by enrolling in the OSHA Training Institute Course #1420 Basic Whistleblower Investigations - 11(c) in FY 10 or FY 11.