

**Appendix A**  
**FY 2009 Indiana State Plan (IOSHA) Enhanced FAME Report prepared by Region V**  
**Summary of Findings and Recommendations**

Key Findings and Recommendations = **Bold**

	Findings	Recommendations
State Activity Mandated Measures (SAMMs) (p. 13-15)		
<b>1</b>	SAMM Measure # 4. Not all complaints and referrals coded as Imminent Danger were responded to within one day.	Ensure all complaints and referrals are appropriately coded, and those coded as imminent danger are responded to within one day.
Complaints (p. 15-18)		
<b>2</b>	<p>It was determined that the individual employees at OSHA who act as complaint Duty Officers do keep their own log of phone calls. There was no evidence that this was a tool to prevent unions from making or taking part in complaints. There was no evidence that supported IOSHA was not returning phone calls from any Complainant.</p> <p>Evidence in the files supported that when given a name and mailing address, IOSHA did provide results to all Complainants. Complainants were only asked to identify who they were as a part of classifying the complaint.</p>	A single log book of calls dedicated to the Complaint Duty Officer position should be utilized.
<b>3</b>	Complaint investigations and inspections were timely. However, the files did not always contain an updated OSHA-7 with all pertinent actions in it. Copies of all letters required to be sent by IOSHA were not found in the file. The missing letters were notification letters to Complainants and where appropriate, to Respondents, and inspection result letters specifically to the unions. The diary logs did indicate that the employer and union letters were sent. No diary log entries indicated that Complainant acknowledgement letters were sent. There was also no evidence that IOSHA sent the "certificate of posting" to the employer when appropriate.	<p>a) All appropriate entries should be made on the OSHA-7, and an updated OSHA-7 should be maintained in the file. These entries should be performed in accordance with OSHA Instruction 03-06 (IRT 01) (03-06 (ADM 01)), The IMIS Enforcement Data Processing Manual: Table of Contents and Chapters 1 through 7.</p> <p>b) All notification letters should be sent and when appropriate the "certificate of posting".</p>
<b>4</b>	There was not always adequate documentation that supported that a complaint item did not exist. A note in the file is not normally adequate; however, IOSHA did frequently address complaint items through photos and interviews. Thirteen out of 15 files that were associated with exposure to hazardous substances did not contain any sampling information or justification as to why sampling was not necessary. Documentation of interviews and related safety and/or health programs were not in the files. Notes with a list of employees interviewed were in the files however, the files did not contain documentation of the interviews.	While the OSHA Field Inspection Reference Manual CPL 2.103 does provide for CSHOs to make their own decisions about what supporting documentation is needed to document a hazard and since documentation is not required to be present to support that a hazard does not exist, it is recommended that evidence be present in the file that supports that all complaint items have been evaluated. When addressing complaints about exposure to contaminants, an explanation should be provided when a contaminant is not sampled.
<b>5</b>	No emphasis inspections were found to have Complainants who left an address to which results could be mailed. There is no evidence that this purposefully occurred or occurred with every emphasis inspection.	Every effort should be made to obtain addresses from complainants.
<b>6</b>	Files were not maintained in an orderly manner. Not all file sections were tabbed with contents, files were not completely bound, and not all the files contained paper copies of digital records. Furthermore, staff that may need access to the files	A paper copy of documents kept electronically should be placed in every file. Files should be orderly and all documents bound.

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	did not always have the software and hardware required to access the file information.	
Fatalities (p. 18-22)		
7	Fatality inspections were not always initiated in a timely fashion, and the reasons for the delay were not documented in the case file.	Prioritize fatality inspections to ensure that CSHOs open the inspection as soon as possible after initial notification to the Indiana OSHA office. Ensure that CSHOs communicate and document reasons for any delays in the case file.
8	<b>Fatality case files were not maintained to ensure that all appropriate documentation (i.e. completed OSHA-170) and correspondence (i.e. Next of Kin Letters, Union letters) were included, organized, and adequately secured in the files.</b>	<b>Provide clear guidance to all enforcement personnel and administrative staff on the organization of fatality case files and what documentation needs to be completed and included in each fatality case file. Consider designing and implementing a tracking document for each file that ensures that all appropriate correspondence is completed and documented in each file. Ensure that all documents put into a case file are secured.</b>
9	<b>Families of victims are not always contacted when a fatality investigation is completed, and no additional communication is initiated by Indiana OSHA once the citations have been issued.</b>	<b>Consider implementing a tracking system to help ensure that all required correspondence with families of victims is completed and documented in each case file.</b>
10	Inspection forms (i.e. OSHA-1, OSHA-1A, OSHA-36, OSHA-170) were not completed with the detail required and the latest versions were not maintained in the case file. This includes lack of IMMLANG documentation.	Instruct staff on the accurate completion of required inspection forms in each fatality inspection and the appropriate review of each file to ensure this is completed. Review the current procedures for IMMLANG to ensure that staff are familiar with the required documentation.
11	<b>Violations were sometimes classified or grouped for reasons not apparent, or citations were not issued to address hazards identified during fatality inspections</b>	<b>Consider conducting training to staff on appropriate classification of violations to ensure consistency in issuing Willful (Knowing) and Serious citations. Review grouping policy with staff to ensure that appropriate rationale is applied and documented when grouping violations.</b>
12	Informal conference documentation does not include sufficient justification and/or rationale for changing citation classification and reducing penalties.	Ensure that Directors adequately document informal conference narrative sheets to explain informal settlement rationale.
13	<b>Fatality case files are closed without sufficient abatement documentation.</b>	<b>Ensure that supervisors use IMIS Abatement Tracking reports and follow-up letters to employers. Audit closed fatality files on occasion to ensure that appropriate abatement information is included in the file.</b>
14	<b>No follow-up inspections are scheduled or conducted for fatality inspections that have high gravity citations issued related to the fatality.</b>	<b>Implement a fatality inspection tracking system to ensure that appropriate follow-up inspections are scheduled and conducted.</b>
Targeting and Inspections (p. 22-23)		
15	<b>Violations cited on programmed inspections include a high percentage of other-than-serious citations for</b>	<b>Consider conducting training on hazard classification for CSHOs and Supervisors to</b>

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	hazards that could be classified as serious, such as, but not limited to, electrical hazards.	ensure consistency with violation classification.
16	Programmed inspections conducted in the construction industry are not effectively targeting sites with serious hazards.	Consider revising the construction targeting system to maximize efficiency of inspections. Also consider implementing OSHA's National Emphasis Program on Trenching.
Employee and Union Involvement (p. 24-25)		
17	While employee interviews were always indicated as being performed, in eight out of 36 files nothing beyond contact information was listed in the file.	For support of citations, better support documentation proving exposure should have been provided. Due to the lack of this documentation, one file reviewed indicates that the all citations were deleted.
18	The final letter and citations were indicated as having been sent to the union; however, no letters were found in the file. Also there is no evidence in the file that the union was informed of the informal settlement conference by IOSHA.	Include union representation in every aspect of the inspection and keep them informed as required under the FIRM. This includes sending the union a copy of the Notification of Citation and Penalty and informing union representation of any informal conferences.
Citations and Penalties (p. 25-27)		
19	Most files had adequate documentation to support the violations with the exception of several files that did not contain employee interview statements to support exposure to a hazard.	Interviews should be documented in the file to support employee exposure to a hazard.
20	Three of twenty-eight Industrial Compliance case files were found to have repeat violations improperly classified as serious violations.	Supervisors should be instructed to use IMIS database to check for repeat violations.
21	It was discovered that in two of the Industrial Compliance files reviewed that the severity assigned was too low based on the potential injuries as a result of exposure to the hazard.	If an accident had occurred, it cannot be disregarded when assessing the severity of an injury and illness.
Abatement (p. 27-28)		
22	Although generated and distributed monthly, Supervisors are not utilizing IMIS reports to track abatement.	Supervisors must consistently review IMIS reports to track abatement and update the IMIS in a timely manner.
23	In some cases, abatement was not late as the employer had been informally granted extra time to submit abatement. One file was reviewed where the employer had petitioned for a modification of the abatement due date. The time requested was not noted. The Supervisor did not note any discussion with the employer; however, abatement was submitted at a much later date then the original due date.	Require employers to follow procedures for Petition to Modify Abatement (PMA) and ensure that IMIS is timely updated to reflect any extensions granted.
24	<b>When a case is resolved through an EISA, the employer is not required to provide documentation of abatement or required to document the method of abatement. IOSHA only requires the employer to sign a Certificate of Correction which contains the inspection number, date of citation issuance, date of citation abatement, and date of posting of the certificate.</b>	<b>The Certificate of Correction does not contain a written explanation of the method of abatement the employer used to correct the citation. This written explanation is required to be present under 29 CFR 1903.19(c).</b>
25	When viewing Industrial Compliance case files, two cases were reviewed with incorrect abatement; however, the Supervisors accepted the abatement and closed the cases.	All abatement documentation submitted must be reviewed.

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Review Process (p. 29-31)		
26	IOSHA does not appear to be working from one detailed policy for EISA.	Provide to everyone the EISA policy, and train everyone on the elements of the policy.
27	No method exists for ensuring that abatement is completed by employers taking part in the EISA process.	Periodic follow up inspections should be initiated as a means of ensuring abatement is completed by employers taking part in the EISA process or requests for abatement documentation could be made.
28	The average lapse time from receipt of contest to a first level decision is approximately one and a half years.	Continue to identify ways to reduce the time for receiving a decision on contested cases.
Information Management (p. 32-38)		
29	Indiana OSHA has a significant number of draft records in the IMIS system.	Indiana OSHA must conduct a performance review and cleanup of the IMIS database records on a regular basis to ensure that all draft forms are finalized and transmitted to the host computer as soon as possible, with the exception of OSHA 1Bs that are less than six months old as modifications may be necessary prior to issuing safety orders. Procedures must be developed to ensure periodic reviews of draft IMIS forms are conducted to maintain a viable information system.
30	Although several IMIS management reports are being generated and distributed to the management team on a monthly basis, the majority of the reports are not being used effectively.	<b>Indiana OSHA must establish a system for the proper handling and review of IMIS management reports. Consideration should be given to the importance of the report when determining the frequency with which it is generated and distributed(weekly, bi-weekly, or monthly).</b>
31	<b>The IMIS is not kept up-to-date and contains information which does not allow for effective internal evaluation of the Indiana program.</b>	<b>Indiana OSHA must ensure that the IMIS system is kept up to date and is accurate. All Supervisors and Administrative staff responsible for IMIS data entry must utilize available management reports and follow through with timely updates to the system for all forms and changes in case status (abatement, penalties, extensions, etc.) Additional IMIS Training for staff is recommended to effectively maintain and utilize the system.</b> <i>OSHA Instruction ADM 1-1.31 IMIS Enforcement Data Processing Manual</i>
32	The State has not been entering health sampling information into the IMIS.	The State will need to start entering health sampling data into the IMIS.
33	Complaint information is not entered into the IMIS when received. The OSHA-7 for Signature report is not utilized. Staff interviews revealed that Complainant's are allowed up to ten days to formalize a complaint.	Indiana OSHA should enter complaints into the IMIS when received. The OSHA-7 for Signature report should be generated and reviewed periodically to ensure the system reflects current status of complaints. The FOM

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		indicates that Complainants are given up to five working days to formalize nonformal complaints.
General Inspection Statistics (p. 38-43)		
34	Only 21.22% of programmed safety inspections resulted in S/W/R citations. Of the 1,437 programmed inspections, 575 were coded as programmed planned while 852 were coded as programmed-related. This is consistent with the large number of construction inspections and associated multi-employer worksites.	Indiana OSHA must evaluate its Construction targeting system and make modifications to ensure that its limited resources are inspecting sites/locations where serious hazards are likely to be present. Indiana OSHA must also ensure that violations are being classified in accordance with the IN FOM.
35	<b>Indiana did not issue any willful (knowing) violations during FY2009.</b>	<b>Indiana OSHA should conduct an internal review of its willful (knowing) citation policy.</b>
36	Indiana OSHA conducted one Follow-up inspection during FY2009. IMIS reports are not utilized to identify cases requiring follow-up inspections.	Indiana OSHA must begin using IMIS reports to identify and assign establishments requiring follow-up inspections.
37	<b>Electrical hazards cited were classified as serious only 48% of the time and Fire Protection in construction was classified as serious two times while being cited 71 times.</b>	<b>Review classification of electrical and fire hazard violations in both Construction and General Industry to ensure consistency with the Field Operations Manual and throughout IOSHA.</b>
Discrimination (p. 46-48)		
38	Review of the case files revealed that IOSHA's Whistleblower Protection Program has adopted their own forms rather than use the forms provided by the OSHA Whistleblower program. Case file organization does not follow DIS 0-0.9. Various cases were missing copies of administrative documents.	Follow DIS 0-0.9 for case file organization to ensure consistency with case file organization and contents.
39	<b>OSHA would likely not have come to the same conclusion as the determinations issued by IOSHA in two of the cases reviewed. Many of the case files failed to properly test Respondent's defense or develop one or more of the prima facie elements.</b>	<b>Ensure that when tolling a complaint that it is appropriate and based on the exceptions for tolling a complaint as indicated in DIS 0.0.9. Also ensure that all cases are adequately investigated which includes a full analysis of prima facie elements and testing the Respondent's defense.</b>
40	<b>As a result of statutory mandate, Indiana code requires that suit for Whistleblower complaints must be filed in state court within 120 day from date of complaint received.</b>	<b>Until Indiana is able to change the 120 day restriction, it is important that complaints are properly dual-filed.</b>
Voluntary Compliance Program (p. 50-51)		
41	Files for voluntary compliance programs are not organized and complete with required documentation maintained.	Create file retention systems for VPP sites to ensure that appropriate and complete documentation is organized and maintained.
42	Medical Access Orders were not obtained and presented to the companies prior to conducting VPP onsite reviews.	Obtain Medical Access Orders and present to companies prior to conducting VPP onsite reviews per CSP 03-01-003.
Training (p. 51-52)		
43	A comprehensive tracking mechanism/database is not maintained for CSHO training.	Develop a tracking mechanism such as a database so that training records/information may be reviewed in the form of usable reports. This will assist the State with determining and

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		maintaining compliance with OSHA Instruction TED 01-00-018, Initial Training Program for OSHA Compliance Personnel.
44	Employees are assigned fatality investigations prior to completing the Accident Investigation course.	Ensure that all CSHOs assigned to conduct fatality/catastrophe inspections have attended the Accident Investigation course.
Benchmarks/Furloughs/Funding (p. 52-55)		
45	Indiana OSHA is staffed well below current benchmarks for the State plan.	<b>While the State believes that the current benchmark levels are not reflective of the resources necessary to be effective, it is recommended that the State continue to work with OSHA regarding benchmarks and continue to increase staffing levels to the extent feasible.</b>