

Indiana

FY2009 Enhanced FAME Report Final Corrective Action Plan Summary Sheet

#	Findings	Recommendation	State Response / Corrective Action	Interim Steps with Due Dates	Documentation Required with Due Dates	Outcome Measure	Completion Date	Status (to be tracked and updated by Region)
1	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.	A review of the case files indicates there were no imminent danger cases during the audit period. The cases observed by the audit team were mis-coded by the Duty Officer. The cases were acted upon in a timely basis. In one case, extenuating circumstances involving the business closure for an extended period of mourning did produce an unacceptably long period of time for opening a fatality case. New Duty Officers are briefed on what constitutes an imminent danger case. We will continue this practice with all new Duty Officers. IOSHA does not anticipate the need for any new or modified work practices.	Provide refresher training to all duty officers on what constitutes an imminent danger case.	Provide OSHA with written certification that the training has been completed. Required documentation will be provided by January 2, 2011.	Complaints and referrals are properly coded as Imminent Danger, Serious, or Other-Than-Serious.	1/2/11	Subject to further Federal monitoring.
2	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 Complainants. 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 complainant.	A Single log book of calls dedicated to the Complaint Duty Officer position should be utilized.	Upon review, we have observed that some Duty Officers have kept a personal log or diary book. In the last year, this was kept in addition to a "Duty Desk" log. The Duty Desk Log will serve as the official recording tool of the Officer. We have incorporated this into our initial briefing for any new Duty Officers. When new Duty Officers begin, part of their training will be a discussion concerning the official Duty Desk Documentation and that any personal logs, journals, or diaries are discouraged.	NA	Provide OSHA with written assurance that a single log book of calls dedicated to the Duty Officer position is kept. Written assurance will be provided by February 1, 2011.	A single log book is maintained at the Duty Officer desk.	2/1/11	Subject to further Federal monitoring.

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3	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.	(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 and 7. (b) All notification letters should be sent and when appropriate the "certificate of posting".	There were some files lacking actual copies of various notification letters. In several cases, letters were found in master files or found electronically in the Duty officer's home drive or on disks in the inspection case files. All union letters were accounted for although they may not have been in the individual inspection and/or complaint file. The lack of sampling data being recorded into a file was an issue that has continued. This issue is addressed in a later finding in some detail. The new Duty Officer training does currently and will continue to emphasize the importance of complete files with all documentation from the Duty Officer in the individual file. Copies of all correspondence to Respondent and Union letters will be placed in the inspection case files. Completed Certificate of Posting forms will be required from employers requesting Petition for Modification of Abatement Dates and copies placed in inspection case files. Sampling data issues are addressed in a later Finding and Recommendation.	NA	Provide OSHA with written certification that the training has been completed. Suggest supervisors check case files and IMIS to ensure documentation is complete. Required documentation will be provided by February 1, 2011.	All appropriate entries are made on the OSHA-7 and updated OSHA-7s are maintained in the case file. All notification letters are sent and, when appropriate, the "certificate of posting."	2/1/11	Subject to further Federal monitoring.

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4	<p>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.</p> <p>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.</p>	<p>While the OSHA Field Inspection Reference Manual CPL 2.103 does not 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.</p>	<p>The FIRM does give CSHOs significant discretion concerning documentation when a hazard does not exist. We agree that some files could have been better documented. Supervisors will work with new CSHOs during training to insure the appropriate level and types of documentation are included. For existing CSHOs, Supervisors and Directors will cover this in upcoming training sessions and departmental meetings and continue to closely monitor incoming files for compliance.</p>	NA	<p>Training documentation will be provided by February 1, 2011.</p>	<p>Case files shall contain evidence that all complaint items have been evaluated. When addressing complaints about exposure to contaminants, an explanation is to be provided in the case file when a contaminant is not sampled.</p>	2/1/11	Subject to further Federal monitoring.

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5	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.	This does occur and is not indicative of any purposeful action or sloppy recordkeeping. We make every effort to obtain this information so that a response can be sent. The Duty Officers are very clear on the need for this information. In reality, some complainants prefer to remain anonymous, and IOSHA will accept such anonymous complaints and allow them the privacy they request. No other actions planned at this time.	NA	Duty officer training and discussion documentation on appropriate information gathering will be provided by February 1, 2011.	Complaint case files contain the address of the complainants.	2/1/11	Subject to further Federal review and monitoring. IOSHA must be able to assure employee confidentiality.
6	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 did not always have the software and hardware required to access the file information.	A paper copy of the documents kept electronically should be placed in every file. Files should be orderly and all documents bound.	IOSHA disagrees with this finding. The Audit Team knew in advance that IOSHA still used the "CSHO Application" and as such should have known that WordPerfect and not Microsoft Word was the word processing template. Further, any reference to these documents not being available to Counsel or persons making APRA requests was completely baseless. Auditors also failed to grasp IOSHA's clear policy concerning photographs kept electronically. We have significantly modified our APRA procedures so that files are no longer taken apart multiple times for copying. The APRA Clerk has been instructed to carefully reassemble the files post copying. Files with limited documentation are not generally tabbed and we do not intend to modify that practice at this time. We will continue our current practices of tabbing and indexing more complex files. None at this time.		With implementation of the OIS system and required training IOSHA feels the issue will be appropriately corrected. Corrective documentation will be provided by April 1, 2011.	All files will contain a paper copies of digital records.	4/1/11	Subject to further Federal monitoring. OSHA believes that Case Files should contain all documents necessary for completion of the case and to establish employer history.

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7	Fatality inspections were not always initiated in a timely fashion, and the reasons for 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.	Fatality inspections take priority in the inspection hierarchy at IOSHA. This has always been true. A review of the files the audit team referred to shows simple and straight forward reasons some fatal injury investigations were not opened on a timely basis. It should be noted we are talking about a very small number of cases that were not opened on a timely basis. We agree that better and more clearly delineated explanations should be in the file when a timely opening is not feasible. Managers will cover this issue in small group or individual training sessions with CSHO's. The Supervisors will be counseled on the importance of this information being in the file as well.	NA	Provide OSHA with written certification that the training has been completed. Provide assurance that supervisors check case files where a delay in conducting the inspection has occurred to ensure the reason for the delay is documented in the case file. Corrective documentation will be provided by March 1, 2011.	Initiate all fatality inspections in a timely fashion and document in the case file the reasons of any delay in conducting the inspection.	3/1/11	Subject to further Federal monitoring.

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8	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.	Provide clear guidance on 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.	In preparing for the audit, we found that some letters such as letters to the families were maintained in files separate from the investigation file. Before the audit began, those letters were moved to individual files. The letters to union representatives were also moved to the appropriate files. We agree that an updated OSHA-170 is critical and staff and managers have already been advised that a current 170 is of significant importance. We also concur that a tracking document would be a good idea and have already begun work on our own form. We do not agree that all files need to be secured and will allow CSHOs and their managers to continue to exercise some discretion. IOSHA will develop and implement the use of a fatal injury tracking form. Enforcement staff has already been advised of the critical nature of a current OSHA-170.	NA	Provide a copy of the fatal injury tracking form. Provide OSHA with written certification that the compliance staff have been trained on the forms purpose and use. Provide assurance that supervisors check case files for adequately prepared fatal tracking forms. Required training documentation will be provided by February 1, 2011.	All appropriate documentation for fatality cases are maintained in the case file.	2/1/11	Subject to further Federal review and monitoring.
9	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.	Consider implementing a tracking system to help ensure that all required correspondence with families of victims is completed and documented in each case file.	IOSHA disagrees with this finding. The letters were there for the audit team and there is clear evidence that we made contact in nearly every case. Prior to our preparing for the audit, we did keep the documentation separate from the files. This practice was discontinued prior to the audit commencing. IOSHA does include family members in the litigation process, when they express a desire. Our experience has been very few families have wanted to relive the horrors of these events and relatively few have asked to be involved in this part of the investigation. There is no additional action planned at this time.	NA	IOSHA has addressed corrective action by ensuring that all documentation is maintained with the appropriate file. Documentation will be provided as part of a global response by February 1, 2011.	Aproprate information sharing and documenting correspondence with victims family.	2/1/11	Subject to further Federal monitoring. OSHA continues to believe that victim's families should be notified of the progress of a case as it occurs and offered the opportunity to participate at that time.

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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.	CSHOs are aware of the need for the most up to date information. IOSHA concurs that there may be an issue with the IMMLANG forms and data entry. There may be some confusion by some CSHOs on timing of data entry. IOSHA agrees that some additional training for CSHOs and Managers is warranted. IOSHA will cover these issues in training with management to be completed before year end and with CSHOs before March 2011. This training shall conform to items called out in the audit.	NA	Provide OSHA with written certification that the management and compliance staff have been trained. Provide assurance that supervisors check case files contain the latest version of the inspection forms. Corrective documentation will be provided by March 1, 2011.	Inspection forms are completed in detail and the latest versions are maintained in the case files.	3/1/11	Subject to further Federal monitoring.
11	Violations were sometimes classified or grouped for reasons not apparent, or citations were not issued to address hazards identified during fatality inspections.	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.	IOSHA management has reviewed the files and does not concur that there were errors in classification and/or grouping. That said, the issue has been added as an agenda item for an upcoming management meeting and will be addressed at that time with the leadership group. The topic of grouping and classification will be addressed in an upcoming IOSHA management team meeting We will be using certain legal training documents and materials from OTI and the Indiana Attorney General.	NA	Provide OSHA with written certification that the management and compliance staff have been trained. Provide assurance that supervisors review and check citations for appropriate classifications and hazards cited. Training documentation will be provided by January 1, 2011.	Citations are classified appropriately and hazards identified during fatality inspections result in citations.	1/1/11	Subject to further Federal monitoring. OSHA believes that proper violation classification is an essential component of an effective program, and should be relatively consistent nationwide.

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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.	IOSHA does not concur with this finding. Neither the FIRM nor the FOM requires managers to give a detailed explanation as to why some relief was granted. Notwithstanding this lack of requirement, IOSHA feels that having a clearly documented reason for decision making could be helpful to Counsel should the case proceed to litigation. IOSHA managers (Supervisors and Directors) will discuss this item during an upcoming management meeting. We will use some legal materials from OTI and from other legal resources available from the Attorney General.	NA	Documented discussion and training meeting will be provided by January 1, 2011.	Appropriate documentation of informal conference actions.	1/1/11	Subject to further Federal monitoring. Informal Conference documentation is necessary for effective prosecution of cases and to establish employer history for future violations.
13	Fatality case files are closed without sufficient abatement documentation.	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.	Upon review, it does appear that a few cases were closed without what IOSHA would consider adequate documentation. There was no follow up inspection in these 5 cases either. Neither situation is acceptable and process changes have already been made to deal with the situation. IOSHA will as a matter of policy re-inspect any fatality before closing the original file. This will be done or documentation submitted explaining why it cannot be completed, i.e. transient out of state employer, worksite finished, closed, etc. The issue of adequate documentation for abatement closure in a fatality case will be addressed in an upcoming management meeting. We have already begun the process changes by inspecting each of last year's fatal injury sites (where possible).	NA	Provide a copy of the new policy. Provide evidence the new policy is in effect and follow-up inspections are occurring. Corrective action documentation will be provided by January 30, 2011.	Conduct Follow-up inspections for all fatality inspections, where possible.	1/30/11	Subject to further Federal monitoring and review of policy documentation

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14	No follow-up inspections are scheduled or conducted for fatality inspections that have high gravity citations issued related to the fatality.	Implement a fatality inspection tracking system to ensure that appropriate follow-up inspections are scheduled and conducted.	IOSHA concurs that this is an issue and a high priority response is needed. As a matter of policy, we will re-inspect all fatal cases where we can locate the company within the borders of the state. We have already completed a re-inspection and file review of each case from 2009, excepting those cases where the employer is no longer in existence or they are located outside of the State of Indiana. IOSHA will as a matter of policy, conduct re-inspections at all fatal injury sites, unless the site no longer exists, the employer is transient in nature and now out of the state completely, etc.	NA	Provide a copy of the new policy. Provide evidence the new policy is in effect and follow-up inspections are occurring. Corrective action documentation will be provided by January 30, 2011.	Conduct Follow-up inspections for all fatality inspections, where possible.	1/30/11	Subject to further Federal monitoring and review of policy documentation.
15	Violations cited on programmed inspections include a high percentage of other-than-serious citations for hazards that could be classified as serious, such as, but not limited to, electrical hazards.	Consider conducting training on hazard classification for CSHOs and Supervisors to ensure consistency with violation classification.	Subsequent to the audit, IOSHA discovered that our coding of programmed inspections was incorrect. That data entry issue has been resolved. However, even with that change, we agree that some retraining may be in order. The problem appears to be with a small number of CSHOs and not the organization over all. Specific to electrical hazards, we have changed the way we cite these and have concluded no further training is required to resolve this finding. We will conduct awareness training for General Industry and Construction, specifically for those CSHOs with high rates of OTS violations. The CSHO's supervisor shall accompany them to this training.	NA	Provide OSHA with written certification that the management and compliance staff have been trained. Provide assurance that supervisors review and check citations for appropriate classifications and hazards cited. Training documentation will be provided by February 1, 2011.	Citations are classified appropriately.	2/1/11	Subject to further Federal monitoring. Proper violation classification is an essential component of an effective program, and should be relatively consistent nationwide.
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.	IOSHA concurs with the assessment, particularly in the inability to target sites with the greatest hazards. IOSHA has an LEP for Trenching and has worked this LEP for nearly 10 years. The Construction division head has been tasked with finding a more effective inspection targeting method. IOSHA legal staff will compare the Indiana LEP to the Federal NEP for Trenching to see what substantive differences exist. IOSHA will determine if any changes are made to our program from that assessment.	NA	Provide OSHA with a copy of the revised targeting method and implementation schedule. Documentation of targeting revisions and program evaluation outcome will be provided by February 1, 2011.	Revised construction targeting system to maximize efficiency of inspections and target sites with serious hazards.	2/1/11	Subject to Federal review of policy documentation and further monitoring.

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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 all the citations were deleted.	After reviewing the 8 case files, we have concluded that in some cases, employees simply do not wish to do a formal statement. We believe that was the case here and we intend no further action on this finding. No additional corrective action planned at this time. (Employees are often unwilling to provide formal signed interview statements as the State's FOIA may not protect them from disclosure.)	NA	Formal statements will be conducted in all cases where potential legal conflict is not presented. IOSHA will have to follow internal legal guidance not common to Federal inspections. Documented explanation of required actions will be provided by February 1, 2011.	Document interview statements according to OSHA policy.	2/1/11	Pending further discussion. Employee interviews are essential to enforcement actions as is assurance of employee confidentiality. If State FOIA law prevents IOSHA from meeting both of these requirements, corrective legislative or regulatory action needs to be considered.
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 conference.	The review of this finding indicates these final letters were maintained outside of the file, similar to the next of kin letters. Each file that had union involvement had a letter and these were available to the audit team. This issue has been resolved and copies will be placed in files moving forward. It should be noted the diary sheet clearly called out that the letter had been sent and to whom it was sent. Any union correspondence dealing with an IOSHA file will be included in the specific file as opposed to the prior practice of keeping a master file by year of these letters.	NA	Corrective action has been implemented. Documented actions regarding appropriated correspondence sharing and employee representative contacts will be provided by February 1, 2011.	Employee representative groups will be involved in all aspects of the inspection process.	2/1/11	Subject to further Federal monitoring.

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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.	The audit team correctly noted that most files contain more than enough documentation to support employee exposure to the hazard. There are from time to time, cases where an employee does not want to sign any kind of documentation where his/her name might appear. This is most often the result of a perception that some retribution from the employer may occur if his/her identity is discovered. Under Indiana law, these statements are probably subject to an APRA request thus not protected from release. CSHOs acted appropriately in these cases by using notes, photographs, or other evidence to support exposure where an employee feared employer backlash. Due to subtle differences between Indiana and Federal law, we believe the CSHOs acted properly and that the audit team did not fully understand the ramifications of their suggestions.	NA	Documentation response will be provided in concert with the response for item #17. Documentation will be provided by February 1, 2011.	Adequate documentation that supports inspection/investigative findings.	2/1/11	Subject to further discussion. If State APRA prevents gathering information necessary for enforcement, legislative or regulatory changes will need to be considered in order to assure program effectiveness.
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.	The staff has been advised to check IMIS database for any potential repeat violations. During the audit, 3 (of 28) cases were called into question. The audit team believes these may have been candidates for repeat violations. Upon review, we conclude that all three cases were judgment calls and the Supervisor with the consent of the Director acted in a deliberately conservative manner. The FIRM and FOM give broad discretion to managerial staff in making these decisions. We see nothing to lead the agency to the conclusion that their thought process was flawed	NA	IOSHA corrective response will be presented in documentation provided by February 1, 2011.	Appropriate classification of repeated violations.	2/1/11	Subject to further Federal monitoring.

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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.	Both the FIRM and FOM give the CSHO discretion on how to handle citing of hazards. IOSHA concurs that normally where an injury occurs, the severity would normally be High. In both cases, the Supervisors had explanations concerning the logic that went into the safety orders. IOSHA does not believe these two cases are indicative of a training issue or familiarity with the operating manuals. While we do not believe the scenarios cited are indicative of a widespread problem, we will ask the management team to address this during upcoming all staff meetings.	NA	Documentation of violation classification review will be provided by March 1, 2011.	Appropriate classification of violations	3/1/11	Subject to further Federal monitoring. Proper violation classification is an essential component of an effective program.
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.	Upon review of the findings and meeting with the IOSHA management team, we have concluded that our leadership team could make better use of the information contained within these reports. The information in these reports is used, we do however believe the leadership could perform at a higher level if they more clearly understood and utilized the reports. We concur with this finding. We will dedicate an entire management team meeting to understanding these reports and utilizing them in the day to day aspects of their work	NA	Management review and training on IMIS reports will be conducted. Training documentation will be provided by March 1, 2011.	Effectively utilize IMIS reports for effective case file management.	3/1/11	Subject to further Federal monitoring.
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 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 than the original due date.	Require employers to follow procedures for Petition to Modify Abatement Date (PMA) and ensure that IMIS is timely updated to reflect any extensions granted.	Even though the audit team cites only one example in the finding, upon review we think IOSHA could do a better job of documenting any requests for modification of abatement dates. This topic will be an action item in an upcoming management team meeting. We plan to use existing documentation methods but work toward a more consistent approach to the requests.	NA	Abatement review and policy adherence for PMA action will be conducted. Documentation of completion will be provided by February 1, 2011.	Adherence to PMA policy and procedure requirements and IMIS updating.	2/1/11	Subject to further Federal review and monitoring. Documentation of details of abatement is a necessary component of an effective program.

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24	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.	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).	Under certain circumstances, the citation in the recommendation is not appropriate. After reviewing a number of these files though, we believe additional information concerning how abatement was achieved would be helpful and not impose any undue hardship on employers, unions, or employees. We will be revisiting our process to determine how best to balance the needs of the agency and those of the employer, employee, or representative. IOSHA will conduct an overall evaluation of its abatement verification process in the EISA program. If we determine that more information is appropriate, we will then modify the EISA process accordingly and notify Region V of the change.	NA	Review EISA policy and procedure for needed modifications if necessary. Review documentation for completed assessment will be provided by March 1, 2011.	Effective utilization of the EISA process.	3/1/11	Subject to further Federal review and monitoring. Documentation of details of abatement is a necessary component of an effective program.
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.	Upon review of the cases in question, we concur. During upcoming managerial meetings we will emphasize the importance of matching abatement to the hazard cited. We will also add to the 2011 job requirements for Directors, language requiring regular spot audits of abatement to insure this situation does not occur again.	NA	Management review and discussion of appropriate abatement information will be held to ensure effective abatement review. Documented results will be provided by February 1, 2011.	Appropriate review of abatement information.	2/1/11	Subject to further Federal review and monitoring. Full documentation of abatement is necessary for an effective program.
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.	IOSHA does have a single policy although General Industry and Construction have traditionally gone in slightly different directions using a subtle degree of discretion to customize their policy. We concur, additional training is appropriate and will be conducted for management and enforcement staff.	NA	Corrective action will be addressed in concert with item #24. Supporting documentation will be provided by March 30, 2011.	Effective utilization of the EISA process.	3/30/11	Subject to further Federal monitoring.

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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.	We concur. This has been an issue in the recent past. The training aspect will be resolved at an upcoming all staff meeting. IOSHA will provide training and insure a statistical sampling of the EISAs to insure the program remains successful. All CSHOs will be trained on the process.	NA	Corrective action will be addressed in concert with item #24. Supporting documentation will be provided by March 30, 2011.	Ensure abatement is received in EISA cases.	3/30/11	Subject to further Federal review and monitoring.
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.	The average lapse time 5 years ago was in excess of 1200 days and in Q1 of 2010 it was 560 days. Today it is 288. See SAMM data for quarter to quarter comparison. IOSHA has established a workable protocol for handling these cases in a timely manner and we continue to work diligently to resolve all cases. IOSHA does not plan any changes to our current methodology for handling cases.	NA	Reduction of lapse time is dependent on several factors from contest to 1st level decision. All required actions are being followed. Additional discussions with legal representatives will be held. Documented results will be provided by February 1, 2011.	Lapse time maintained within monitoring reference measure.	2/1/11	Subject to further Federal monitoring.
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.	This project has already been completed. IOSHA did have a significant number of draft forms in the IMIS database. Those have been resolved as of October 27, 2010. No additional action planned. As a preventative measure draft forms are now tracked and managed on a regular basis.	NA	NA	Manage the number of draft forms in IMIS.	10/27/10	Subject to further Federal monitoring.

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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.	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).	IOSHA agrees that although the reports are generated and distributed, they are not used effectively by many in the management team. To resolve this will require a 2-phase response. First, training on how the reports are used and what data is available must be completed. Second, there must be a commitment to regularly review the reports by managers with a follow-up in our managerial staff meetings. IOSHA will conduct training concerning the contents of the reports. We will then make these reports a regular action item on the agenda for management team meetings in IOSHA.	NA	Provide OSHA with written certification that the management has been trained. Provide assurance that supervisors review these reports on a regular basis and utilize the information for case file management. Supporting documentation to be provided by February 1, 2011.	Effectively utilize IMIS reports for effective case file management.	2/1/11	Subject to further Federal monitoring.
31	The IMIS is not kept up-to-date and contains information which does not allow for effective internal evaluation of the Indiana Program.	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. OSHA Instruction ADM 1-1.31 IMIS Enforcement Data Processing Manual.	IOSHA concurs that some IMIS data may not be current or up to date. Some managers may not grasp the critical nature of having the most current information. IOSHA concurs additional training may be helpful in resolving this finding. IOSHA supervision will have a line item added to their performance agreements concerning the IMIS system, use of reports, and keeping IMIS up to date. Training for understanding reports will be done concurrently with Finding 30.	NA	Provide OSHA with a copy of the supervisors performance agreements concerning IMIS, use of reports, and keeping IMIS up to date. Supporting documentation to be provided by February 1, 2011.	IMIS is kept up to date and accurate.	2/1/11	Subject to further Federal monitoring.
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.	IOSHA concurs this has generally not been completed. All levels of management and CSHOs will receive a letter with a signature page explaining the importance of entering the IH results data. Acknowledgement pages will then need to be signed and returned to the office.	NA	Corrective action has been addressed. Documentation regarding actions taken will be provided by January 15, 2011.	Health sampling data is entered into IMIS.	1/15/11	Subject to further Federal monitoring.

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33	Complaint information is not entered into the IMIS when received. The OSHA-7 for Signature report is not utilized. Staff interviews revealed that Complainants 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 should be generated and reviewed periodically to ensure the system reflects current status of complaints. The FOM indicates that Complainants are given up to five working days to formalize nonformal complaints.	IOSHA concurs that our current timeline exceeds the 5 day limit used at the Federal level. The Duty Officer will receive revised written instruction concerning the timelines noted above.	NA	Provide OSHA with written certification that the training has been completed. Suggest supervisors check case files and IMIS to ensure documentation is complete. Required documentation will be provided by February 1, 2011.	The OSHA-7 in IMIS is to be updated and kept current.	1/1/11	Subject to further Federal monitoring.
34	Only 21.22% of programmed safety inspection 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.	IOSHA concurs that rate SWR citations for programmed inspections is too low. Our initial investigation led us to conclude part of the problem may be hazard recognition and part is coding. We have dealt with the coding issue but the hazard recognition will require additional CSHO training. IOSHA will conduct hazard recognition training for all field staff before 10/1/11. IOSHA has already taken steps to resolve the coding issues we believe are affecting the outcome numbers noted in the report. Programmed inspections are now coded in accordance with the FOM.	See Finding # 11, 15, and 16.	See Finding # 11, 15, and 16	TBD	10/1/11	Subject to further Federal review and monitoring.
35	Indiana did not issue any willful (knowing) violations during FY2009.	Indiana OSHA should conduct an internal review of its willful (knowing) citation policy.	A review of our files confirms that there were no Knowing violations issued during the audit period. However, during the year prior and years subsequent, numerous Knowing violations were issued. IOSHA does not believe there is a policy issue. This is more likely a statistical anomaly. We do not intend to make any modifications based on the one year without any Knowing violations. No new or modified actions are planned since IOSHA does not believe there is a problem.	NA	IOSHA will document that no cases were presented for the study period that merited willful (knowing) connotation. Documentation will be provided by February 1, 2011.	Any violation meeting the test of willful (knowing) will be appropriately identified.	February 1, 2011.	Subject to further Federal monitoring.

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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.	IOSHA concurs that the follow-up inspection rate is too low and that a more effective strategy for using the IMIS data must be developed. As a matter of policy, all fatal injury related citations will be re-inspected (where possible). This change has already been put in place. IOSHA will develop a strategy for assigning random re-inspections of other inspection categories.	See Finding # 13 and 30.	See Finding # 13 and 30.	Effective utilization of IMIS reports.	2/1/11	Subject to further Federal monitoring.

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37	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.	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.	Upon review, we concur that this may be an issue. Generally speaking, we consider most electrical hazards to be serious in nature. This fact has been communicated to the staff via supervision. We are still reviewing the cited fire protection cases to determine if they have been classified properly. IOSHA will review the cited cases and make a final determination if the violations were cited properly. We will compare the cited cases with the FOM instructions and, as needed, issue revised instructions to staff.	See Finding #15.	See Finding #15	Violation classification consistency.	2/29/11	Subject to further Federal monitoring. Proper violation classification is essential to an effective program.
38	Review of the case files revealed that IOSHA's Whistleblower Protection Program has adopted its 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.	IOSHA concurs that the state program had some differences when compared to the Federal program and some documents, although generally not critical ones, may have been missing from the file. There was room for improvement. IOSHA asked for and received assistance from the Region V whistleblower unit. During the week of July 12th a review of our procedures and re-training of our investigators was conducted. A number of significant changes came out of the review. The IOSHA program is now aligned with the Federal program. We hosted whistleblower training in Indy in July and will once again in November.	NA	Provide OSHA with written certification that the training has been completed. Provide assurance that case files are now being completed in accordance with DIS 0-0.9. Supporting documentation to be provided by December 31, 2010.	All discrimination cases are prepared in accordance with DIS 0-0.9.	12/31/10	Subject to further Federal monitoring.

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39	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.	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.	IOSHA understands that there may be differences of opinion on handling of cases. The finding calls out 2 cases in particular which is a small percentage of the total. We do, however, concur that a better alignment with the federal program would be helpful. IOSHA asked for and received assistance from the Region V whistleblower unit. During the week of July 12th a review of our procedures and re-training of our investigators was conducted. A number of significant changes came out of the review. The IOSHA program is now aligned with the Federal program. Please see item 38 regarding upcoming federal training in Indy.	See item #38.	See Item #38	All discrimination cases are prepared in accordance with DIS 0-0.9.	12/31/10	Subject to further Federal review.
40	As a result of statutory mandate, Indiana code requires that suit for Whistleblower complaints must be filed in state court within 120 days from date complaint is received.	Until Indiana is able to change the 120 day restriction, it is important that complaints are properly dual-filed.	IOSHA already stresses to each "Whistleblower" why it is important to dual file. Our correspondence includes reference to dual filing with federal OSHA. IOSHA does not plan additional work on this finding. Indiana is very proud of its commitment to and success in working each and every whistleblower case in the statutorily mandated time frame, and does not believe that its efficiency in this area as compared to the federal time frames deserved to be noted as a problem. Nothing beyond what we are already doing.		Need copies of their policies or procedures. Copies to be provided by February 1, 2011.	Maintain merit 11(c) cases are filed in state court within 120 days from the date the complaint was received. Maintain notifying 11(c) complainants of their right to dual file with Federal OSHA.	2/1/11	Subject to further Federal review and monitoring. IOSHA must submit its written policies regarding timely completion of investigations and dual filing. If IOSHA is unable to complete its investigations within 120 days (as OSHA often is not), judicial or legislative review should be sought.

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41	Files for voluntary compliance programs are not organized and complete with required documentation maintained.	Create file retention system for VPP sites to ensure that appropriate and complete documentation is organized and maintained.	IOSHA does not agree that the files were unorganized. We agree that the files were not immediately available due to our prior storage practices. The files are fully organized and complete. The audit team only saw files from a number of years ago and we agree that files from that era were not as well documented as our work today. VPP files are subject to the State of Indiana file retention rules and guidelines. IOSHA has relocated files to an easily accessible location in our offices. The files have been reviewed and we believe they are complete, up to date and meet current VPP standards. These actions are complete.	NA	Corrective action has taken place. Supporting documentation will be provided by February 1, 2011.	Create a file retention system that ensures that appropriate and complete documentation is organized and maintained.	2/2/11	Subject to further Federal review and monitoring.
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.	Due to legal constraints, IOSHA is not able to present and enforce a medical access order. This issue falls back to the fact that some parts of the federal OSHA regulatory scheme were not adopted. We are currently determining our best course of action. In cases where needed, we will present subpoenas in lieu of the Medical Access Order. IOSHA will consult with VPP partners to determine if subpoenas are necessary in a particular case. We will continue to work with legal staff to determine if Indiana will adopt omitted sections of the regulations.	NA	Legal impediments to obtaining MAO's will be reviewed with in-house legal representatives. Documented results will be provided by February 1, 2011.	Effective program implementation.	2/1/11	Subject to further discussion. IOSHA must be able to obtain MAO's or establish an equivalent ALAE means of obtaining the needed information.
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 maintaining compliance with OSHA Instruction TED 01-00-018, Initial Training Program for OSHA Compliance Personnel.	IOSHA concurs there is no one source for all training records that could demonstrate our compliance with TED 01-00-08. The records do exist but are located in multiple locations and timelines for upkeep are inconsistent. IOSHA has developed an access database with all staff listed. The General Industry staff training records are complete. The Construction Industry staff training records should be complete in the next 90 days. The records will now be updated quarterly.	NA	Provide written assurance the training database is complete. Documented assurance will be provided by January 30, 2011.	Maintain a comprehensive tracking system for compliance officer training.	1/30/11	Subject to further Federal review and monitoring. OSHA believes that improved CSHO training would resolve many of the deficiencies identified in this report.

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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.	IOSHA concurs that this is problematic. We are looking into the costs and timeline for getting anyone who has not had formal OTI training in accident investigation to OTI for class. As a stopgap, we will strive to assign cases only to those who have completed the class or the CSHO will work under the direction of and in conjunction with a trained officer or supervisor. Lack by OTI of readily available courses (on a frequent basis) that are open to state plan programs impact this finding and any ability to promptly take corrective action. We will evaluate the costs and our ability to get any remaining untrained staff through the class at OTI in the next 18 months. In the interim, only trained personnel will conduct fatal injury investigations. If that commitment is not possible, then the assigned CSHO will operate under the direct supervision of an OTI trained CSHO Supervisor.	NA	Provide OSHA with written certification that the training has been completed. Documentation will be provided by March 1, 2011.	All CSHOs assigned to conduct fatality/catastrophe investigations have completed the Accident Investigation Course.	3/1/12	Subject to further Federal review and monitoring. OSHA believes that improved CSHO training would resolve many of the deficiencies identified in this report.
45	Indiana OSHA is staffed well below current benchmarks for the State plan.	While the State believes that the current benchmarks 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.	IOSHA concurs that the current staffing is below the existing benchmark. We do not believe the benchmark accurately reflects the needs of the state. In the current budget environment, we believe it would be inappropriate to seek major manpower increases as our citizens are struggling financially. Furthermore, Indiana has shown significant improvement in its outcome based metrics, including in its overall injury and illness rate, and in most every industry sector. Finally, the number of inspections being conducted have improved over the last several years, even with existing staff. No further action is planned at this time.	NA	State budgetary constraints have inhibited hiring of personnel. This situation will be in place for the foreseeable future. Supporting documentation for this issue will be provided by February 1, 2011.	Maintain staffing levels for established benchmarks.	TBD	Subject to further discussion. Reduction in staffing goals may not be appropriate. In light of the current budgetary situation, OSHA has advised the States that no action will be taken to withdraw plan approval or final approval status based solely on failure to meet allocated benchmark staffing requirements.