



**KENTUCKY  
OCCUPATIONAL SAFETY AND HEALTH PROGRAM**

**ANNUAL SOAR REPORT**

**for**

**FEDERAL FISCAL YEAR 2009**

J. R. Gray, Secretary  
Mark L. Brown, Deputy Secretary  
Michael L. Dixon, Commissioner

## **INTRODUCTION**

The Kentucky Occupational Safety and Health (OSH) Program was established in 1972 by the Kentucky General Assembly. The U.S. Department of Labor's Occupational Safety and Health Administration (OSHA) approved Kentucky's state plan in July of 1973.

The Kentucky Labor Cabinet has experienced two (2) significant reorganizations. In 2004, by Executive Order 2004-731, the Labor Cabinet was abolished with all duties, responsibilities, employees, and functions transferred to the Environmental and Public Protection Cabinet, Department of Labor. Executive Order 2004-731 was ratified into law during the 2005 General Assembly by Senate Bill 41. Executive Order 2008-472, effective June 16, 2008, re-established the Labor Cabinet, headed by a Secretary appointed by the Governor, and assigned to it all organizational entities within, attached to, or associated with the former Department of Labor, including all duties, functions, responsibilities, personnel, records, files, equipment, budgets, appropriations, allotments, and cash balances assigned to those entities. All duties, responsibilities, records, files, equipment, budgets, appropriations, allotments, and cash balances assigned to the Office of Occupational Safety and Health were assigned to the Department of Workplace Standards, headed by a Commissioner appointed by the Secretary with the approval of the Governor.

Executive Order 2008-472 was not ratified in the 2009 Regular Session of the General Assembly. Therefore, Executive Order 2009-537 was issued June 12, 2009, to preserve the organizational structure established in Executive Order 208-472. Executive Order 2009-537 once again established the Labor Cabinet and assigned to it all organizational entities associated with the former Department of Labor as stated in Executive Order 2008-472.

Kentucky's OSH Program consists of the Division of OSH Compliance, headed by a Director; the Division of OSH Education and Training, headed by a Director, and the OSH Federal-State Coordinator. The OSH Federal-State Coordinator and the appointed directors of the Division of OSH

Compliance and Division of OSH Education and Training report to the Commissioner of Workplace Standards who, in turn, reports to the Secretary of the Labor Cabinet.

The Kentucky Labor Cabinet remains fully committed to promoting the safety, health, and general welfare of the Commonwealth of Kentucky by preventing any detriment to the safety and health of all employees, both public and private, arising out of exposure to harmful conditions and practices at places of work. In addition, the Cabinet is fully involved in preserving our human resources by providing for education and training, inspection of workplaces, consultation services, research, reports, statistics, and other means of advancing progress in occupational safety and health.

The Kentucky OSH Program has implemented a two (2) year strategic plan for FY 2009-2010 which establishes a new baseline that ensures Kentucky will continue to meet statutory mandates, build upon achievements, and realize significant progress in workplace safety and health.

This report is presented in three (3) distinct sections. Section I addresses Kentucky's success in achieving FY 2009 Performance Plan goals. Section II addresses mandated activities during FY 2009. Section III addresses noteworthy accomplishments achieved by the Kentucky OSH Program during FY 2009. The Division of OSH Compliance incorporated many of the Enhanced FAME elements into this report as suggested by then Acting Assistant Secretary Jordan Barab in his November 24, 2009, memorandum. Information contained in this SOAR report was gathered utilizing IMIS data from several different retrieval programs. Since Kentucky's on-site audit is due to begin very soon, some of the information in the November 24, 2009, memorandum is not included in this report.

## **SECTION I SUCCESS ACHIEVING PERFORMANCE GOALS**

In the FY 2009-2010 two (2) year strategic plan, Kentucky continues to build on previous successes. Kentucky's first two (2) year Strategic Goal is to improve workplace safety and health for all workers, as evidenced by fewer hazards and reduced exposures, resulting in fewer injuries, illnesses, and fatalities.

Performance Goal 1.1.1 for the two (2) year plan is to reduce injuries and illness incident rates in at least five (5) of the ten (10) industries with the highest incident rate. The FY 2009 Annual Performance Goal was to establish new high-hazard industry lists based upon the North American Industrial Classification System (NAICS) and establish baselines for ten (10) highest incident rate industries. The Kentucky OSH Program now receives NAICS data and has established baselines for the ten (10) highest incident rate industries.

The combined efforts of the Division of OSH Compliance and the Division of OSH Education and Training continue to have an impact upon reducing incidence rates through 2009. In FY 2009, Kentucky set a new baseline for Performance Goal 1.1.1 with the ten (10) most hazardous industries in Kentucky identified by the NAICS classifications.

Also, as part of Kentucky's two (2) year strategic effort to meet Performance Goal 1.1.1, the Division of OSH Compliance planned to increase compliance inspection activities for several industries that had very large increases in their total case incident rates. During FY 2009, the Division of Compliance conducted sixty-five (65) inspections within the top ten (10) identified NAICS sub-sector classifications in 2003. The Division of Compliance continued its commitment to identify and inspect establishments within the selected ten (10) high hazard NAICS by performing approximately five (5) percent of its inspections within the ten (10) high hazard NAICS.

During FY 2009, the Division of OSH Education and Training conducted 195 safety and health surveys in the selected top ten (10) Kentucky high hazard NAICS. Additionally, training conducted at eight (8) Population (POP) Centers during FY 2009 encompassed seven-two (72) sessions addressing subjects appropriate for the targeted NAICS such as lockout/tagout, bloodborne pathogens, personal protective equipment, crane safety, construction safety, ergonomics, noise, indoor air quality, hazard communication, electrical safety, fall protection, confined space, and powered industrial truck safety. Over 2000 participants attended POP Center Training courses in FY 2009.

In an effort to supplement resources in addressing high hazard industry issues, the Division of OSH Education and Training continued to coordinate outreach with professional and industry associations including the Kentucky Crush Stone Association, Kentucky Ready-Mix Concrete Association, Kentucky Association of Counties, the Association of General Contractors, Associated Builders and Contractors, and Kentucky Community Technical Colleges.

The Division of OSH Education and Training targeted employers in specific NAICS classifications in FY 2008 by mailing numerous offers for comprehensive safety and health surveys under the program known as the Safety Tops Our Priority (STOP). The outreach mailings for FY 2009 were made under the Targeted Outreach Program (TOP). This program utilizes OSHA Data Initiative information to target specific facilities rather than specific industries.

Kentucky remains committed to working with these employers and continues to target those industries and employers with the worst injury and illness rates. It is evident that no significant reductions in injury and illness rates are possible for those industry sectors unless ergonomic hazards are adequately addressed either voluntarily or through increased compliance activity. The Division of OSH Compliance and the Division of OSH Education and Training will continue to focus on these industries along with the associated hazards to promote a greater awareness and a reduction in ergonomic-related

injuries and illnesses. The Division of OSH Education and Training continues to offer ergonomic training and to provide technical assistance to employers upon request.

The 2009 and 2010 strategic plan focuses on high-hazard NAICS, targeting these industries based upon the total case rate and providing complete safety and health surveys upon request.

Performance Goal 1.1.2 aims to reduce by five (5) percent the employers currently identified in the 2007 Establishment Data System as having Total Case Rates three times (19.2) the Kentucky Total Case Rate of 6.4 for Private Industry to levels less than twice the Total Case Rate (12.8). There were two (2) FY 2009 Annual Performance Goals for Performance Goal 1.1.2. The first was to establish a new target list based upon the 2007 OSHA Data Initiative (ODI) currently identified in the 2007 Establishment Data System as having Total Case Rates three (3) times the Kentucky Total Case Rate for Private Industry to levels less than twice the Total Case Rate. The second was to establish a new baseline from the 2007 ODI survey for specific facilities targeted.

Kentucky will continue the mission of reducing the number of worker injuries, illnesses, and fatalities by focusing on Kentucky OSH resources on the most prevalent types of workplace injuries and illnesses, the most hazardous industries, and the most hazardous workplaces.

A list of the companies that did not respond to the Division of OSH Education and Training's mail-out was turned over to the Division of Compliance. In FY 2009, the Division of OSH Compliance conducted seventy-seven (77) inspections from the 2008 TOP list with 697 left to complete. This represents six (6) percent of all inspections. In this manner, the Division of OSH Education and Training or the Division of OSH Compliance has contact with employers in high-hazard NAICS codes. FY 2009 is a baseline year for the new 2009-2010 two (2) year strategic plan.

Performance Goal 1.1.3 is to decrease injuries caused by falls, struck-bys, and crushed-bys in the construction industry by 4 (four) percent. The FY 2009 Annual Performance Goal was to decrease injuries caused by falls, struck-bys, and crushed-bys in the construction industry by two (2) percent from

baseline. The FY 2009 Annual Performance Goal was written in error. FY 2009 Bureau of Labor Statistics (BLS) data, which reflects 2008 industry data, is the new baseline year for Kentucky. The industry date for FY 2009 will not be available from BLS until October 2010. Obviously, any measurement is not possible until the data is available. Kentucky's FY 2010 SOAR will reflect if a reduction related to construction industry falls, struck-bys, and crushed-bys injuries was achieved in Kentucky.

803 Kentucky Administrative Regulation (KAR) 2:180 requires Kentucky employers to report any work-related incident resulting in the in-patient hospitalization of one (1) or two (2) employees. The reporting requirement is limited to hospitalizations that occur within seventy-two (72) hours of the incident. Employers are also required to report all amputations suffered by an employee from any work-related incident. Hospitalizations of one (1) or two (2) employees and all amputations must be reported to the Division of OSH Compliance within seventy-two (72) hours of the time the incident is reported to the employer, his agent, or another employee. The Division of OSH Compliance has implemented an inspection scheduling system to prioritize reported accidents and amputations. This allows compliance resources to be focused on serious hazards in the workplace. In addition, the Division of OSH Compliance is collecting information obtained from the reported accidents that will help identify specific industry sectors where serious accidents are currently occurring in the workplace. In FY 2009, the Division of OSH Compliance received 153 hospitalization reports. Seventeen (17) inspections were conducted with ten (10) serious and three (3) other-than-serious violations issued for a total penalty of \$20,625.00. The number of amputations reported in FY 2009 was fifty (50). Eighteen (18) inspections were conducted with one (1) repeat serious, twelve (12) serious, and four (4) other-than-serious violations issued for a total penalty of \$40,700.00.

Kentucky has a state specific regulation that specifically addresses residential construction fall protection. Employees engaged in residential construction activities working ten (10) feet or more

above a lower level who are exposed to unprotected sides and edges, leading edges, hoist areas, form work, reinforcing steel, or roofing work on roof slopes three (3) in twelve (12) or less, must be protected by guardrail systems, safety net systems, personal fall arrest systems, or a specific alternative measure established in the regulation. During FY 2009, the Division of OSH Compliance continued its local emphasis program for residential construction fall protection by conducting eighty (80) residential construction inspections and issuing 133 violations. The majority of the violations concerned lack of fall protection and unsafe scaffolds.

The Division of OSH Compliance remained focused on fall protection and it was the top construction standard cited in Kentucky during FY 2009. In FY 2009, Kentucky cited 29 CFR 1926.501, duty to have fall protection, 182 times with total proposed penalties of \$320,550.00. The second most cited construction standard cited was 29 CFR 1926.451 which is general requirements for scaffolding. This standard contains fall protection requirements for scaffolding and was cited eighty-one (81) times with penalties totaling \$354,925.00. The sixth most cited construction standard was 29 CFR 1926.453 which contains fall protection requirements while in aerial lifts. This standard was cited twenty-four (24) times with penalties totaling \$33,208.00. The eleventh most cited construction standard for FY 2009 was 29 CFR 1926.760 which is fall protection in steel erection. This standard was cited seventeen (17) times with penalties totaling \$23,875.00. 304 fall protection-related violations were issued with penalties totaling \$732,558.00. At the time the information for this report was generated, three (3) case files were in the Labor Cabinet's Office of General Counsel awaiting review for issuance of willful serious fall protection violations.

During FY 2009, Kentucky conducted a total of 645 construction inspections as identified by OSH-1 SIC codes. The Division of OSH Compliance conducted 145 construction inspections in SICs starting with fifteen (15), thirty-four (34) in SICs starting with sixteen (16), and 466 in SICs starting

with seventeen (17). Kentucky has continued commitment to construction activities by conducting fifty-two (52) percent of all inspections conducted in FY 2009 within the construction industry sector.

As reported in prior Annual Activity Reports, the Division of OSH Compliance has implemented the construction scheduling system provided by the University of Tennessee, which has produced excellent results. A state budget shortfall compels the Division of OSH Compliance to maintain present staffing levels. In spite of economy challenges, the Division of OSH Compliance continued an emphasis on construction. From the 606 construction inspections conducted in FY 2009, the Division of OSH Compliance identified 613 hazards. Of the 613 construction hazards identified, the majority were serious violations, demonstrating a focus where serious hazards exist. The Division of OSH Compliance issued \$1,018,540 in total construction penalties for 613 violations in FY 2009.

At the time the FY 2009 data was processed, approximately eighteen (18) inspections with citations had not been issued and approximately five (5) had no violations; three (3) reports were being evaluated by the Office of General Counsel for issuance of willful violations; two (2) inspections are fatalities, two (2) are related to fatalities, one (1) is due to an explosion, and 6 (six) are imminent dangers. The Division of OSH Compliance is evaluating four (4) willful serious violations, two (2) additional repeat serious violations, twenty (20) serious violations, and three (3) other than serious violations.

The Division of OSH Education and Training continued to offer commercial and residential construction training classes at POP Centers throughout the state.

In addition, the Division of OSH Education and Training continued outreach training, consultation, and partnership efforts in construction in FY 2009. The number of construction training courses taught was twenty-six (26). The number of construction employees affected by this training for FY 2009 was 237.

The Division of OSH Education and Training continues to focus on the construction industry by promoting our Construction Partnership Program (CPP) by maintaining Association-Based Partnerships, Training-Based Partnerships and Site-Based Partnerships. Kentucky developed a Voluntary Protection Program for Construction (VPPC) Program. This program enables employers in the construction industry to participate in the state's program, the agency's premiere recognition program. The overall objective of VPPC is to reduce injuries, illnesses and fatalities in the construction industry through increased participation by construction employers.

Performance Goal 1.2.1 addresses initiating compliance inspections of fatalities and multiple hospitalization accidents (as defined in 803 KAR 2:180 Section 9) within one (1) working day of notification for 100 percent of occurrences. The FY 2009 Annual Performance Goal was to accomplish inspection of 100 percent of fatalities and catastrophes within one (1) working day of notification.

Kentucky's Performance Goal of FY 2009 aims for 100 percent of fatality and catastrophe inspections to begin within one (1) working day after the Kentucky OSH Program is notified. Kentucky has met its goal for FY 2009 by responding within one (1) working day of all fatalities.

Two (2) fatalities appeared as outliers on the FAT/CAT and Complaint Response Data for FY 2009. They were:

1. The fatal accident at Rail Services, Inc., in Calvert City occurred after lunch on Friday, February 20, 2009, and the plant had closed and sent everyone home. The inspection was opened on Monday, February 23, 2009, the next business day.

2. The fatal accident at Brown Badgett Enterprises, Inc. was reported Friday, March 20, 2009. The incident occurred on March 9, 2009. The inspection was opened on Monday, March 23, 2009.

These two (2) fatality investigations were initiated within one working (1) day of notification as specified in Kentucky's two (2) year strategic plan.

Performance Goal 1.2.2 addresses response time by the Division of OSH Compliance in critical situations. This goal seeks to initiate inspection of imminent danger reports within one (1) working day of notification for 100 percent of occurrences. The FY 2009 Annual Performance Goal requires the Division of OSH Compliance to initiate inspection of 100 percent of imminent danger reports within one (1) working day of determination.

This performance goal requires the Division of OSH Compliance to initiate inspection of 100 percent of imminent danger reports within one (1) working day of determination. The referral audit log indicates Kentucky failed to respond to six (6) imminent danger referrals within one (1) working day.

1. The [REDACTED] referral, [REDACTED], was received November 5, 2008, and opened on November 7, 2008, [REDACTED]. This referral was originally assigned as a complaint and then changed to a referral that same day.

2. The [REDACTED] referral, [REDACTED], was received February 9, 2009, and opened February 20, 2009, [REDACTED]. The compliance officer went to the site on February 11, 2009, because the caller stated that no one was on the roof that day. It snowed on February 10, 2009. When the compliance officer arrived on February 11, 2009, no one was working on the roof. When the compliance officer returned on February 20, 2009, the property owner said the roofers had left. The compliance officer was travelling a considerable distance, from central Kentucky (Frankfort) to western Kentucky (Paducah). The Division of OSH Compliance responded within two (2) days but it was not noted in the IMIS.

3. The [REDACTED] referral, [REDACTED], was received February 10, 2009, and opened February 12, 2009, [REDACTED]. Kentucky was experiencing snow during that time and the compliance officer was travelling from central Kentucky (Frankfort) to western Kentucky (Paducah).

4. The [REDACTED], referral, [REDACTED], was received March 4, 2009, and opened March 2, 2009, [REDACTED]. The inspection was opened on the same date the imminent danger referral call was received. This outlier resulted from a data entry error that was corrected.

5. The [REDACTED], referral, [REDACTED], was received Friday, September 11, 2009, and opened on Monday, September 14, 2009, [REDACTED].

6. The [REDACTED], referral, [REDACTED], was received on September 30, and opened on September 28, 2009, [REDACTED]. The inspection was opened on the same date the imminent danger referral call was received. This outlier resulted from a data entry error and was corrected.

It has been reiterated and emphasized to Division of OSH Compliance staff that imminent danger referrals must be opened within one (1) working day after notice is received. If not, a detailed explanation is required in the case file. Kentucky did not meet this goal 100% of the time due to weather conditions.

The second goal of Kentucky's two (2) year Strategic Plan is to change workplace culture to increase employer and worker awareness of, commitment to, and involvement in safety and health.

Performance Goal 2.1.1 aims to continue incorporating safety and health management systems evaluation in 100 percent of the full service comprehensive surveys conducted. There are two (2) FY 2009 Annual Performance Goals for 2.1.1. They are:

A. Utilize the Safety and Health Program Assessment Worksheet (Form 33) in 100 percent of the full service comprehensive surveys conducted.

B. Include a narrative safety and health program evaluation in 100 percent of reports completed for comprehensive surveys.

Performance Goal 2.1.2 has been fully met in FY 2009 as 100 percent of the consultation reports on comprehensive consultative surveys contain a completed Form 33. The Form 33 attempts to measure the safety culture of an organization, which is a key ingredient in whether the performance is sustainable

or just random luck. Each comprehensive survey case file also includes a safety and health program evaluation report.

Performance Goal 2.1.2 addresses Kentucky's efforts to continue to develop and promote partnership and recognition programs, including the Voluntary Protection Partnership (VPP), the Safety and Health Achievement Recognition Program (SHARP), Construction Partnership Program (CPP), the VPPC, and the Safety Partnership Program (SPP), etc. Five (5) Annual Performance Goals were established for 2.1.2. They are:

A. Continue to assist and achieve growth in our partnership with existing VPP companies and to work with three (3) new companies interested in pursuing VPP and create one (1) new VPP site.

B. Continue to assist and improve our partnership with existing SHARP companies and to create two (2) new SHARP sites.

C. Develop one (1) new construction partnership.

D. Work with two (2) new construction companies interested in pursuing VPPC.

E. Continue to assist existing SPP companies.

### Voluntary Protection Partnership

Kentucky's VPP began in the mid-1990s and is similar to the federal Voluntary Protection Program. Like the federal program, the Kentucky effort recognizes employers who have reached a level of excellence in their safety and health programs and removes them from programmed inspection lists. Detailed reviews of records and written programs, as well as intensive on-site surveys of worksite operations, assure that only companies that have a strong commitment to workplace safety and health and institutionalized safety and health management systems in place, as well as proven success maintaining a safe and healthful workplace, qualify for Kentucky's highest achievement recognition.

It was a very busy year for the VPP program. Although nearly every facet of the VPP Program was positive, unfortunately, two (2) VPP STAR sites withdrew from the program (discussed later). Kentucky performed three (3) re-certifications for VPP sites. They include Dow Corning Corporation in Carrollton, L'Oreal USA in Florence and International Paper Corporation in Bowling Green. A new VPP site, GE Energy in Louisville, should join VPP in December 2009 after the verification visit. Kentucky continues to mentor sites that are interested in becoming VPP who have the commitment and personnel in place, but have not reached the level that qualifies them to apply. Firestone Industrial Products in Williamsburg and Southwire Corporation in Lewisport are two (2) sites Kentucky assisted with for many months in order to reach the level to be successful VPP candidates. Firestone Industrial Products is nearly ready to submit its application and Southwire Corporation is working on identified shortcomings. Kentucky also mentored Unifirst Corporation in Owensboro, but to a lesser extent.

Kentucky conducted many training classes for our existing VPP sites and other sites working to attain VPP status. In addition to conducting stakeholder meetings, and discussing VPP in general with interested companies, Kentucky offers Auditor I and Auditor II training. The training helps management and employees understand the depth of auditing for VPP and assists them in prepare for an audit. Kentucky trained over 100 people in FY 2009 and it continues to be one of the most requested classes.

Three (3) sites expressed strong VPP interest that is subject to the Process Safety Management standard. They are ISP Chemicals in Calvert City, Westlake Monomers in Calvert City and Catlettsburg Refining, LLC in Catlettsburg. While it is an exciting and a valuable learning opportunity if the VPP process comes to fruition at these facilities, it will undoubtedly present a daunting task with a number of manpower issues.

As mentioned above, two (2) sites left the VPP program. The first to leave in June was Alcan in Glasgow. After an amputation in January, and already being on a "one year conditional" probationary

status, it was determined that Alcan no longer could maintain the high quality demanded of the VPP program. After meeting with Alcan management, they were asked to voluntarily withdraw from the program, which they did in June.

After not meeting report deadlines several times, experiencing a massive layoff, changing ownership, and generally not meeting the high standards required of a Kentucky VPP STAR site, Rohm and Haas in Louisville was asked to voluntarily withdraw. They withdrew in October.

Though regrettable, dismissing facilities from the VPP program that can no longer maintain Kentucky's VPP standards maintains the integrity, strengthens the program, and ensures a strong program for the future.

The Kentucky VPP process expects growth in safety and health self-sufficiency and increased efforts at community outreach from its members. While no specific criteria are set for each site to achieve during any one (1) year, there is an expectation that as outside opportunities to mentor others develop, or as they are directed to our STAR companies, they will work with other companies within fifty (50) miles of their facility to further the safety of workers within the Commonwealth. To that end, the Kentucky VPP program has a formalized VPP Mentor Site endorsement and specific criteria to meet in order to obtain, and maintain a certified mentor status. An appended flag for VPP Mentor Certified Sites has been attained by Performance Pipe in Williamstown. The criteria set and maintained in the program require the active facility to participate in the federal Special Government Employee program to ensure exposure to new work environments and problem solving situations as part of their self sufficiency efforts, as well as fostering sites toward VPP, and community outreach within fifty (50) miles of their facility.

Fostering improved safety and health performance among other less adept facilities in the Commonwealth is also on the yearly agenda of the VPP STAR Network. The Network takes the names of the worst performing companies in the state, with respect to their safety and health recordable rates,

and invites them to join the conference to make connections with experts in the field of safety and health that are located within the Commonwealth. Companies are educated about the efforts of the current VPP STAR Network member's safety and health best practices. Companies benefit by discussing relevant OSH issues in their respective settings with OSH leaders in the Commonwealth. This interface and networking helps foster the growth of the VPP Star Network and its constituents for the following year. It is anticipated that this outreach and networking will motivate each participant to find the resources to improve their safety culture and safety management systems at little or no cost.

#### SHARP - SPP - Strategic Partnerships

Kentucky's SHARP, SPP, and Strategic Partnership programs continued to make progress in FY 2009. SHARP added four (4) new companies and has four (4) other companies with certifications in progress. Although Division of OSH Education and Training staff were heavily backlogged with emphasis program consultative requests, Kentucky continued giving mini-assessments to interested companies on SHARP program requirements. Companies were also provided a checklist of safety and health issues they needed to have in place prior to the actual SHARP survey to ensure successful qualification. FY 2009 saw eight (8) new companies working to develop their safety and health programs to the SHARPs required level. This pre-SHARPs assessment program has been well received by the companies in the Commonwealth. Each receives assistance and direction in improving its safety and health programs, at its own rate, with the knowledge of where it needs to be to achieve SHARP status. Kentucky is starting to see increased applications for SHARP due to our pre-assessment work.

Our SPP program, a three (3) year program, continued with four (4) companies in 2009. These companies are starting with very ineffective safety programs and with rates at least twice the national accident rate for their NAICS code. They commit to continuous serious effort at safety improvements with regular guidance from Division of OSH Education and Training staff. During FY 2009, three (3) of the four (4) companies showed improvement. Division of OSH Education and Training resources

limit the number of this partnership type that can be handled at a time but past performance shows it works well for companies who are serious about making safety improvements.

Our single General Industry Strategic Partnership with the Kentucky Ready Mix Concrete Association has eighty-two (82) member companies involved. The Division of OSH Education and Training provided at least two (2) trainings per year for the member companies at the headquarters of the association. Although not spectacular, the smaller companies in the association tend to utilize the trainings more. Progress is slow but steady.

### Construction Partnership Program

The Kentucky CPP is offered to general contractors, construction managers, construction associations, and construction companies to promote health and safety in the construction industry. The program's goal is to partner with those construction companies that have an existing safety and health management system in place and want to work with the Cabinet to improve. These companies have a positive impact on all new subcontractors coming to their worksites and associations. There are currently three (3) types of formal partnerships available: Association-based, Site-based, and Training-based.

2009 was another year of growth for CPP. New sites, as well as new contractors, were added to the CPP. As word spreads about the benefits of the Construction Partnership Program, contractors, universities, and safety-based associations are increasingly interested in working cooperatively with the Cabinet. Additionally, contractors that have been involved with CPP in the past are seeking partnerships for their new projects.

### Current Site- Based Partnerships

1. United Parcel Service (UPS) HUB WORLDPORT: This project is an expansion of the existing UPS hub at Louisville International Airport. The project began October 2006 and is scheduled

for completion in 2010. The estimated cost of the project is 1.5 million dollars and involved up to six (6) prime contractors and seventy (70) subcontractors.

2. UNIVERSITY OF KENTUCKY BIOLOGICAL AND PHARMACEUTICAL COMPLEX:

This is a 286,000 square foot five (5) story academic/research building constructed for the University of Kentucky. It is the most advanced facility of its type in the nation and had an estimated cost of 110 million dollars. The project was completed in late 2009.

3. NORTHERN KENTUCKY AIRPORT PROJECT: A 52,000 square foot expansion of the screening area at Northern Kentucky/Cincinnati airport. The project had an estimated cost of 25 million dollars and the partnership was completed in late 2009.

4. LOUISVILLE DOWNTOWN ARENA PROJECT AND PARKING GARAGE: A new arena for the University of Louisville's men's and women's basketball teams. It is a 717,000 square foot facility with an estimated cost of 260 million dollars and scheduled for completion in November 2010. The partnership ended prematurely in October 2009 because of an unresolved onsite compliance issue.

5. MADISON COUNTY HIGH SCHOOL PROJECT: The project is an addition and renovation to the existing Madison Southern High School in Berea. The addition will consist of approximately 49,000 square feet of classroom, cafeteria, gymnasium, and mechanical space on two (2) floors. The project is scheduled for completion in April 2010 at an estimated cost of seventeen (17) million dollars.

6. EASTERN KENTUCKY UNIVERSITY SCIENCE BUILDING: The project is a new construction of a 175,000 square foot Science Building. The first phase of this project will house the Departments of Chemistry and Physics & Astronomy. The project is expected to be completed in February 2011 at an estimated cost of 64 million dollars. This is one of CPP's unique partnerships. In addition to the prime contractor, the University was also a signing partner for this project. As a result, students and staff not only accompany Division of OSH Education and Training staff when audits are

being conducted, but also several training sessions for students and staff were conducted independently of the project.

7. WESTERN WATER RECLAMATION FACILITY: The project is a new construction of a 20 million gallons per day waste water recovery facility. The project is valued at 69 million dollars, and is scheduled to be completed by August 2012.

#### Current Association-Based Partnerships

Western Kentucky Construction Association and Associated General Contractors of America (WKCA-AGC)

On March 12, 1998, the Associated General Contractors of America (AGC) and OSHA signed a partnership charter that mutually recognized the importance of providing a safe and healthful work environment in the construction industry. Building upon the OSHA partnership, in November 2001, WKCA-AGC and the Kentucky OSH Program signed a similar partnership agreement. To advance our mutual goal, it was strongly agreed that there was the need to develop a working relationship that creates mutual trust and respect for the respective roles each organization plays in the construction safety process. The Construction Health and Safety Excellence (CHASE) partnership agreement is the direct result of the 1998 partnership charter. In April 2009, the AGC and the Kentucky Labor Cabinet signed a new agreement extending this Partnership until May of 2011. The CHASE Program currently has eight (8) RED members, four (4) WHITE members, and one (1) Blue member.

#### VPPC in Kentucky

A Kentucky goal for 2009 was continued expansion of the VPP program to employers other than those in the manufacturing classification. Currently Kentucky has two (2) companies in Kentucky's signature VPPC program, the highest recognized standard for safety and health in the construction industry. The participants are Miller-Valentine and Turner Construction. VPPC is administered through the CPP.

## Future Partnerships

Site Based: Several contractors involved in current partnerships have expressed interest in partnering for projects in 2010. There has also been discussions with several state universities that are interested in making partnerships part of the contractual process for upcoming projects.

Association Based: During 2009, the CPP program spent a great deal of time working with the Allied Construction Industries (ACI). ACI is a trade-based association based in Cincinnati. ACI has many members that work not only in Ohio but in Kentucky as well. It is the program's desire that this become a formal partnership in 2010.

VPPC: In 2009 the CPP program met with four (4) large contractors interested in VPPC. To date, no applications have been received.

Another effort to recognize safety and health achievement in Kentucky is the presentation of the Governor's Safety and Health Award. These awards are presented by the agency in recognition of companies reaching a milestone of man-hours worked without a lost workday case. The awards are offered on a graduated basis in consideration of the size of the company. In FY 2009, forty-three (43) Kentucky companies and their employees were recognized through the Governor's Safety and Health Awards for efforts to prevent lost workday injuries and illnesses. Companies with up to 125 employees must reach 250,000 man-hours worked without any lost time. In late FY 2007, Kentucky started the "Thoroughbred Award." This award is for small employers with fifty (50) or fewer employees that have achieved twenty-four (24) months or two (2) consecutive years without a lost time. In FY 2009, Thoroughbred Awards were presented to:

Atlas Concrete in Mt. Sterling;

Hardin County Water, District 2 in Elizabethtown;

LSI Industries in Erlanger;

Nisshin Automotive Tubing LLC in Versailles; and

Western Kentucky Plastics, Inc. in Bowling Green.

Performance Goal 2.1.3 addresses the implementation of a targeted outreach training plan for 100 percent of new Kentucky OSH standards. The Annual Performance Goal is identical.

The Division of OSH Education and Training continues to offer free outreach training at POP Centers for employers and employees across the Commonwealth addressing Kentucky OSH standards. The Kentucky Labor Cabinet also maintains updated and accurate information on the Kentucky OSH webpage as well as cost free publications for employers and employees. The Division of OSH Education and Training developed a compact disc that contains all the state OSH regulations, federal OSH standards, Kentucky safety and health manuals, posters, conference information, and resource links. The compact disc offers employers a mechanism to register and receive a notice regarding new or amended regulations. The Kentucky OSH Program provides the compact disc free of charge. The Kentucky OSH Program no longer prints the Federal or State regulation books.

Performance Goal 2.1.4 relates to Kentucky's effort to continue to develop and deliver outreach training services to employers and employees that meet 100 percent of targeted strategic goals. The two (2) FY 2009 Annual Performance Goals seek to:

A. Develop training programs that correspond to the targeted needs identified in previous performance goals; and

B. Make available all standards, regulations, and reference materials in a user friendly manner from the Kentucky OSH webpage and continue to upgrade and provide the most current information.

In addition, the training conducted at the eight (8) POP Center training sessions in FY 2009 addressed a myriad of hazards associated with high hazard industries. Courses addressing fall protection, back care, lockout/tagout, excavations, explosive dust, scaffolding, electrical safety, residential and commercial construction exceeded 2000 participants. The POP Center training schedule and courses were posted on the OSH Program website in 2009 and this practice will continue in 2010.

Additionally, all changes to Kentucky OSH regulations as well as the full text of Kentucky OSH regulations and reference materials appear at the Kentucky OSH website.

Kentucky's two (2) year Strategic Goal is to make efficient and effective use of human and technological resources.

Performance Goal 3.1.1 is to maintain a technology infrastructure that provides a reliable data repository to support Kentucky OSH Program goals and strategies. The FY 2009 Annual performance Goal for 3.1.1 was to maintain 100 percent of all OSHA Integrated Management Information System (IMIS) equipment and software to ensure that all data on the information system is accurate, accessible, and current for both the Kentucky OSH Program and OSHA.

In fulfillment of this goal, Kentucky personnel have participated in monthly conference calls hosted by OSHA for Information Technology users. Kentucky implements and maintains all changes mandated by OSHA on the IMIS System. The Division of OSH Compliance and the Division of OSH Education and Training maintain full-time positions to coordinate IMIS computer equipment and IMIS data entry activity. The Division of OSH Compliance requires all compliance officers to enter optional information on their OSH-1s to ensure proper coding of enforcement activity. Compliance officers code all residential and commercial construction activity to better evaluate compliance activity for falls. All compliance officers code amputations and hospitalizations to target areas for concentrated inspections. Health compliance officers are required to code all expanded standard activity to better evaluate activity dealing with carcinogens. Compliance officers code OSH-1s for targeted outreach program inspections.

Also, the Division of OSH Compliance and the Division of OSH Education and Training make necessary corrections to ensure that accurate and reliable information is entered into the NCR system whenever errors are found during the course of the year.

Performance Goal 3.1.2 aims to develop and maintain a system to maximize the use of human resources. Three (3) Annual Performance Goals support 3.1.2. They are:

A. Ensure that the Kentucky OSH Program has the capabilities to meet the demand for safety and health training by having two (2) personnel receive either the Construction or General Industry OSHA 10-hour or 30-hour instructor training.

B. Enhance employee development, reduce employee turnover and increase work productivity in support of Kentucky OSH Program goals and strategies.

C. Encourage Kentucky OSH staff to acquire certification in the field of occupational safety and health.

In FY 2009, the annual performance goals toward fulfillment of this goal included ensuring the development of a workforce career development plan for entry level employees, ensuring the OSH Program has two (2) personnel who have received either the OSHA Construction or OSHA General Industry 10-Hour or 30-Hour instructor training, and ensuring Kentucky OSH staff acquire professional certification. Kentucky is pleased this goal has been met.

All managers in the Division of OSH Education and Training received formal leadership training. A training career development plan has been prepared for the Division of Education as well as training for entry level employees. Five (5) Division of OSH Education and Training employees received instructor training to conduct the OSHA Construction Standards 10-Hour and 30-Hour Courses. In addition, three (3) Division of OSH Education and Training employees received instructor training to conduct the OSHA 10-Hour and OSHA 30-Hour courses for general industry. These trainers will ensure the Kentucky OSH Program has the capability to meet training obligations under partnership agreements, as well as outreach efforts for training in both construction and general industry. During FY 2009, the Division of OSH Education and Training maintained two (2) dual Certified Industrial Hygienist (CIH)-Certified Safety Professional (CSP) employees, three (3) CSP employees, one (1) certified Associate Safety Professional (ASP) employee, two (2) CIH employees, two (2) Occupational Health and Safety Technician (OHST) employees.

During FY 2009, five (5) Division of OSH Compliance employees took the OSHA 30-Hour general industry course, three (3) took the OSHA 10-Hour general industry course, and six (6) took the OSHA 10-Hour construction course. The Division of OSH Compliance met this goal.

The Division of OSH Compliance follows OSHA's 2008 TED 01-00-018, Training Program for OSHA Compliance Personnel, and the Division of OSH Education and Training utilizes TED 01-00-018 as guidance for new employees. The Division of OSH Compliance remains committed to developing and maintaining an experienced, diverse staff and continues to encourage professional development and professional certification, such as the CSP and CIH. In addition, since the development of the Compliance CSP/OHST/CHST position, a number of safety inspectors have attained certification with more seeking certification. During FY 2009, the Division of OSH Compliance maintained three (3) OHST-certified employees and two (2) more achieved certification. One (1) Construction Safety and Health Technician certified employee was maintained. Two (2) compliance officers achieved the CSP designation and one (1) more has been approved to sit for the CSP exam. One (1) safety compliance officer completed the CSP preparatory workshop in FY 2009. The Division of OSH Compliance continues to encourage and promote additional personnel who may achieve certification in the safety and health field by maintaining a certification level for inspectors, paying for certification preparatory courses, and paying for the certification exam once it has been passed. One (1) Division of OSH Compliance safety supervisor is a Certified Public Manager and the Health Program Manager is a Certified Fundamentals Manager.

The Division of OSH Compliance continues to send employees to the OSHA Training Institute (OTI) for training as well as hosting safety and health training courses in Kentucky. In August 2009, Kentucky hosted the OTI combustible dust course for employees. Approximately fifty (50) staff members from the Division of OSH Compliance and the Division of OSH Education and Training attended the training.

Additionally, the Division of OSH Compliance is paying for four (4) safety compliance officers to attend graduate school at Eastern Kentucky University. All four (4) are seeking Masters of Science in Safety, Security, and Emergency Management while a fifth safety compliance officer received a Master of Science in Industrial Technology in December, 2009.

Three (3) Division of OSH Compliance field personnel two (2) safety compliance officers and one (1) industrial hygienist, one (1) health supervisor, and one (1) administrative employee, left the Division during FY 2009. This resulted in the loss of thirty-six (36) years of compliance experience and ten (10) years of administrative experience. By the end of FY 2009, the Division of OSH Compliance had filled three (3) positions from 2008 and was four (4) compliance officers under of the maximum state funding capacity. Kentucky continued to work on increasing field personnel levels during FY 2009 and hired two (2) safety compliance officers and one (1) health compliance officer. At the close of FY 2009, Kentucky had twenty-three (23) safety compliance officers, fourteen (14) industrial hygienist compliance officers, and one (1) discrimination investigator. The Division of OSH Compliance requested five (5) new positions in the next state budget.

## **SECTION II MANDATED ACTIVITIES**

The Occupational Safety and Health Act and 29 CFR 1902 establish a number of mandated activities or core elements for any state plan program. Kentucky's Annual Performance Plan, while involving many of these core elements, does not address every mandated activity. In this section, the mandated core elements of Kentucky's program are addressed.

### Unannounced Inspections, Including Prohibition Against Advance Notice Thereof

During FY 2009, the Division of OSH Compliance conducted a total of 1,234 unannounced inspections of work sites under the authority of KRS 338.101. Advance notice of inspections is prohibited and punishable under KRS Chapter 338.991(9).

### Employee Involvement in Inspection Process

803 KAR 2:110 requires authorized employee accompaniment during inspections. The Division of OSH Compliance contacts a representative(s) of employee-organized groups upon entry onto a site in order to afford employees participation in the inspection process. Representatives of employee groups participate fully in the inspection process by attending the opening conference, accompanying the inspector and employer on the walkaround, and attending the closing conference. Employee representatives are also allowed to observe employee interviews. If no employee-organized group exists at the facility, employee interviews are conducted.

Following the inspection, 803 KAR 2:130 requires that employee representative(s) be afforded the opportunity to observe any informal conference requested by the employer. 803 KAR 50:010 Section 14 allows the employee organization, or any interested employee, to intervene in any subsequent contest.

### First Instance Sanctions Against Employers Who Violate the Act, Including Citations

KRS Chapter 338.141 mandates the issuance of citations for violations of any OSH requirement. The Division of OSH Compliance continued to improve Kentucky's work environment through

enforcement operations, which include first instance citations for violations of workplace safety and health standards and regulations.

The Division of OSH Compliance conducted a total of 1,234 inspections in FY 2009, 1,008 safety inspections and 226 health inspections. 784 inspections were unprogrammed and break down as follows:

304 referrals;

246 (20%) complaints;

166 unprogrammed related;

Thirty-five (35) follow-up; and

Thirty-three (33) accidents.

450 (36%) inspections were programmed and break down as follows:

196 planned;

170 programmed related; and

Eighty-four (84) other.

606 inspections were in the construction industry, 321 were in manufacturing, and 307 were other. 1,179 private sector and 55 public sector employers were inspected. The Division of OSH Compliance conducted 1,007 safety inspections which constitute 82% of total inspections while health conducted 226, representing 18% of total inspections.

Safety averaged 26.1 hours per case with 43.1 average days from opening to citation issuance and health averaged 67.9 hours per inspection with 72.9 average days from opening to citation issuance.

A total of 1,503 violations were issued as follows:

941 violations classified as serious with penalties of \$1,214,914.00;

Twenty (20) violations classified as willful with penalties of \$572,000;

Two (2) failures to abate with penalties of \$120,000.00; and

Thirty-five (35) violations classified as repeat with penalties of \$240,280.00.

The Division of OSH Compliance also issued 504 other-than-serious violations with penalties of \$35,050.00. In FY 2009, citations for violations of safety and health provisions carried monetary penalties totaling \$2,112,244.00. The total amount of penalties collected by the Division of OSH Compliance in FY 2009 was \$1,293,268.32.

Sixty-seven (67) cases were contested representing 11.7 percent. No FY 2009 cases have been adjudicated through the Kentucky OSH Review Commission.

The Division of OSH Compliance vacated twenty-seven (27) violations which represents 1.9% of the violations issued. Additionally, the Division reclassified thirteen (13), or 0.9% of violations issued. Penalties issued were retained 57.2 % of the time.

At the time the FY 2009 data was compiled, approximately eighteen (18) inspections with citations had not been issued with five (5) having no violations. Three (3) reports were being evaluated by the Office of General Counsel for issuance of willful violations. Two (2) inspections are fatalities, two (2) are related to fatalities, one (1) is due to an explosion, and 6 (six) are imminent dangers. The Division of OSH Compliance is evaluating four (4) willful serious violations, two (2) additional repeat serious violations, twenty (20) serious violations, and three (3) other than serious violations.

#### Ensuring Abatement of Potentially Harmful or Fatal Conditions

Hazardous conditions identified by Kentucky compliance officers and consultants are required to be abated. In order to ensure the correction of hazards, KRS 338.991(4) provides specific penalties for any employer who fails to correct a cited violation. In addition, 803 KAR 2:060 establishes that employers must certify that each cited violation has been abated. Follow-up inspections are conducted to verify that potentially harmful conditions have been abated. The Division of OSH Compliance strives to perform at least ten (10) percent of safety and health inspections as follow-up inspections. The safety branch follows up on imminent danger inspections after the employer has received the citations. The

majority of these inspections deal with residential fall protection, commercial fall protection, and trenching hazards. Also on the follow-up list are employers who fail to provide the division with abatement documentation.

The Division of OSH Compliance performed thirty-five (35) follow-up inspections in FY 2009, representing 2.8 percent of all safety and health inspections. Two (2) failure-to-abate violations were issued for a total penalty of \$120,000.00. Kentucky will focus more on conducting follow-up inspections in FY 2010. The abatement period for safety violations greater than thirty (30) days is 5.5 percent and the abatement period for health greater than sixty (60) days was 0.9 percent.

Discrimination rights are explained to complainants when he or she calls the Division of OSH Compliance. Employees interviewed during inspections are also informed of their right. The Division of OSH Compliance also prints discrimination rights on the back of staff business cards which are given to employees during inspections.

The Division of OSH Compliance has the force of Kentucky Revised Statute (KRS) 338.131(1) which gives the executive director who is the Commissioner of Workplace Standards the authority to issue an immediate abatement order in the event of “. . .an imminent danger which reasonably could be expected to cause death or serious physical harm”. This ensures prompt abatement or removal of employees from the hazard. If an employer fails to comply with an abatement order issued under KRS 338.131(1), the Division of OSH Compliance shall apply to the Franklin Circuit Court through its Office of General Counsel for an order to restrain such condition or practice. Kentucky issued one abatement order in FY 2009 and an abatement agreement was signed by the Labor Cabinet, the employer, and the employee bargaining group.

Serious hazards identified by Division of OSH Education and Training consultants must also be corrected. Employers who fail to correct serious hazards identified in Division of OSH Education and Training consultative surveys are subject to referrals to the Division of OSH Compliance for inspection.

### Prompt, Effective Standard Adoption and Promulgation

On September 5, 2008, the Secretary of the Labor Cabinet adopted an amendment to Kentucky's reporting requirement. 803 KAR 2:180 requires Kentucky employers to report any work-related incident resulting in the in-patient hospitalization of one (1) or two (2) employees. The reporting requirement is limited to hospitalizations that occur within seventy-two (72) hours of the incident. Employers are also required to report all amputations suffered by an employee from any work-related incident. Hospitalizations of one (1) or two (2) employees and all amputations must be reported to the Division of OSH Compliance within seventy-two (72) hours of the time the incident is reported to the employer, his agent, or another employee. The amendment removed a sunset clause to the state specific reporting requirement. The amendment was effective in Kentucky on January 5, 2009.

On May 6, 2008, the Kentucky OSH Standards Board adopted the "Updating OSHA Standards Based on National Consensus Standards" direct final rule published in the December 14, 2007, *Federal Register* and confirmed in the March 14, 2008, *Federal Register*. The rule amended the requirements in 29 CFR Part 1910. The amendment, effective in Kentucky on March 6, 2009, affected 803 KAR 2:300, 803 KAR 2:305, 803 KAR 2:306, 803 KAR 2:307, 803 KAR 2:309, 803 KAR 2:315, 803 KAR 2:316, and 803 KAR 2:317. Adoption of this direct final rule was not required.

On January 12, 2009, the Chair of the Kentucky OSH Standards Board adopted the "Vertical Tandem Lifts" final rule published in the December 10, 2008, *Federal Register*. The rule amended requirements in 29 CFR Parts 1917 and 1918. The amendment, effective in Kentucky on May 1, 1999, affected (KAR 803 2:500. Adoption of the final rule was required and accomplished within the six (6) month time frame.

On May 5, 2009, the Kentucky OSH Standards Board adopted the "Clarification of Employer Duty to Provide Personal Protective Equipment and Train Each Employee" final rule published in the December 12, 2008, *Federal Register*. This rule amended the requirements in 29 CFR Parts 1910, 1915,

1917, 1918, and 1926. The amendment, effective in Kentucky on October 2, 2009, affected 803 KAR 2:300, 803 KAR 2:306, 803 KAR 2:308, 803 KAR 2:311, 803 KAR 2:320, 803 KAR 2:402, 803 KAR 2:403, 803 KAR 2:417, 803 KAR 2:425, and 803 KAR 2:500. Adoption of the final rule was not required.

On December 3, 2009, the Chairman of the Kentucky OSH Standards Board adopted the “Revising Standards Referenced in the Acetylene Standards” final rule published in the August 11, 2009, *Federal Register*. The rule amended the requirements in 29 CFR Part 1910. The amendment affected 803 KAR 2:300 and 803 KAR 2:307. The projected effective date in Kentucky is April 2, 2010, thus meeting the six (6) month requirement.

#### Allocation of Sufficient Resources

The Kentucky OSH Program continued to match federal funding at the required rate. The state provides significant additional dollars beyond the federal match to meet the Program’s needs. Kentucky’s ratio was 65:35 for FY 2009 of state to federal funds.

#### Counteraction of Imminent Dangers

KRS 338.131 provides enforcement personnel with the authority to order imminent danger conditions immediately abated. Such authority includes enforcing necessary measures to avoid, correct, or remove the imminent danger and prohibit the presence of individuals where the imminent danger exists. Reports of imminent danger are given the highest priority for inspection by the Division of OSH Compliance.

In FY 2009, the Division of OSH Compliance conducted 225 reported imminent danger inspections. During FY 2009, Kentucky responded to 100 percent of imminent danger reports by initiating an inspection within one (1) working day of notification.

The referral audit log indicates Kentucky failed to respond to six (6) imminent danger referrals within one (1) working day.

1. The [REDACTED] referral, [REDACTED], was received on November 5, 2008, and opened on November 7, 2008, [REDACTED]. This referral was originally assigned as a complaint and then changed to a referral that same day.

2. The [REDACTED], referral, [REDACTED], was received on February 9, 2009, and opened February 20, 2009, [REDACTED]. The compliance officer went to the site on February 11, 2009, because the caller stated that no one was on the roof that day. It snowed on February 10, 2009. When the compliance officer arrived on February 11, 2009, no one was working on the roof. When the compliance officer returned on February 20, 2009, the property owner said the roofers had left. The compliance officer was travelling from Frankfort to Paducah. The Division of OSH Compliance responded within two (2) days but it was not noted in the IMIS.

3. The [REDACTED] referral, [REDACTED], was received on February 10, 2009, and opened February 12, 2009, [REDACTED]. Kentucky was experiencing snow during that time and the compliance officer was travelling from Frankfort to Paducah.

4. The [REDACTED], referral, [REDACTED], was received on March 4, 2009, and opened March 2, 2009, [REDACTED]. The inspection was opened on the same date the imminent danger was called in. This outlier resulted from a data entry error.

5. The [REDACTED], referral, [REDACTED], was received on Friday, September 11, 2009, and opened on Monday, September 14, 2009, [REDACTED].

6. The [REDACTED] referral, [REDACTED], was received on September 30, and opened on September 28, 2009, [REDACTED]. The inspection was opened on the same date the imminent danger referral was called in. This outlier resulted from a data entry error.

It has been reiterated to Division of OSH Compliance staff that imminent danger referrals must be opened within one (1) working day after receiving the notice. If not, a detailed explanation is required in the case file.

## Response to Complaints

Kentucky's statutes ensure that employees and their representatives have a right to notify the OSH Program of perceived workplace violations. KRS 338.121 requires that a special inspection be conducted upon receipt of such notifications if reasonable grounds exist that there is a violation or danger. The Division of OSH Compliance prioritizes the employee complaints it receives. When complaints are received by the Division of OSH Compliance, the Division reviews the database to expand the inspection into a comprehensive effort if the employer's case rate equals or exceeds three (3) times the Kentucky rate of 6.4 for private industry.

All valid, formal complaints are scheduled for workplace inspections. Formal complaints are given priority based upon classification and gravity of the alleged hazard. Formal serious complaints, for example, are inspected within thirty (30) days; however, it is stressed to compliance officers to respond within five (5) days after being assigned the complaint. Three (3) serious complaint inspections were opened greater than 30 days after assignment in FY 2009. Seven (7) imminent danger complaints were opened the day they were received.

1. The [REDACTED], complaint, [REDACTED], was received May 12, 2009, and the accident occurred on January 18, 2009. [REDACTED] is a construction company that had left the site and was working in another state at the time the Division of OSH Compliance received the complaint. The compliance officer attempted numerous times to contact [REDACTED] management to conduct an opening conference. July 31, 2009, was the first time the compliance officer was able to contact the employer, [REDACTED]. This complaint inspection was formally opened fifty-eight (58) working days after receipt.

2. The [REDACTED] complaint, [REDACTED], was received April 23, 2009, and opened on June 5, 2009, [REDACTED]. The compliance officer was assigned several imminent dangers during

this time period, attended a mandatory conference, and took some leave time. This complaint inspection was opened thirty-one (31) working days from receipt date.

3. [REDACTED], [REDACTED], was received September 28, 2009, and opened on November 10, 2009, [REDACTED]. The complaint log auditing report has this inspection designated as serious while the complaint form itself in the NCR has it listed as a C priority, which is an other-than-serious complaint. This complaint was also designated as serious and was corrected in the NCR to other-than-serious. This complaint inspection was opened thirty-one (31) working days from receipt date.

It has been reiterated to Division of OSH Compliance staff that the time for opening complaint inspections must be followed. If not, a detailed explanation is required in the case file. During FY 2009, the Division of OSH Compliance responded to 219 formal safety and health complaints, and 100 non-formal, or letter, complaints.

Following a complaint inspection, the complainant is provided a copy of any citations issued. Complainants are also provided a letter when no citation is issued, as required in 803 KAR 2:090, Section 2. When no citations are issued as the result of a complaint inspection, 803 KAR 2:120 Section 4 allows the complainant to appeal that decision to the executive director (Commissioner of Workplace Standards). The executive director (Commissioner of Workplace Standards) provides the complaint and the employer with written notification of his determination and the reasons therefore.

#### Response to Referrals

Kentucky's Division of OSH Compliance responded to 376 referrals in FY 2009. Kentucky places the same level of importance to referrals as it does complaints. As provided in paragraph X.N. on Page IX - 8 of 26 in Chapter 9 of Kentucky's Field Operations Manual (FOM), serious complaints must be opened within thirty (30) days and non-serious complaints within 120 days. As referrals have the same importance as complaints, Kentucky's Division of OSH Compliance utilizes the same timeline in responding to referrals, including stressing the five (5) day response.

Using this initiation criterion, the Division of OSH Compliance met the referral response requirement for serious hazards in all but one (1) case, Cannon Automotive Solutions. This referral, 202844700, was received April 6, 2009, and assigned to a supervisor on the same day. The supervisor assigned the referral to a compliance officer on April 20, 2009, and then reassigned it to another compliance officer on May 20, 2009. The newly assigned compliance officer opened on May 21, 2009, 312618010.

It has been reiterated to Division of OSH Compliance staff that serious referrals must be opened within thirty (30) days. If not, a detailed explanation is required in the case file.

#### Fatality/Catastrophe Investigations

Only imminent danger investigations are given a higher priority in scheduling inspections by the Division of OSH Compliance than fatality/catastrophe investigations. It is the policy of the Division of OSH Compliance to investigate all job-related fatalities and catastrophes as thoroughly and expeditiously as possible. In FY 2009, seventy-seven (77) fatality/catastrophes were reported to the Division of OSH Compliance.

Two (2) fatalities appeared as outliers on the FAT/CAT and Complaint Response Data for FY 2009. They were:

1. A fatal accident at [REDACTED] in Calvert City occurred after lunch on Friday, February 20, 2009. The facility closed and sent everyone home. The inspection was opened on Monday, February 23, 2009, the next business day.

2. A fatal accident at [REDACTED] was reported sometime Friday, March 20, 2009. The incident occurred on March 9, 2009. The inspection was opened on Monday, March 23, 2009.

These two (2) fatality investigations were initiated within one working (1) day of notification as specified in Kentucky's two (2) year strategic plan. It has been reiterated and emphasized to Division of OSH Compliance staff that fatalities must be inspected within a one (1) day working period from

notification; and, data entered into the NCR must be accurate. If not, a detailed explanation is required in the case file.

In addition to identifying and personally contacting the deceased's next of kin at the outset of the investigation, the Division of OSH Compliance sends a follow-up letter providing contact information. At the conclusion of a fatality inspection, the next-of-kin receives a letter from the director of the Division of OSH Compliance and if citations are issued, copies of the citations. If an employer contests a case in which a fatal accident occurred, the attorney from the Office of General Counsel assigned to the case also sends a letter to the next-of-kin with contact information and a request that the next-of-kin contact him or her if he or she wishes to be kept apprised of developments in the litigation.

#### The Investigation of Discrimination and Employee Protection from Discrimination

KRS 338.121(3) offers protection to employees from reprisals which might result from the exercise of rights afforded by the occupational safety and health statutes. A system of citations and penalties, appeals to the OSH Review Commission, and reinstatement authority by the Commissioner while final determination is pending before the Review Commission, distinguish the Kentucky anti-discrimination effort. In addition, 803 KAR 2:240 allows any employee who believes he or she has been discriminated against, to file a complaint within 120 days of the alleged violation, as opposed to the thirty (30) days allowed by federal law. The Division of OSH Compliance is responsible for the enforcement of the state's anti-discrimination provisions. During FY 2009, the Division of OSH Compliance received eighty-three (83) discrimination complaints and opened thirty-one (31) new cases of alleged OSH discrimination. Fifty-two (52) cases were screened and referred to other agencies or not accepted. Twenty-nine (29) of those cases were completed during this fiscal year with an average of seventy (70) days per case. Two (2) cases were settled without penalties, one (1) was settled with a \$2,500.00 penalty, twenty-six (26) were dismissed with no violations, and two (2) are still open.

Complainants are informed when he or she calls the office of his or her discrimination rights. Employees interviewed during inspections are also informed of that right. The Division of OSH Compliance also prints discrimination rights on the back of its business cards which are given to employees during inspections.

#### Ensuring Employees Access to Health and Safety Information

KRS 338.161(2) and 803 KAR 2:060 require employers to post notices informing employees of the protections and obligations provided for them in the law, including the proper contact for assistance and information. Kentucky regulations also provide for the availability of copies of the law and all regulations through the Kentucky Labor Cabinet. Employers who have obtained copies of these materials are required to make them available to employees or their authorized employee representatives. Failure to comply with posting requirements and information sharing provisions are citable offenses which may carry penalties.

#### Ensuring Employee Access to Information on their Exposure to Toxic or Harmful Agents

Kentucky adopted 29 CFR 1910.1020, which assures employee access to information on exposure to toxic materials. Employers who fail to comply with these requirements are subject to citations and monetary penalties. In addition, Kentucky has an additional regulation, 803 KAR 2:062, entitled "Employers' Responsibility Where Employees are Exposed to Toxic Substances." This regulation requires employers to monitor areas of exposure to potentially toxic substances and to notify employees who have been or are being exposed to toxic materials. Monitoring records are to be maintained and made available to employees, former employees, or employee representatives.

In FY 2009, the Division of OSH Compliance conducted forty-two (42) inspections relating to Chromium VI, Air Contaminants, Lead, and Asbestos, resulting in sixty-four (64) violations with two (2) repeats, thirty-eight (38) serious, and twenty-four (24) non-serious. Penalties totaling \$90,225.00

were issued for the sixty-four (64) violations. Three (3) inspections regarding silica were conducted with fourteen (14) serious and five (5) non-serious violations issued with \$10,200.00 in initial penalties.

#### Coverage of Public Employees

KRS 338 “Occupational Safety and Health of Employees” establishes definitions for employer and employee which do not exclude public employers and public employees. The exclusions to KRS Chapter 338 cover only employees of the United States government and places of employment over which federal agencies other than OSHA have exercised statutory authority. In addition, written opinions of the Kentucky Office of the Attorney General support the Kentucky Labor Cabinet’s position that public employees are included in the Kentucky OSH Program’s jurisdiction. Therefore, Kentucky’s public employers and employees are subject to the same requirements, sanctions, and benefits Kentucky’s private sector employers and employees. Consequently Kentucky statutes, regulations, and policies make no distinction between public and private sector employers and employees. During FY 2009, the Division of OSH Compliance conducted fifty-five (55) inspections of public sector work sites, including programmed inspections and responses to public employee complaints. This calculates to four (4) percent of the total number of Division of OSH Compliance inspections.

Services offered by the Division of OSH Education and Training are available to state and local public agencies in the same manner and to the same degree as private employers.

#### Recordkeeping and Reporting

KRS Chapter 338.161 “Statistical records – Posting of notices” requires that employers keep, preserve, and make available to the Kentucky OSH Program and the Secretary of the U.S. Department of Labor or the Secretary of the U.S. Department of Health and Human Resources, records relating to occupational safety and health as may be prescribed by regulation. Kentucky promulgated a regulation, 803 KAR 2:180, which specifically addresses occupational injury and illness recordkeeping, as well as reporting of fatalities or multiple hospitalization accidents. Kentucky’s requirement is identical to

OSHA's rule. In addition, Kentucky's requirement requires employers to report any work-related incident resulting in the in-patient hospitalization of one (1) or two (2) employees. The reporting requirement is limited to hospitalizations that occur within seventy-two (72) hours of the incident. Employers are also required to report any amputation suffered by an employee from any work-related incident. Hospitalizations of one (1) or two (2) employees and amputations must be reported to the Kentucky OSH Program within seventy-two (72) hours after the employer, his agent, or another employee is informed of such a condition.

The Division of OSH Compliance has implemented an inspection scheduling system to prioritize reported accidents and amputations. This allows compliance resources to be focused on serious hazards in the workplace. In addition, the Division of OSH Compliance is collecting information obtained from the reported accidents that will help identify specific industry sectors where serious accidents are currently occurring in the workplace. In FY 2009, the Division of OSH Compliance received 153 hospitalization reports. Seventeen (17) inspections were conducted with ten (10) serious and three (3) other-than-serious violations issued for a total penalty of \$20,625.00. Fifty (50) amputations were reported in FY 2009. Eighteen (18) inspections were conducted with one (1) repeat serious, twelve (12) serious, and four (4) other-than-serious violations issued for a total penalty of \$40,700.00.

#### Education, Training, and Consultation Services

The Kentucky General Assembly, in enacting the Commonwealth's occupational safety and health laws, clearly expressed in its Statement of Purpose and Policy, found at KRS 338.011, that the means of preventing workplace injuries and illnesses were to include education, training, and consultation services. The Legislature created a Division of Education and Training for Occupational Safety and Health to help serve this purpose.

Since 1973, the Division of OSH Education and Training has offered a full range of services, including cost-free on-site consultation, technical assistance, training programs, and publications.

The division also has a full range of partnership and recognition programs including:

1. The Kentucky VPP which is similar to OSHA's VPP.
2. The SPP offers long term assistance to smaller employers who have a history of high injury/illness rates and high workers' compensation costs.
3. The CPP focuses specifically on partnering with contractors and builders to address the unique issues of the construction industry.
4. The Kentucky SHARP mirrors the federal SHARP by encouraging small high hazard employers to operate exemplary safety and health management systems.
5. The Governor's Safety and Health Award Program recognizes employers who have reached certain milestones without a lost work time injury or illness.

Thus, the Kentucky OSH Program, through the Division of OSH Education and Training, offers a full range of education, training, and consultation services to employers and employees in the Commonwealth.

### **SECTION III NOTEWORTHY ACCOMPLISHMENTS**

Many daily activities of the Kentucky OSH Program resulted in accomplishments which were not easily measured. The impact of the on-site presence of OSH personnel; the hazards identified and corrected through inspection or consultation; and the injuries, illnesses and fatalities that were prevented, while critically important, are ones that do not easily lend themselves to be singularly classified as outstanding accomplishments. Nevertheless, the day-to-day efforts of Kentucky OSH field and office personnel should not go unrecognized. During FY 2009, there were events, activities, and results that warrant attention as outstanding accomplishments.

#### Voluntary Compliance Program

Kentucky's VPP program recognizes employers who have reached a level of excellence in their safety and health programs and removes them from programmed inspection lists. Detailed reviews of records and written programs, as well as intensive onsite surveys of worksite operations, assure that only companies that have a strong commitment to workplace safety and health and institutionalized safety and health management systems in place, as well as proven success maintaining a safe and healthful workplace, qualify for Kentucky's highest achievement recognition.

#### Strategic Partnership

The Division of OSH Education and Training formed a strategic partnership with ready mix concrete companies effective April 1, 2007 through April 1, 2010, having three (3) different levels (Red, White, and Blue) of achievement regarding safety along with specific requirements and incentives for each level. The Kentucky OSH Program will help train the trainers of these companies who will then train the employees. This partnership should continue over many years

as goals are met and revised with accident and illness rates being monitored as a measure of successful performance. Ready mix concrete companies participating include:

Advances Ready Mix	3 plants
Concrete Materials, LLC	3 plants
Ernst Concrete	2 plants
Federal Materials Corp.	6 plants
Irving Materials Inc.	46 plants
Kentucky Concrete, Inc.	5 plants
Moraine Materials Co.	2 plants
Pearce Ready Mix Concrete	3 plants
Reis Concrete Products	2 plants
The Wells Group, LLC	<u>16 plants</u>
Total:	88 plants

#### Construction Partnership Program

The Division of OSH Education and Training continues to focus on the construction industry by promoting a CPP maintaining Association-Based Partnerships, Training-Based Partnerships and Site-Based Partnerships. Kentucky continues promoting VPPC which enables employers in the construction industry to participate in the state's premiere construction OSH recognition program. The overall objective of VPPC is to reduce injuries, illnesses, and fatalities in the construction industry through increased construction employer participation.

#### Construction Compliance Inspections

The Division of OSH Compliance remained focused on fall protection and it was the top construction standard cited in Kentucky during FY 2009. In FY 2009, Kentucky cited 29 CFR 1926.501, duty to have fall protection, 182 times with total proposed penalties of \$320,550.00. The second most cited construction standard cited was 29 CFR 1926.451 which is general requirements for scaffolding. This standard contains fall protection requirements for scaffolding and was cited eighty-one (81) times with penalties totaling \$354,925.00. The sixth most cited construction standard was 29 CFR 1926.453 which contains fall protection requirements while in

aerial lifts. This standard was cited twenty-four (24) times with penalties totaling \$33,208.00. The eleventh most cited standard construction standard for FY 2009 was 29 CFR 1926.760 which is fall protection in steel erection. This standard was cited seventeen (17) times with penalties totaling \$23,875.00. Fall protection-related violations were issued 304 times with penalties totaling \$732,558.00. At the time this report was generated, three (3) casefiles were in the Office of General Counsel awaiting review for issuance of willful serious fall protection violations.

During FY 2009, Kentucky conducted a total of 645 construction inspections as identified by OSH-1 SIC codes. The Division of OSH Compliance conducted 145 construction inspections in SICs starting with 15, 34 in SICs starting with 16, and 466 in SICs starting with 17. Kentucky has continued its commitment to construction activities by conducting fifty-two (52) percent of all FY 2009 inspections conducted within the construction industry sector.

As reported in prior annual reports, the Division of OSH Compliance has implemented the construction scheduling system provided by the University of Tennessee, with excellent results. A state budget shortfall compels the Division of OSH Compliance to maintain present staffing levels. In spite of economic challenges, the Division of OSH Compliance continued an emphasis on construction. From the 606 construction inspections conducted in FY 2009, the Division of OSH Compliance identified 613 hazards.

In conjunction with a compliance emphasis program, Kentucky's fall protection regulation, 803 KAR 2:412, specifically addresses residential construction. The regulation, which became effective on January 6, 2006, defines residential construction in Kentucky as construction work on a stand alone single family dwelling, duplex, three-plex, or four-plex structure. Employees engaged in residential construction activities working ten (10) feet or more above a lower level who are exposed to unprotected sides and edges, leading edges, hoist areas,

form work and reinforcing steel, or are engaged in roofing work on roof slopes three (3) in twelve (12) or less, must be protected by guardrail systems, safety net systems, personal fall arrest systems, or a specific alternative measure established in the regulation. In FY 2009, the Division of Compliance conducted eighty (80) inspections in residential construction and issued 134 violations. The majority of the violations concerned lack of fall protection, 29 CFR 1926.501, and unsafe scaffolds, 29 CFR 1926.451.

Of the 613 construction hazards identified in FY 2009, the majority were serious violations, demonstrating a focus where serious hazards exist. The Division of OSH Compliance issued \$1,018,540 in total construction penalties for 613 violations in FY 2009.

#### Compliance Emphasis on Serious Hazards

The Division of OSH Compliance maintains an emphasis on addressing serious hazards. Imminent dangers receive the highest priority. Referral and complaint hazards are evaluated using the same criteria. The Division of OSH Compliance issued 941 serious violations in FY 2009 with penalties totaling \$1,214,914.00. Additionally, twenty (20) willful violations and some of the thirty-five (35) repeat violations were also classified as serious. At the time of submission of this report, three (3) reports were in the Office of General Counsel under evaluation for one (1) willful serious each and four (4) serious violations each.

#### Combustible Dust

The Division of OSH Compliance continued focusing on the hazards of combustible dust in the workplace. The Division performed two (2) inspections related to combustible dust in FY 2009. In August 2009, Kentucky brought the OSHA Training Institute combustible dust course to the Bluegrass State.

The Kentucky Labor Cabinet entered into an Interagency Agreement in 2005 with the Office of Housing, Building and Construction, Division of Fire Prevention (State Fire Marshall).

Under the agreement, during the inspection of industrial facilities by the State Fire Marshall in which the potential for combustible dust hazards may exist, the State Fire Marshall will inform management of education and technical assistance services which are available from the Kentucky OSH's Division of Education and Training. If there are safety and health issues, the State Fire Marshall will make a referral to the Division of OSH Compliance.

If the Kentucky OSH program becomes aware of the existence of fire and safety issues, it will notify the State Fire Marshall. Both the State Fire Marshall and the Division of OSH Compliance will cooperate in the investigation of all fires and explosions involving combustible dust.

The Kentucky Labor Cabinet and State Fire Marshall are cooperating in identifying facilities and are conducting investigations jointly, when possible, where combustible dust hazards exist.

In August 2009, Kentucky hosted the OTI combustible dust course for employees. Approximately fifty (50) staff members from the Division of OSH Compliance and the Division of OSH Education and Training attended the training.

#### Notification of Asbestos Abatement/Demolition/Renovation or 10-Day Notice

The Division of OSH Compliance entered into an agreement with the Division of Air Quality in the Department for Environmental Protection of the Energy and Environment Cabinet in which the Division of OSH Compliance will be alerted of any or all asbestos removals conducted in the Commonwealth. Employers are required to notify the Division of Air Quality ten (10) days in advance of any job involving asbestos removal.

#### Occupational Poison Alerts

The Division of OSH Compliance receives notices of injuries involving occupational-related toxins and poisons from The Kentucky Regional Poison Center of Kosair Children's

Hospital. These notices have made the Division of OSH Compliance aware of events that might have otherwise overlooked. Many have resulted in citations and penalties. This informal arrangement and notice provides a mechanism to protect employees from future exposures.

### Professional Development

All managers in the Division of OSH Education and Training received formal leadership training. A training career development plan has been prepared for the Division of OSH Education and Training which includes a curriculum for entry level employees. During FY 2009, the Division of OSH Education and Training maintained two (2) dual CIH/CSP certified employees, three (3) CSP certified employees, one certified (1) ASP employee, two (2) CIH certified employees, and two (2) OHST certified employees.

During FY 2009, five (5) Division of OSH Compliance employees took the OSHA 30-Hour general industry course, three (3) took the OSHA 10-Hour general industry course, and six (6) took the OSHA 10-Hour construction course.

The Division of OSH Compliance follows OSHA's 2008 TED 01-00-018, the Training Program for OSHA Compliance Personnel. The Division of OSH Education and Training utilizes TED 01-00-018 as guidance for new employees. The Division of OSH Compliance remains committed to developing and maintaining an experienced, diverse staff and continues to encourage professional development and professional certification, such as the CSP and CIH. In addition, since the development of the Compliance CSP/OHST/CHST position, a number of compliance officers have attained certification and more are in the process. During FY 2009, the Division of Compliance maintained three (3) OHST-certified employees and two (2) were certified. One (1) CHST certified employee was also maintained. Two (2) compliance officers achieved the CSP designation and another has been approved to sit for the CSP exam. One (1) safety compliance officer completed the CSP preparatory workshop in FY 2009. One (1)

Division of Compliance safety supervisor is a Certified Public Manager and the Health Program Manager is a Certified Fundamentals Manager.

The Division of OSH Compliance continues to send employees to the OSHA Training Institute for training as well as hosting safety and health training in Kentucky. Additionally, the Division of Compliance is paying for four (4) compliance officers to attend graduate school at Eastern Kentucky University. All four (4) are seeking Masters of Science in Safety, Security, and Emergency Management while a fifth compliance officer received his Master of Science in Industrial Technology in December 2009.

The Kentucky OSH Program will continue to encourage employees to attain high levels of professional development in FY 2010 by providing all necessary training. In addition, incentives will be put in place to retain existing certified staff as well as to encourage non-certified staff to achieve certification, and to attract certified professionals from outside of the Kentucky OSH Program.

The Division of OSH Compliance was served notice on April 9, 2009, of a CASPA filed against it regarding the abatement it accepted to settle a UPS case in Louisville. The division filed its response with OSHA on August 7, 2009. As of the filing of this report, a response from OSHA has not been received.

#### Focused OSH Public Speaking / Presentations

In addition to the numerous presentations performed in FY 2009 by the Division of OSH Education and Training, the Kentucky OSH Program continues to serve as a resource for associations, employers, organizations, etc. requesting specialized and insightful speakers addressing various OSH-related topics. The Director of the Division of OSH Compliance and Counsel for the Kentucky OSH Review Commission presented at *Kentucky's 25<sup>th</sup> Annual Governor's Safety and Health Conference and Exposition* informing employers of inspection

procedures and their obligations and rights during and following the inspection. The Directors of the Division of OSH Compliance and the Division of OSH Education and Training, the Federal-State Coordinator, and Safety Standards Specialists also participated at the same event in a panel discussion regarding Labor Cabinet issues.

The Director and a Safety Supervisor from the Division of OSH Compliance presented at the first Associated General Contractors Annual Construction Day Conference informing employers of construction-specific inspection procedures and addressing employer/employee relationship issues.

Attendance and positive feedback demonstrate that Kentucky OSH Program staff participation at such events is beneficial for the Labor Cabinet, employers, and employees.

#### Standards Interpretation and Development

The Office of Standards Interpretation and Development staff worked many hours with other Federal, State, and local agencies regarding the HINI flu crisis.

The Health Standards Specialist provided approximately 156 written OSH interpretations. The Health Standards Specialist is pursuing CIH certification in 2010. The Safety Standards Specialist provided approximately 234 written OSH interpretations. Additionally, hundreds of telephone inquiries were responded to in FY 2009 by both standards specialists. Promulgation of several regulations, which affected more than twenty-two (22) KARs, was overseen by the specialists on behalf of the Kentucky OSH Standards Board and the Labor Cabinet.

#### National Conference and Exposition Support

At the request of OSHA, the Kentucky OSH Program represented OSHA at the October 2009 National iP-ICUEE Conference and Exposition in Louisville. There were approximately 20,000 conference participants and approximately 950 booths. Standards Specialists from the Cabinet staffed a booth over a three (3) day period where they responded to participants'

questions and distributed OSH material provided by OSHA and the Cabinet. Additionally, the Safety Standards Specialist was a guest at a workshop session concerning changes to the 2009 edition of ANSI A92.2-2001, Vehicle-Mounted Elevating and Rotating Aerial Devices. It proved to be a good exposure event for OSHA and the Cabinet with such a large number of people present.

At the request of OSHA, the Kentucky OSH Program also represented OSHA at the October 2009 national Planet GIE+EXPO (conference and exposition) in Louisville. Like the aforementioned iP-ICUEE event, there were several thousand conference participants at Planet GIE+EXPO. Standards Specialists and the Federal-State Coordinator staffed a booth over a three (3) day period where they responded to participants' questions and distributed OSH material provided by OSHA and the Cabinet. The Federal-State Coordinator also represented OSHA at the daily "Breakfast of Champions" events and in a panel session entitled "The Bottom Line Impact of Safety's Best Practices."

#### KYOSH IMPACT

The Labor Cabinet's OSH Program will be on the road in 2010 with a new incident response-outreach vehicle. The Incident Mobile Post and Consultation Training vehicle, dubbed KYOSH IMPACT, is a Class A state of the art multi-purpose motor coach specifically constructed to support the Division of OSH Compliance and the Division of OSH Education and Training. KYOSH IMPACT is equipped with satellite service, surveillance equipment, internal and external monitors, workstations, and a host of other devices that will serve the Kentucky OSH Program, employers, and employees throughout the Commonwealth. An incident response-outreach vehicle has been a long range goal of the Cabinet and was made possible in 2009 through a one-time award.

As the name indicates, KYOSH IMPACT will be deployed in response to occupational safety and health incidents and to support specialized strategic enforcement efforts. KYOSH IMPACT will also be utilized by the Division of OSH Education and Training for outreach to traditional and non-traditional Labor Cabinet partners. Since IMPACT provides a means for outreach to populations the Cabinet might not otherwise reach, Kentucky expects to utilize it at a wide variety of venues throughout the Commonwealth.

