

**Michigan**

**FY2009 Enhanced FAME Report - Final Corrective Action Plan Summary Sheet**

#	Findings	Recommendation	State Response / Corrective Action	Interim Steps with Due Dates	Documentation Required with Due Dates	Outcome Measure	Completion Date	Status (to be tracked and updated by Region)
1	MIOSHA did not enter abatement verification into IMIS System. Instead it is entered into an Excel spreadsheet. (pages 14-15, 24-26, and 29-30)	MIOSHA should enter abatement verification into the IMIS system as this is a Mandated Measure	The federal EFAME determined that the Excel spreadsheet used by MIOSHA to track abatement is monitored closely and ensures abatement documentation is received. The report stated that ". . . while this system is different from OSHA's, it appears to be an effective tracking tool." Entering abatement verification information into the IMIS would be redundant and reduce efficiency.	The information is also entered into the case file notes. IMIS will be replaced by OIS in the near future. MIOSHA will begin entering abatement information in the new OIS system when it is implemented which is anticipated to be in February 2011	SAMM report showing abatement entered	MIOSHA will enter abatement information into OIS.	Feb-2011 (estimate)	Ongoing Subject to further Federal monitoring.
2	MIOSHA penalty calculation policy has resulted in low average penalty assessments. MIOSHA's initial penalty, per serious violation, is \$692.37, which is below the national reference data by 51.9%. (pages 14-15)	MIOSHA should follow their penalty calculation policy.	MIOSHA's initial penalty, per serious violation, is 51.9% of the national reference data which is actually 48.1% below the national data. In April and June of 2010, MIOSHA issued a revised FOM which adopts penalty assessment policy established by Federal OSHA. Such changes include size reduction based on the number of employees nationwide and adoption of the OSHA policy for assessing penalties for willful violations. Staff has been trained on these procedures. MIOSHA is already seeing penalties increase. MIOSHA provides staff training on hazard classification, gravity assessment and penalty calculation on an ongoing basis. Ongoing training and policy review is occurring and anticipated to continue through FY 2011.	June of 2010, MIOSHA issued a revised FOM which adopts penalty assessment policy established by Federal OSHA. Such changes include size reduction based on the number of employees nationwide and adoption of the OSHA policy for assessing penalties for willful violations. Staff has been trained on these procedures. MIOSHA is already seeing penalties increase. MIOSHA provides staff training on hazard classification, gravity assessment and penalty calculation on an ongoing basis. Ongoing training and policy review is occurring and anticipated to continue through FY 2011. The Construction Safety and Health Division has tentatively scheduled training meetings for April and August 2011. The General Industry Safety and Health Division has tentatively scheduled training meetings in April and July/August 2011. All training will be completed by September 30, 2011.	Region V is currently working with MIOSHA and DCSP on acceptable documentation for this item and will resolve by December 17, 2010	MIOSHA will ensure penalty increases in line with national reference data.	Aug-2011	Ongoing. Pending formal direction from OSHA on revised Federal penalty policy implementation.

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3	The complaint files, formal and nonformal, did not include a mechanism to track actions taken while handling the file. (pages 15-17)	Ensure a tracking mechanism, such as a Diary Sheet, is put in place and used effectively.	Although MIOSHA does not use a Diary Sheet, tracking mechanisms and procedures are in place to capture the case file information to create a chronology if needed.	In response to this recommendation MIOSHA will pilot the use of a diary sheet with one group from each enforcement division. The pilot will run from June 2011 through December 2011. The results of the pilot will be reviewed to determine whether use of a diary sheet has enhanced case file documentation and should be implemented agency-wide.	Region V will need a copy of the policy change.	MIOSHA will have the ability to effectively track actions taken while handling case files.	Dec-2011	Ongoing. Subject to further Federal monitoring. MIOSHA will submit documentation on its final policy on this issue.
4	MIOSHA did not always follow their policy and procedure manual. In one case, a complaint inspection was not conducted at a facility employing less than 10 employees. (pages 15-17)	Provide refresher inspection training to include small employer exemptions/nonexemptions.	This finding refers to a specific isolated incident, which has been addressed. MIOSHA does follow the policy. Only one case did not follow procedure, the error was caught by MIOSHA, and an inspection was conducted prior to the audit.	The employee involved was given refresher training. The policy was reviewed at the October 7, 2010, General Industry Safety and Health Division Supervisor/Manager Meeting.	Action complete, Region V will need documentation of training.	All employees are aware and trained on OSHA policy and procedures.	Oct-2010	Subject to further Federal monitoring
5	MIOSHA maintained the initial letters to the next of kin in a separate binder. (pages 17-18)	MIOSHA should maintain the next of kin letters in the case file.	MIOSHA now includes a copy of the initial letter to the next of kin in the case file.	MIOSHA now includes a copy of the initial letter to the next of kin in the case file.	Action complete, no further action required.	MIOSHA includes a copy of initial letter to next of kin in the case file.	Nov-2010	Subject to further Federal monitoring

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6	While MIOSHA recognized hazards and issued citations, not all of the hazards were appropriately classified per their FOM. (pages 18-23)	Ensure all staff is retrained on hazard classification and penalty assessment guidelines. Training will be provided in April 2011 and throughout FY 2011.	Although MIOSHA provides staff training on hazard classification, gravity assessment, and penalty calculation on an ongoing basis, staff will be retrained on hazard classification and penalty assessment guidelines.	Although MIOSHA provides staff training on hazard classification, gravity assessment, and penalty calculation on an ongoing basis, staff will be retrained on hazard classification and penalty assessment guidelines. MIOSHA provides staff training on hazard classification, gravity assessment and penalty calculation on an ongoing basis. Training and policy review is occurring and will continue as a part of enforcement division training meetings in FY 2011. The Construction Safety and Health Division has tentatively scheduled training meetings for April and August 2011. The General Industry Safety and Health Division has tentatively scheduled training meetings in April and July/August 2011. All training will be completed by September 30, 2011.	Region V will need a copy of the training documentation.	MIOSHA staff will be fully trained on hazard classification and penalty assessment guidelines.	Sep-2011	Ongoing. Subject to further Federal monitoring
7	Documentation was not found in the file that copies of citations and/or ISAs were sent to the unions. (pages 23-24)	Ensure that all inspection actions are documented and included in the case file.	MIOSHA provides copies of citations and/or ISAs to union representatives when requested. To ensure employee participation during inspections, the MIOASH Act mandates walk-around pay for employee representatives. These activities are documented on the Inspection Guideline sheet that becomes part of the case file. We also attempt to contact union representation to discuss an ISA before expediting. Because of time limitations, we do not delay the process. MIOSHA provides significant opportunities for employees and their representatives to participate in all aspects of our inspections.	Supervisors and staff processing ISA have been reinstructed on the need to contact union representatives and document contact in the case file. Additional monitoring to ensure efforts to contact union representatives is part of the ISA process will continue throughout FY 2011.	Region V will need a copy of the training documentation	MIOSHA will ensure contact and documentation of interaction with union representatives.	Aug-2011	Ongoing. Subject to further Federal monitoring

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8	While MIOSHA had a hazard classification and penalty assessment system that was similar to Federal OSHA, they did not follow it in all cases. Hazard classification did not follow the guidelines established in MIOSHA's FOM. Penalty assessment, severity/probability and adjustment factors did not follow established MIOSHA guidance documents in all cases. (pages 24-26)	Ensure all staff is retrained on hazard classification and penalty assessment guidelines.	See Actions for Findings 2 and 6 above.	Staff is being retrained. See Interim steps for Finding 2 and 6 above.	Region V will need a copy of the training documentation	MIOSHA will follow hazard classification and penalty assessment as defined in MIOSHA's FOM.	Aug-2011	Ongoing. Subject to further Federal monitoring
9	There was a lack of documentation that noted that the employee or employee representative had been contacted regarding the final Informal Settlement Agreement. (pages 27-29)	MIOSHA should note within the case file when an employee or employee representative has been contacted	MIOSHA follows the guidelines provided in the FOM. Copies of citations and ISAs are sent to unions when requested. See Action for Finding 7 above.	See Interim steps for finding 7 above.	Region V will need a copy of the training documentation	MIOSHA notes within the case file when an employee or employee representative has been contacted.	Nov-2010	Ongoing. Subject to further Federal monitoring
10	There was no documentation to support or explain why changes were made to the violations and penalties in some case files. (pages 27-29)	Changes that are made to violations and penalties through the first appeal level should be documented in the case file.	MIOSHA will review our process for ensuring that changes to citations made in the first-level appeal process are appropriately documented in the case file. Review will be completed and changes implemented by March 31, 2011.	Review will be completed and changes implemented by March 31, 2011	Region V will need a copy of the training documentation	MIOSHA will ensure that changes to citations made in the first-level appeal process are appropriately documented in the case file.	Mar 31-2011	Ongoing. Subject to further Federal monitoring

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11	While MIOSHA had a hazard classification and penalty assessment system that was similar to Federal OSHA, they did not follow it in some case files. Hazard classification did not follow the guidelines established in MIOSHA's FOM. Penalty assessment, severity/probability and adjustment factors did not follow established MIOSHA guidance documents in some case files. (page 29)	Ensure all staff is retrained on hazard classification and penalty assessment guidelines.	See Actions for Findings 2 and 6 above	See Interim steps for findings 2 and 6 above. The employees involved are being given refresher training.	Region V will need a copy of the training documentation	Hazard classification and penalty assessment will follow the guidelines established in MIOSHA's FOM.	Sep-2011	Ongoing. Subject to further Federal monitoring
12	MIOSHA does not use IMIS management reports. (pages 29-30)	To prevent duplicative work, MIOSHA should use IMIS management reports.	MIOSHA does use certain IMIS reports routinely. However retrieving some data from the IMIS system can be cumbersome and takes more time when it is needed quickly. MIOSHA uses an equivalent tracking system to IMIS that is readily available and accessible on a daily basis.	Regarding entering abatement information, MIOSHA will begin entering abatement information when the OIS data system is implemented which is anticipated to be February 2011.	Region V monitoring office will track progress during quarterly meetings.	MIOSHA will enter abatement information into OSHA OIS to avoid duplicative work.	2/1/2011 (estimate)	Ongoing. Subject to further Federal monitoring
13	Review of the cases revealed that MIOSHA's Employee Discrimination Section has adopted their own forms, letters, and Final Investigative Report (FIR) rather than using the forms provided by the OSHA Whistleblower Program. Case file organization does not follow DIS 0-0.9. However, the outcomes of the cases reviewed were appropriate. (pages 35-39)	Follow DIS 0-0.9 to ensure consistency with case file organization and contents, including forms, letters and Final Investigative Reports (FIRs).	Although the EFAME indicates that our current forms and process are adequate, we will review DIS 0-0.9 for possible improvements to our process and forms. The EFAME indicated ". . . the outcome of the cases reviewed were appropriate." MIOSHA will compare current forms, letters and Final Investigative Reports (FIRs) to see whether any changes to existing documents are needed by the end of FY 2011.	MIOSHA will compare current forms, letters and Final Investigative Reports (FIRs) to see whether any changes to existing documents are needed by the end of FY 2011. Due to the impending retirement of the program manager and the recruitment and training that will be needed to replace the position, we anticipate needed action to be completed by September 30, 2011.	Submit to Region V copies of findings from the review process.	DIS 0-0.9 will -be utilized for possible improvements to process and forms. There will be consistency within case file organization and contents.	Sep 30-2011	Ongoing. Subject to further Federal monitoring. MIOSHA will submit revised discrimination procedures for Regional review.

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14	While MIOSHA has improved in timely completion of 11(c) investigations, they completed only 68% in 90 days. (pages 35-39)	MIOSHA should continue to improve case management to ensure completion of all cases in a timely manner	MIOSHA has made significant improvements in timeliness and continues to work on improving efficiency. Efforts to improve timeliness are ongoing.	One senior safety officer as been reassigned to the Employee Discrimination Division to assist in conducting discrimination investigations. Changes were also made in the initial letter to the complainant to assign a specific investigator and provide direct contact information. Changes have also been made in how requests for additional information and statements from complainants are handled. Investigators now meet with complainants in person to take statements whenever possible. Complainants are provided deadlines for submitting responses. The section manager uses the IMIS tracking to monitor cases, track responses and follow-up with investigators on a monthly basis.	Action complete, no further action required.	MIOSHA implemented significant improvements to 11(c) process flow for timeliness and efficiency of case management.	Nov-2010	Subject to further Federal monitoring
15	MIOSHA's current policy recognizes the need to obtain medical information during VPP evaluations. However, it did not include procedures for obtaining a WAO. (pages 39-40)	Continue revision to VPPPPM that will address WAO order procedures. Train staff on procedures and ensure WAOs are obtained.	Revisions have been made to the MVPP Policy and Procedure Manual. All Consultation Education and Training Division staff involved in evaluations will be re-trained on this instruction and its application to MVPP evaluations. Training will occur by the end of June 2011.	All Consultation Education and Training Division staff involved in evaluations will be re-trained on this instruction and its application to MVPP evaluations. Training will occur by the end of June 2011.	Region V will need a copy of the training documentation.	Staff will be trained on MVPP procedures and ensure WAOs are obtained.	Jun-2011	Ongoing. Subject to further Federal monitoring. MIOSHA will submit documentation on policy changes for Regional review.

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16	In 35% of the MVPP files, it was noted that the MVPP team observed an excessively high number of 90 day items. (pages 39-40)	Review with the MVPP Team Leader the need to assess those sites with a high number of 90 day items to ensure that all MVPP principles are in place.	This finding has been reviewed with the MVPP Managers and MVPP Specialist. A new policy has been implemented for companies that receive a large number of hazards during an MVPP evaluation. . Action completed, no further action required.	A new policy has been implemented for companies that receive a large number of hazards during an MVPP evaluation. Action completed, no further action required. The policy requires that team members document all hazards and when feasible, require hazards be corrected immediately. As part of the initial walk-through, if an excessive number of hazards are identified, the MVPP Manager will be contacted for further discussion on how to ensure timely correction. This policy change was reviewed with the MVPP Specialist who oversees each MVPP team to ensure immediate implementation. Additional training for all CET consultation staff who may participate in an MVPP audit team will be contacted on December 8, 2010.	Action complete, no further action required.	A new policy is in force for companies that receive a large number of hazards during an MVPP evaluation.	Nov-2010	Subject to further Federal monitoring. MIOSHA will submit documentation of policy change for Regional review.
17	Approval letters to the unions, as appropriate, were not consistently sent in all cases. (pages 39-40)	Provide refresher training to ensure that approval letters are sent to the union as appropriate and a copy is included in the file.	MVPP Managers and staff support staff have been instructed to include the union contact on MVPP approval letters. Since this report, all approval letters have been sent to unions. Action completed, no further action is required.	Since this report, all approval letters have been sent to unions. Action completed, no further action is required.	Action completed, no further action is required.	All MVPP approval letters are now sent to unions.	Nov-2010	Completed

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18	<p>MIOSHA's staffing levels are below the currently approved benchmarks. MIOSHA has considered recalculation to lower its benchmark levels as part of the SIEP in each of the past three years. (pages 41-42)</p>	<p>The State should continue to work with OSHA, regarding benchmarks, and continue to increase staffing levels to the extent feasible.</p>	<p>The current benchmarks were established approximately 20 years ago and the industry mix in Michigan has dramatically changed since that time.</p>	<p>The Michigan State Plan does not have final approval status and, therefore, is not required to meet its compliance staffing benchmarks. Benchmark revision will be undertaken at such time as final approval status is sought.</p>	<p>Region V monitoring office will track progress during quarterly meetings.</p>		<p>Pending</p>	<p>Pending further discussion. (OSHA recognizes that current State budgetary situations may affect the number of allocated compliance staff positions. This will need to be considered as part of any decision to seek final approval status and revise Michigan benchmarks.)</p>