

Comprehensive FY 2015 Federal Annual Monitoring and Evaluation (FAME) Report

State of Indiana

Indiana Department of Labor
Indiana Occupational Safety and Health Administration



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Contents

| | | |
|-------------|--|----|
| I. | Executive Summary | 3 |
| A. | State Plan Activities, Trends, and Progress..... | 3 |
| B. | State Plan Introduction..... | 5 |
| C. | Data and Methodology..... | 5 |
| D. | Findings and Observations..... | 6 |
| II. | Major New Issues | 6 |
| III. | Assessment of State Plan Performance | 7 |
| A. | State Plan Administration..... | 7 |
| B. | Enforcement..... | 9 |
| C. | Review Procedures..... | 19 |
| D. | Standards and Federal Program Changes (FPCs) Adoption..... | 20 |
| E. | Variances..... | 22 |
| F. | State and Local Government Worker Program..... | 22 |
| G. | Workplace Retaliation Program..... | 22 |
| H. | Complaint About State Program Administration (CASPA)..... | 26 |
| I. | Voluntary Compliance Program..... | 26 |
| J. | State and Local Government Sector 23(g) Consultation Program..... | 27 |
| IV. | Assessment of State Plan Progress in Achieving Annual Performance Goals | 27 |
| V. | Other Special Measures of Effectiveness and Areas of Note | 30 |

Appendices

| | |
|--|-----|
| Appendix A – New and Continued Findings and Recommendations..... | A-1 |
| Appendix B – Observations Subject to New and Continued Monitoring..... | B-1 |
| Appendix C – Status of FY 2014 Findings and Recommendations..... | C-1 |
| Appendix D – FY 2015 State Activity Mandated Measures (SAMM) | D-1 |

I. Executive Summary

A. State Plan Activities, Trends, and Progress

The purpose of this comprehensive Federal Annual Monitoring Evaluation (FAME) report is to assess the Indiana Occupational Safety and Health Administration's (IOSHA) progress towards achieving performance goals established in their fiscal year (FY) 2015 annual performance plan, to review the effectiveness of programmatic areas related to enforcement activities including a summary of an on-site evaluation, and to describe corrections made by IOSHA in response to the FY 2014 Follow-up FAME report findings and recommendations. This report fully assesses the current performance of the Indiana Department of Labor (IOSHA) 23(g) compliance program and compares IOSHA's plan effectiveness to OSHA.

A thorough assessment of IOSHA's progress in achieving their annual performance goals has been conducted. A five person OSHA team was assembled to accomplish the evaluation onsite at IOSHA's office in Indianapolis, Indiana, beginning on January 11, 2016. The OSHA team's evaluation consisted of case file reviews and interviews of IOSHA staff.

The IOSHA Five-Year Strategic Plan (2013-2017) identified six fundamental goals to reduce workplace injuries in Indiana. These included: reduce non-fatal occupational injury and illness rate in the healthcare industry; reduce non-fatal occupational injury and illness rate in the manufacturing industry; reduce non-fatal occupational injury and illness rate in the construction industry; conduct outreach including speeches, resource tools and materials to stakeholders; strengthen the cooperative programs, including the Voluntary Protection Program (VPP), Partnerships and Alliances, Indiana Safety and Health Achievement Recognition Program (SHARP)); and ensure IOSHA Compliance Safety and Health Officers (CSHO) are provided professional growth opportunities.

During FY 2015 IOSHA was less than successful in achieving five of their six established performance goals. These performance goals focus on reducing the number of injuries and illnesses in healthcare, manufacturing and construction through enforcement, consultation, outreach, and marketing efforts. IOSHA's injury and illness rate for healthcare was decreased by 1.9%, which did not meet the established goal of 3%.

IOSHA was successful in strengthening the cooperative programs through growing their VPP, Alliances and Partnership programs. While IOSHA operates a robust and growing VPP, this is being accomplished by utilizing IOSHA's enforcement staff.

The struggle to achieve success with the projected inspection and the performance goals was significantly impacted by the continuing challenge IOSHA has with staff turnover. IOSHA had 33 CSHO positions filled during FY 2015, down from 43 in FY 2012. Besides the rapidly falling number of CSHOs, IOSHA had difficulties retaining staff members. Over the last three grant years, 51% of the personnel were either terminated, left for more money, had health problems or retired. IOSHA's need to constantly train

new staff, which when combined with overall agency inefficiency, contributed to their failure to meet their overall projected inspection goal of 1600 inspections. The program conducted 1,162 inspections, only 73% of the FY 2015 goal, although up from 56% of the established inspection goal in FY 2014.

A detailed explanation of the findings and recommendations of the Indiana OSHA performance evaluation is found in Section III, Assessment of State Plan Performance. A summary of all the findings and recommendations noted, as the result of OSHA's review, is found below and in Appendix A, New and Continued Findings and Recommendations.

Overall, IOSHA is a program plagued by consistently poor performance in a number of crucial areas. In addition to the strategic goals previously discussed, the FY 2015 FAME assessment identified several deficiencies and areas with opportunity for continued program performance improvement. For example, IOSHA's case files are not being documented properly; safety and health citation lapse time is elevated; complaints are not being processed properly; in compliance rate is significantly higher than the national average; informal conferences are not being fully documented; whistleblower cases are not documented accurately; and inspection targeting lists are not developed to address hazards in high hazard industries. Of particular note in the assessment are the following:

- Complaints and referrals are not being addressed. It was determined that not only are complaints not being addressed, but 42% of complaints randomly selected from those that were filed on www.osha.gov were not even entered into IOSHA's complaint database. IOSHA provided a referral audit log, which was composed primarily of employer reported amputations and hospitalizations. The log did not contain dates to indicate that action was taken to respond to numerous referrals.
- IOSHA also continues to have problems identifying hazards during inspections and gathering evidence to support the hazards that are identified. IOSHA failed to identify hazards in 8% of the files reviewed; and, in 17% of the files reviewed, IOSHA failed to gather adequate evidence to support the violations that were issued.
- IOSHA had 50 case files with overdue abatement. Despite clear guidance, assistance, and direction from the region, IOSHA failed to document that eight of 26 fatalities were responded to within one day.

Based on its long history of troublesome FAME report findings, IOSHA should continue focusing their attention on staff retention, supervisory oversight, and meeting the goals of their annual performance plan. In addition, IOSHA should focus on improving enforcement program measures such as targeting of inspections, abatement, citing serious hazards, complaints, timely responses to Federal Program Changes, and whistleblower investigations.

B. State Plan Introduction

The state of Indiana, under an agreement with federal OSHA, operates an occupational safety and health program in accordance with Section 18 of the Occupational Safety and Health Act of 1970. IOSHA's plan was initially approved on February 25, 1974 and certified on October 16, 1981. On September 26, 1986, IOSHA received final approval. The state plan designee is Rick Ruble, Commissioner of the Indiana Department of Labor. The manager of IOSHA's program is Tim Maley, Deputy Commissioner.

IOSHA has a total of 52.66 full time equivalent (FTE) employees under the grant agreement; IOSHA's staffing benchmark is 82.66 FTE employees. IOSHA also operates a 23(g) public sector and 21(d) private sector consultation program referred to as INSafe.

IOSHA typically adopts all safety and health standards and federal program changes with exceptions to the voluntary compliance programs, penalties and complaint procedures. Indiana state law, IC 22-8-1.1-17.5, does not allow IOSHA to be more stringent than federal OSHA. This is problematic since the overwhelming majority of the program is far less stringent as evidenced by the numerous findings in this report.

IOSHA has jurisdiction for public and private-sector employers with the exception of federal workers, maritime activities, United States Postal Service (USPS), and areas of exclusive federal jurisdiction. IOSHA's Whistleblower Protection Program administers only Section 11(c) of the Occupational Safety and Health Act.

Safety and health cases not resolved through the informal conference process are heard by the Indiana Board of Safety Review (BSR). The BSR is an independent administrative review board housed within the Indiana Department of Labor (IDOL) and governed by the Indiana Administrative Orders and Procedures Act (AOPA).

C. Data and Methodology

OSHA has established a two-year cycle for the FAME process. Since this is the comprehensive year, a review of the IOSHA workplace safety and health program was conducted onsite from January 11, 2016 to January 19, 2016.

Ninety-six inspection cases (28 health and 68 safety) and 22 complaint investigations were randomly selected for review. This selection included nine fatalities, 37 complaint inspections, 12 programmed planned or program-related, 25 referrals, seven follow-ups and six other inspections. Ten voluntary protection program (VPP) files were also reviewed. Twenty-five closed, docketed discrimination cases were reviewed and an assessment was made of the administratively closed cases.

During OSHA's case file review, it was determined that the dates many complaints (formal and non-formal) were received by IOSHA were not entered into the OSHA Express database accurately. Additional information was requested from IOSHA to further examine this. See the Complaint section of this report at III.B.

Compliance with legislative requirements regarding contact with families of fatality victims, training, and personnel retention was assessed. The review also included interviews with 12 of IOSHA's management and compliance staff.

D. Findings and Observations

The FY 2014 Follow-up FAME identified 23 findings and four observations. The FY 2015 case file review verified completion of 6 of the 23 findings and three of the four observations. Two of the findings have been converted to observations. A list of the observations is found in Appendix B, Observations Subject to New and Continued Monitoring. A list of the FY 2014 findings and recommendations and IOSHA's progress in addressing the findings is found in Appendix C, Status of FY 2014 Findings and Recommendations.

A summary of the new findings and recommendations noted, as a result of OSHA's evaluation for FY 2015 is found below and in Appendix A, New and Continued Findings and Recommendations. Additionally, there are three new observations related to complaints and referral processing.

Seven new findings were identified for the FY 2015 FAME. Two new findings note that post citation issuance procedures are deficient. Citations are vacated and/or reclassified without documentation as to the reasons, and citation penalties are amended without documenting the main issues during the informal conference process. The remaining new findings noted that designated CSHOs are not performing enforcement work; health files contain insufficient sampling information; penalties are not calculated properly; and, IOSHA has not developed a targeting system to identify companies for inspection under adopted National Emphasis Programs (NEP); nor have they trained employees on NEP procedures.

II. Major New Issues

IOSHA continues to struggle with enforcement of occupational safety and health regulations as evidenced by the number of new and continued findings and observations identified this year. As stated previously, the OSHA team found irregularities with dates entered into IOSHA's database (OSHA Express) for complaints and referrals received. Upon further investigation, it was noted that not only were dates being entered incorrectly, but the dates some complaints and referrals were received were not entered at all. These complaints and referrals were not processed, these hazards were not addressed and complainants did not receive acknowledgement of the receipt of their complaints.

Further, IOSHA failed to meet their overall projected inspection goal of 1600 inspections; the program conducted just 1,162 inspections, only 73% of the FY 2015 goal. This was up slightly from 56% of the established inspection goal in FY 2014.

III. Assessment of State Plan Performance

A. State Plan Administration

1. Training

During FY 2015, IOSHA estimates having spent \$150,000 on training, which includes the required core courses for new CSHOs at the OSHA Training Institute (OTI). The agency instituted the use of computer based training for hazard recognition and identification in general industry and construction. IOSHA employees took part in classes that included training on lockout/tagout, scaffolds, fall arrest systems, HAZWOPER, NFPA 70e, and Microsoft Office.

2. Funding

State and federal funds allocated to the IOSHA 23(g) program in the FY 2014 Grant was \$4,637,344 and no funds were de-obligated. In the FY 2015 Grant, the funds allocated were \$4,549,702 and no funds were de-obligated.

3. Staffing

Of the 82.66 full-time equivalent (FTE) allocated positions, IOSHA has filled 52.66 FTE positions (2016 Grant).

There are a total of 16 management and administrative positions:

- One deputy commissioner
- Two directors from industrial compliance and construction
- Six supervisors
- Four administrative staff
- One complaint intake clerk
- One attorney
- One vacant administrative law judge

There are 42 total positions classified as compliance safety and health officers:

- Six general industry compliance safety and health officers
- One vacant general industry compliance safety and health officer
- Ten construction compliance safety and health officers
- Three vacant construction compliance safety and health officers
- Two whistleblower investigators
- One abatement/training officer
- Fourteen industrial hygiene compliance safety and health officers
- Three VPP
- Two vacant industrial hygiene compliance safety and health officers

There are 36 total filled positions classified as CSHOs with six vacancies. Thirty CSHOs perform inspections and six have other primary duties (VPP, Whistleblower investigations and training/abatement).

According to the 2016 Grant, five of the 30 personnel whose primary duties are to perform inspections were new employees in FY 2015. Approximately 51% of IOSHA personnel were replaced in the most recent three year period. There were no furloughs or hiring freezes during FY 2014 and FY 2015.

OSHA's Federal Indianapolis Area Office continues to monitor staffing issues with the program and stresses the need for increasing staffing levels during quarterly meetings.

Finding 15-01 (14-20): Compliance staff levels are currently at 63 positions with only 36 positions filled.

Recommendation 15-01(14-20): Hire and fill current vacancies with qualified staff.

Finding 15-02: Compliance staff classified as safety and health officers (CSHOs) are performing non-enforcement duties.

Recommendation 15-02: Ensure staff classified as CSHOs are performing enforcement duties, allowing greater impact for safety and health coverage.

4. OSHA Information System (OIS)

IOSHA utilizes the OSHA Express system to manage their program and data. It provides IOSHA with real time information and data processing. Through July of FY 2015, data entered into OSHA Express was transmitted into OSHA's Integrated Management Information System (IMIS) database. Management reports equivalent to those available from IMIS are used by IOSHA management to track complaints, accidents, inspections, abatement and other issues. In August of 2015, OSHA Express began to interface with the OSHA Information System (OIS). Therefore, the majority of the data referenced in this report was extracted from IMIS. Appendix D, the FY 2015 State Activity Mandated Measures (SAMM) Report explains which system(s) captured the data for each of the measures.

While management stated they address issues in reports as appropriate, the use of these reports is limited with regard to complaints and referrals. There was no comprehensive method used to track the variety of ways incoming complaints are received. This is addressed below in the complaint section.

5. State Internal Evaluation Program (SIEP) Report

IOSHA uses a SIEP, which focuses on the following six areas of the program:

- Inspection activity

- Adequacy and timeliness of abatement
- Staffing, performance management, and training
- Board of Safety Review
- Discrimination program
- Quality metrics and statistics

The agency uses an audit plan for its internal evaluation plan with various metrics to be reviewed on annual, semiannual, quarterly and monthly basis. IOSHA has also developed audit interview questions, an inspection review sheet, and uses the federal OSHA area office audit checklist as a supplementary tool to assist with audit strategies as they develop and implement their SIEP.

B. Enforcement

During FY 2015, IOSHA conducted 1,162 inspections, 1,028 safety and 134 health (SAMM 7). This is 438 inspections short of their goal of 1,600 inspections. This is likely a direct consequence of the low number and continued turnover of staff. In FY 2015, IOSHA's average lapse time for safety inspections was 74.45 days and 109.6 days for health. These are above the national average lapse time of 42.78 days for safety inspections and more than double the national average lapse time of 53.48 for health.

The organization of inspection files has improved. IOSHA staff now uses a checklist for file order. Only six of the files reviewed were improperly organized.

Eleven files containing industrial hygiene sampling were reviewed. Letters to the employer with the sampling results were sent in all cases. Sampling equipment calibration was missing in one file. There were concerns in five other files which indicated that more attention needs to be paid to sampling protocol.

Sampling data in one file indicated an overexposure to metals during welding. Another set of sampling data was performed on another day and also found in the file. This second sampling showed no overexposure. There was no documentation in the file to indicate why this additional sampling was performed. The supervisor explained during the file review that the first sampling was performed incorrectly, as the filter was not placed under the welding helmet as required. Therefore, the sampling was repeated.

Carbon monoxide exposures were explained to be at 50 parts per million (ppm) as an 8-hour Time-Weighted Average (TWA) in a case file narrative. However, documentation in the file indicated direct reading instrument measurements peaked at 8 ppm.

Two files contained sampling data for carbon monoxide only for employee exposure to diesel exhaust. Diesel exhaust contains oxides of nitrogen in addition to carbon

monoxide and different engine designs can cause different exposure levels for these contaminants. Sampling for these contaminants should have been considered.

Two complaint inspection files reviewed alleged chemical overexposures. The CSHOs relied on the employers' sampling data in both cases rather than perform their own sampling. Sampling in these cases should have been performed by the CSHO for lead and asbestos.

Finding 15-03 (14-01): A total of 1,162 inspections (1,028 safety and 134 health) were conducted, falling below the projected inspection goal of 1,600 inspections.

Recommendation 15-03 (14-01): Effectively manage the enforcement division by hiring, training and retaining staff to ensure inspection goals are met.

Finding 15-04: Industrial hygiene case files did not contain adequate documentation to clearly demonstrate that employee exposures were below permissible limits to air contaminants where air monitoring was performed. Opportunities were not taken to perform employee exposure monitoring to document worker exposure to air contaminants alleged in complaints.

Recommendation 15-04: Follow the Industrial Hygiene (IH) Technical Manual to ensure proper sampling protocol. Ensure exposure monitoring is conducted to evaluate and document worker exposure to health hazards instead of relying on the employer's sampling data.

Finding 15-05 (14-02): The average lapse time to complete safety and health inspections was 74.45 and 109.6 days, respectively; this is almost double the national average of 42.78 days for safety and it is more than double 53.48 days for health, respectively.

Recommendation 15-05 (14-02): Ensure open inspection time is measured against the OSHA Express lapsed time report to track aging inspections and reduce lapse time.

1. Complaints

IOSHA's inadequate complaint process is marred by ineffectiveness and inaction. Review of complaint case files and IOSHA's complaint reports demonstrate numerous problems which resulted in four findings and four observations in this FAME report. Immediate attention to the complaint process is warranted since it is critical to the overall success of IOSHA.

IOSHA's Field Operations Manual (FOM, Chapter 9) and online complaint information define a formal complaint as a complaint made by a current employee or their representative asserting an imminent danger, violation of the Act or an IOSHA standard exposing employees to a physical or health harm in the workplace, is

reduced to writing or submitted on an OSHA-7 form, and is signed by a current employee or their representative. A non-formal complaint alleges safety or health violations and does not meet all of the requirements of the formal complaint according to the FOM definition. IOSHA considers electronic complaints obtained through the federal complaint system and the IOSHA complaint system as non-formal. There was no documentation in the files to confirm that IOSHA follows up with the complainant to clarify complaint items to determine if an inspection is warranted for complaints received through the federal e-complaint system when the complainant indicates they are a current employee requesting an inspection and an electronic signature is provided.

OSHA's evaluation of the 22 complaint investigations revealed that it took an average of 106 days to initiate these complaint investigations. Only five of these were initiated within the negotiated standard of five days and four were not initiated at all. The FY 2015 State Activity Mandated Measures (SAMM) Report showed that it took IOSHA an average of 38.98 days to initiate complaint investigations.

The following information was consistently missing from complaint investigation files: letters to complainants for signature; letters to employers notifying them of the alleged hazards and requiring their response; letters to complainants with the investigation results; documentation of the actions taken by IOSHA to address the complaint and intake information with hazard allegations. Letters to complainants with results were rarely sent; however, when they were sent, they did not address each alleged hazard. There was no documentation to show that complainants were contacted and provided the opportunity to formalize their complaint and request an inspection nor to explain why a complaint was invalid. Procedures outlined in Chapter 9 of IOSHA's FOM, Complaint and Referral Processing were routinely not followed.

A complaint was received by IOSHA requesting an inspection regarding the over stacking of material in several product bays of the company. IOSHA determined the complaint to be invalid because the complainant, presumably by mistake, indicated that they were the employer, not an employee. The complaint was closed by IOSHA without further inquiry to validate the complaint or the alleged hazards. Several months later, a fatality was reported at this company. During the investigation, the CSHO was informed by the complainant that a complaint was filed several months earlier regarding safety hazards. IOSHA addressed the alleged hazards from the complaint during the fatality investigation.

Thirty-seven complaint inspections and 25 referral inspection files were reviewed. Four of the complaint files, 11%, did not contain letters to the complainants with the results of the inspection. In three complaint files that did contain letters to the complainants, the letters did not address all complaint items.

Additional areas of concern related to complaints and referrals

Due to numerous deficiencies related to IOSHA's processing of complaints and referrals, OSHA requested additional information from IOSHA for review to better define the problems. IOSHA provided the evaluation team with complaint and referral log reports for FY 2015. In addition, the team reviewed data entry information for roughly 115 complaints filed online at www.osha.gov for the months of December, 2014, August and September, 2015.

Of the 644 complaints on IOSHA's log, 127 of them appeared to still be open at the time of the review; 30 did not appear to be processed; and, 97 appeared to still be waiting on employer responses, inspection results and/or abatement. IOSHA is not following up with employers to obtain responses to complaint investigations and abatement for complaint inspections, likely causing continued worker exposure to serious hazards. Follow-up inspections should have been initiated if employers are not providing timely and adequate abatement.

The referral log provided indicates there were 456 referrals made to IOSHA in FY 2015. Many of these were reported by employers as a result of the new requirements under the recordkeeping standard adopted in 2015 related to severe work-related injuries and illnesses. The log showed that one hundred thirty nine (30%) of the referrals designated to be inspected by IOSHA were not inspected. No action appeared to be taken on 154 (33.8%) of the referrals, according to the log.

Forty-eight of 115 (42%) e-complaints filed online at www.osha.gov were not entered into IOSHA's database (OSHA Express). IOSHA stated many of the complaints were not entered because they were determined to be invalid. However, they still were required to be entered into OSHA Express. Thirty-one of the 48 complaints (65%) not entered were determined to have valid safety and health concerns including carbon monoxide exposures, unsafe welding practices and lack of fall protection. Four of the complaints alleged employee exposure to unlabeled thermal system insulation (TSI) during removal. One of the complaints indicated that the complainant previously filed a complaint that was not initiated.

Finding 15-06 (14-05): The average time to initiate a complaint investigation was approximately 39 days, exceeding the further review level of 5 days.

Recommendation 15-06 (14-05): Continue to implement administrative controls including direct assignment to the CSHO to ensure the complaint investigations are initiated in a timely manner.

Finding 15-07 (14-06): In all of the 22 (100%) complaint investigation files reviewed, and in seven of 37 (18.9%) complaint inspection files reviewed, proper correspondence to the employer and complainant was lacking. Files did not contain evidence to show that complainants were contacted and provided the opportunity to formalize their complaint to have an inspection conducted.

Recommendation 15-07 (14-06): Document all actions in the case file. Ensure a letter with inspection results and a letter communicating the outcome of investigations are sent to the employer and the complainant and copies are placed in the case file. Ensure these letters address all alleged hazards. Ensure when the complainant is contacted advising them how to formalize their complaint and request an inspection, this is documented in the case file.

Finding 15-08 (14-21): Forty-eight of 115 (42%) e-complaints filed online at www.osha.gov were not entered into IOSHA's database (OSHA Express) and therefore were not acted upon. Thirty-one of the 48 complaints (65%) not entered were determined to have valid safety and health concerns.

Recommendation 15-08 (14-21): Process all complaints received in accordance with the IOSHA FOM Chapter 9, Section I.E.

Finding 15-09 (14-04): The dates entered into IOSHA's database (OSHA Express) for the receipt of complaints is routinely later than the actual dates the complaints are received. A review of 37 complaint inspections indicates that incorrect dates were entered in the database for four (11%) of the files.

Recommendation 15-09 (14-04): Enter the actual date complaints are received into the database.

Observation 15-OB-01: (14-OB-1): The complaint intake form was not completed to the fullest extent possible, making it difficult to determine the nature of the hazard allegations. In some cases, the intake information from the complainant was missing from the file altogether.

Federal Monitoring Plan 15-01: OSHA will request to review a random selection of cases during the 4th quarter of FY 2016.

Observation 15-OB-02: Complaints were not closed in a timely manner. IOSHA is not following up to obtain responses from employers regarding alleged hazards for complaint investigations and abatement on cited hazards during complaint inspections.

Federal Monitoring Plan 15-02: OSHA will request to review a random selection of cases during the 4th quarter of FY 2016.

Observation 15-OB-03: IOSHA did not document when action was taken to respond to referrals. Internal reports do not accurately reflect when referrals meeting the criteria for inspection are inspected.

Federal Monitoring Plan 15-03: OSHA will request to review a random selection of cases as well as the referral log during the 4th quarter of FY 2016.

Observation 15-OB-04: Referrals received from employers reporting injuries and illnesses as required under the new recordkeeping requirements lacked sufficient information in the file in order to determine that a report of the injury and illness had been made. Many of these referrals should have had Accident Investigation Reports completed and did not.

Federal Monitoring Plan 15-04: OSHA will request to review a random selection of cases during the 4th quarter FY 2016.

2. Fatalities

IOSHA investigated 26 workplace fatalities in FY 2015. IOSHA's procedures for investigating workplace fatalities are the same as federal OSHA. The investigations are to be initiated within one day of notification. Reports indicate that only 18 of the 26 fatality (70%) inspections were initiated within one work day (SAMM 10, Appendix D). OSHA reviewed nine fatality cases during the evaluation and found the following issues:

- Documentation in the files indicated that two fatality/catastrophe inspections were not initiated within one day. A case file diary entry for one inspection documents the investigation was opened nine days after receipt. However, the IOSHA inspection report indicated a response occurred within one day. Another fatality/catastrophe file indicates the inspection was initiated within one day. However, the opening conference was performed by telephone three days later and there was no evidence of previous attempts to open the inspection.
- Violations were issued and upheld in a fatality inspection involving a powered industrial truck. Penalties were reduced without documenting the main reasons for the reduction in the case file.
- In another fatality inspection, citations were not issued to an employer until after the six month statute of limitations expired. Two next of kin letters were found in the file with 2 different dates. The letter with the later date indicated the citations were amended and reissued. There was no explanation in the file as to why they were amended and diary entries were inconsistent.
- During an informal conference, citations were vacated after a fatality inspection when the company provided evidence that required training was performed.

Finding 15-10 (14-07): Reports documented that work-related fatalities were not responded to within one day in eight of 26 (30.7%) fatalities.

Recommendation 15-10 (14-07): IOSHA shall ensure case files contain proper documentation to show that fatalities are responded to within one day and dates are

entered accurately into the database.

3. Targeting and Programmed Inspections

During FY 2015, the Nursing and Residential Care Facilities NEP was discontinued. IOSHA has a strategic goal that specifies inspections in the healthcare industry be performed under an appropriate NEP or under a Local Emphasis Program (LEP) developed by IOSHA. IOSHA has not yet developed an LEP. While eight inspections were performed in this industry, they were not conducted to address specific hazards detailed in an NEP or LEP. IOSHA developed a procedure to approve LEPs in response to Finding 2014-07 from the FY 2014 FAME.

IOSHA adopted the Primary Metals NEP in FY 2015. However, employees were not trained on the requirements of the NEP, and no inspections were recorded under the NEP. See Finding 2015-21 in Section IV, Assessment of State Plan Progress in Achieving Annual Performance Goals.

The in-compliance rate for safety inspections in FY 2015 was 55.41% which is a 17% improvement from FY 2014. However, it is still well above the national rate of 28.47% (SAMM 9, Appendix D).

The in-compliance rate for health inspections in FY 2015 was 45% which is a 6% improvement from FY 2014. However, this rate is also above the national rate of 33.58%.

Based on the 1,162 inspections that were conducted, there was an average of 2.97 serious, willful, and/or repeat violations issued per inspection. While this is a slight decrease from the previous year, it is still higher than the national average of 1.92 violations.

There were no significant cases issued in FY 2015.

4. Citations and Penalties

A majority of the case files reviewed had adequate documentation to support the violations. However, some case files were missing evidence such as employer knowledge, employee interviews addressing exposure to cited hazards, and documentation for general duty and repeat violations. For example, one file contained four failure-to-abate violations, but due to a lack of any evidence to support the violations, they were all vacated.

Eight of the 96 cases files reviewed (8%) did not contain citations for all apparent violations. For example, citations were not issued for cases with documentation to support hazards, such as failure to provide personal protective equipment, unstable overhead stacking, lockout/tagout procedures, and excessive use of electrical breakers.

Violations were correctly classified in 67 of the case files reviewed that had violations associated with them. No inappropriate grouping of violations was noted. However, six case files had penalties calculated improperly, mostly related to severity and probability. For example, one case file granted a 70% penalty reduction prior to issuance, but, previously was assessed as a 60% reduction. In another example, penalties issued with citations were not in agreement with severity and probability assessed in the case file.

IOSHA’s penalty policy was compared to federal OSHA’s for apparent differences. IOSHA’s policy requires a minimal assessment of \$100 for serious violations, whereas federal OSHA requires a \$500 minimal assessed penalty.

The gravity based penalties (GBP) for serious violations are assessed by IOSHA at a lower dollar value than those assessed by Federal OSHA.

| Severity | Probability | GBP Federal OSHA | GBP IOSHA |
|----------|-------------|------------------|---------------|
| Higher | Greater | \$7000 | \$5000/\$7000 |
| Medium | Greater | \$6000 | \$3500 |
| Low | Greater | \$5000 | \$2500 |
| Higher | Lesser | \$5000 | \$2500 |
| Medium | Lesser | \$4000 | \$2000 |
| Low | Lesser | \$3000 | \$1000 |

IOSHA’s average current penalty per serious violation in the private sector (SMMM 8: 1-250+ workers) was \$847.38 in FY 2015. The Further Review Level (FRL) is -25% of the National Average (\$2,002.86), which equals \$1,502.14. Penalty levels are at the core of effective enforcement, and State Plans are therefore required to adopt penalty policies and procedures that are “at least as effective” (ALAE) as those contained in the FOM, which was revised on October 1, 2015 to include changes to the penalty structure in Chapter 6 – Penalties and Debt Collection.

Note that with the passage of the Bipartisan Budget Bill on November 2, 2015, OSHA is now required to raise its maximum penalties in 2016 and to increase penalties according to the Consumer Price Index (CPI) each year thereafter. State Plans are required to follow suit. As a result of this increase in maximum penalties, OSHA will be revising its penalty adjustment factors in Chapter 6 of the FOM. Following completion of the FOM revision and after State Plans have the opportunity to adopt the required changes in a timely manner, OSHA will be moving forward with conducting ALAE analysis of State Plan penalty structures, to include evaluation of average current penalty per serious violation data.

Finding 15-11: Penalties were not calculated appropriately.

Recommendation 15-11: Ensure severity, probability, and other reduction factors are properly categorized in accordance with IOSHA's FOM Chapter 6, Section III.

Finding 15-12 (14-10): The in-compliance rate for safety inspections was more than double the national average at 55.41%, and at 45% for health inspections was well above the national average.

Recommendation 15-12 (14-10): Continue to train CSHOs to recognize hazards to reduce the in-compliance rate.

Observation 15-OB-05 (14-08): Plain view hazards are not being cited.

Federal Monitoring Plan 15-05: OSHA will request to review a random selection of cases during the middle of the 4th quarter of FY 2016.

Observation 15-OB-06 (14-09): Adequate evidence to support violations was not documented in the file, including employer knowledge and employee exposure.

Federal Monitoring Plan 15-06: OSHA will request to review a random selection of cases during the 4th quarter of FY 2016.

5. Abatement

The evaluation process included the review of 58 inspections with abatement. In six of these case files, employers were provided too much time to abate the hazards. The employers were given 20 days to remove re-locatable power taps in two cases, which is excessive. Employers were allowed 30 days to unlock exits in one case and granted a petition for modification of abatement date (PMA) in another. Two additional PMAs were granted without adequate explanations of why additional time was needed or what interim protection was provided.

Eight PMAs were granted by IOSHA in FY 2015, and five of these were reviewed during OSHA's evaluation. Three lacked confirmation from IOSHA authorizing the PMA and another lacked the signed certificate of posting. All five reviewed lacked an explanation of interim protection.

Seven of the 58 files with abatement reviewed did not contain adequate verification of abatement. Three were closed without adequate verification. Two were sent failure-to-abate letters, one just prior to OSHA's onsite evaluation. Two more were granted PMAs, one just prior to this review.

Thirty-six follow-up inspections were completed by IOSHA in FY 2015. OSHA's internal scan summary report indicated that only 2 of these resulted in citations with penalties.

Seven follow-up files were reviewed during OSHA's case file review. Three files reviewed documented citations and penalties were issued. However, the scan summary report indicated no citations or penalties were ever issued for these cases. Original penalties were \$187,000 and \$48,000, respectively, according to two of the files. The file in the \$187,000 case did not contain any evidence to support the citations and this is likely why they were vacated. The reasons for the citations being vacated were not documented in the file.

IOSHA is vacating and amending citations without going through the proper data entry procedures. The three follow-up files were not entered into the computer database in a manner that shows that: citations were issued, penalties were present and, an informal conference was performed. These three follow-ups were entered in the database such that no citations were ever issued. This provides false data about the percentage of reduced penalties and the percentage of vacated violations.

OSHA's review reflected that follow-up inspections were conducted when indicated.

Finding 15-13 (14-11): Procedures to Petition for Modification of Abatement (PMA) were not followed correctly in all five files reviewed where PMAs were granted.

Recommendation 15-13 (14-11): Process requests for citation abatement modification using PMA procedures in accordance with IOSHA's FOM Chapter 7.

Finding 15-14: Three of seven (42.8%) follow-up case files reviewed did not include documentation supporting amended citations and penalties.

Recommendation 15-14: Ensure that when citations are amended, documentation supporting the changes is included in the inspection file in accordance with IOSHA's FOM Chapter 6.

6. Worker and Union Involvement

IOSHA has adequate procedures to address employee and union involvement in the inspection process. IOSHA developed its own forms to ensure that employees are represented and the appropriate contact information is obtained. If union representatives are present, it is noted on opening and closing conference sheets. This information is also placed on the inspection form and entered into the database. Two of the 20 files with union representation did not document the union's involvement in the opening conference, walk around and informal conference. One other lacked evidence that the union participated in the closing conference.

All but four of the 96 files reviewed contained employee interviews with adequate documentation.

C. Review Procedures

1. Informal Conferences

Forty-seven of 96 files contained an informal conference or expedited settlement agreement. There was no evidence that informal conferences were untimely; however, documentation of informal conference dates were missing for a few case files. Seventeen of these cases were performed using an expedited informal settlement agreement.

For qualifying companies, IOSHA operates a penalty reduction program termed the Expedited Informal Settlement Agreement (EISA). A company has 15 business days to exercise this option, at which time they receive a penalty reduction of 35%. Informal conferences are usually conducted by the Director of Industrial Compliance and the Director of Construction.

There were 47 case files containing violations and in 17 of these case files, violations were vacated or reclassified during the informal conference. Forty-three of the 47 case files had penalties reduced during the informal conference or through an EISA.

There were 30 case files where the employer chose to have an informal conference and not accept the EISA, and in seven of these case files citations were inappropriately vacated or reclassified, or penalties were excessively reduced. No rationale was provided supporting why these changes were performed. Several case files involved vacating citations that should have remained based on the evidence in the file.

Finding 15-15: In seven of 30 (23.3%) case files, IOSHA vacated, reclassified and/or reduced citation penalties without supporting documentation during informal conferences.

Recommendation 15-15: Document and summarize all main issues and potential courses of action in the case file for all changes made during informal conferences in accordance with IOSHA's FOM Chapter 7.

2. Formal Review of Citations

For cases that are not resolved through the informal conference process, employers may contest through the Indiana Board of Safety Review (BSR). The Administrative Review Board is independent and housed within the Indiana Department of Labor. The Board consists of five members, including two from labor, two from industry, and one safety and health professional. Board appeal decisions are heard by the appropriate County Circuit or Superior Courts.

Twenty-six cases were contested in FY 2015. Seven entered into settlement agreements, one withdrew, two others were closed, 15 went to the BSR, and one went to the solicitor for trial.

Seven of the contested cases were reviewed as part of the FY 2015 evaluation. Three were still open with the BSR and four were settled.

D. Standards and Federal Program Changes (FPCs) Adoption

1. Standards Adoption

Under the State of Indiana rules and procedures, the process for the adoption of federal standards occurs automatically and becomes effective 60 days after the effective date of federal standards. The Commissioner or appointed designee is the person responsible for enforcing the federal standards 60 days after they become effective.

During 2015, all of IOSHA’s notices of intent to adopt standards were submitted to OSHA in a timely manner. There were five standards issued by OSHA during this time period and only four required State Plan action. While the final rule for Electric Power Generation was not adopted by the required date of January 11, 2015, the delay of adoption by 20 days was not significant.

No standards were initiated by IOSHA in FY2015.

***Federally-Initiated Standards Log
Summary for IN Report***

| Subject | Intent to Adopt | Adopt Identical | Date Promulgated | Effective Date |
|---|-----------------|-----------------|------------------|----------------|
| Cranes and Derricks in Construction - Operator Certification Final Rule | YES | YES | 10/29/2014 | 02/01/2015 |
| Occupational Injury and Illness Recording and Reporting Requirements NAICS Update and Reporting Revisions | YES | YES | 12/20/2014 | 03/01/2015 |
| Final Rule for Confined Spaces in Construction | YES | YES | 12/04/2015 | 2/04/2015 |
| Final Rule for Electric Power Generation, Transmission and Distribution; Electrical Protective Equipment | YES | YES | 10/29/2014 | 02/01/2015 |

2. OSHA/State Plan Initiated Changes

There were five Federal Program Changes (FPC) in FY 2014 and eight in FY 2015 for IOSHA to consider for adoption. Two FPCs for maritime activities were not considered since IOSHA does not have jurisdiction.

IOSHA did not provide a timely response for three of the FPCs. In FY 2014, a response was delayed for 1.5 months for the *OSHA Strategic Partnership Program for Worker Safety and Health*. In FY 2015, there was a delay of 19 days for the *Special Government Employee Program Policies and Procedures Manual for the Occupational Safety and Health Administrations Voluntary Protection Programs* and 2 months for the *National Emphasis Program on Amputations*.

In FY 2015, seven of eight (88%) FPCs were adopted by IOSHA and all seven were adopted in a timely manner. The *OSHA Alliance Program Directive CSP 04-01-002* was neither required nor adopted. IOSHA created its own policy.

**Federal Program Change
Summary for IN Report**

| Directive Number | Title | Adoption Required, Equivalency Required or Adoption Encouraged/Not Required | Intent to Adopt | Adopt Identical | State Adoption Date |
|--|---|---|-----------------|-----------------|---------------------|
| CPL-03-00-019 2015 824 | National Emphasis Program on Amputations CPL 03-00-019 | Adoption Required Equivalency Not Required Adoption Encouraged | YES | YES | 1/01/2016 |
| TED-03-01-004 2015 825 | Special Government Employee Program Policies and Procedures Manual for the Occupational Safety and Health Administrations Voluntary Protection Programs Directive CSP-03-01-004 | Adoption Not Required Equivalency Not Required Adoption Encouraged | YES | NO | 1/01/2016 |
| TED-04-01-002 2015 804 | OSHA Alliance Program Directive CSP 04-01-002 | Adoption Not Required Equivalency Not Required Adoption Encouraged | NO | N/A | N/A |
| CPL-02-02-079 2015 784 | Inspection Procedures for the Hazard Communication Standard (HCS 2012) CPL 02-02-079 | Adoption Not Required Equivalency Required Adoption Not Encouraged | YES | YES | 11/09/2015 |
| CPL-02-02-078 2015 764 | Enforcement Procedures and Scheduling for Occupational Exposure to Tuberculosis CPL 02-02-078 | Adoption Not Required Equivalency Required Adoption Not Encouraged | YES | YES | 10/30/2015 |
| CPL-02-03-005 2015 744 | Whistleblower Investigations Manual CPL 02-03-005 | Adoption Not Required Equivalency Required Adoption Not Encouraged | YES | YES | 7/20/2015 |
| CPL-03-00-018 2015 725 | REVISION - National Emphasis Program - Primary Metal Industries | Adoption Required Equivalency Not Required Adoption Encouraged | YES | YES | 4/20/2015 |
| CPL-02-01-057 2015 724 | Compliance Directive for the Cranes and Derricks in Construction Standard | Adoption Not Required Equivalency Required Adoption Not Encouraged | YES | YES | 4/18/2015 |
| TED-01-00-019 2014 704 | Mandatory Training Program for OSHA Compliance Personnel | Adoption Not Required Equivalency Required Adoption Not Encouraged | YES | YES | 7/21/2014 |
| CPL-02-01-056 2014 684 | Inspection Procedures for Accessing Communication | Adoption Not Required Equivalency Required | YES | YES | 7/17/2014 |

| | | | | | |
|--|---|--|-----|-----|-----------|
| | Towers by Hoist | Adoption Not Encouraged | | | |
| CPL-02-00-158 2014 705 | Inspection Procedures for the Respiratory Protection Standard | Adoption Not Required Equivalency Required Adoption Not Encouraged | YES | YES | 9/05/2014 |
| CPL-02-14-01 2014 645 | Site-Specific Targeting 2014 (SST-14) | Adoption Required Equivalency Not Required Adoption Encouraged | YES | YES | 3/07/2014 |
| CPL-03-02-003 2014 626 | OSHA Strategic Partnership Program for Worker Safety and Health | Adoption Not Required Equivalency Required Adoption Encouraged | NO | N/A | N/A |

E. Variances

There were no variances granted during the evaluation period.

F. State and Local Government Worker Program

IOSHA operates a program that covers state and local government workers. During FY 2015, there were 18 enforcement inspections of state and local government entities. This represented 1.55% of IOSHA's inspection activity. This is below the further review level of plus or minus 4.35% which is approximately 50 inspections in the state and local government sector.

Safety orders issued to state and local government entities include an invoice with penalties. The Deputy Commissioner of Labor has the authority to waive associated penalties once all hazards are abated. The evidence in the reviewed files supported that this was an effective means to ensure abatement of the hazards in these workplaces.

G. Workplace Retaliation Program

Throughout FY 2014 and FY 2015, IOSHA's Whistleblower Protection Program consisted of a director, who manages the program, a supervisor, and two investigators. Procedurally, the IOSHA Whistleblower Protection Program adheres to CPL 02-03-003 *Whistleblower Investigations Manual (WIM)*, effective date September 20, 2011, 29 CFR 1977 effective date January 29, 1973 and the revised Whistleblower Disposition Procedures Directive dated April 18, 2012.

This review followed the guidelines, procedures, and instructions of IOSHA's WIM and 29 CFR 1977. IOSHA's supervisor and two investigators were interviewed during the review.

During FY 2015, IOSHA docketed 68 whistleblower investigations. At the time of the case file review, 49 investigations were completed.

Investigative File Review

The cases reviewed were selected from those with final determinations during the review period and the selections were based on type of determination and the investigator of

record. A review of the Case Summary and Length of Investigation reports for the review period indicated that 25 of the 49 (51%) cases were reviewed.

Of the 25 cases, five (20%) were withdrawn, 19 (76%) were dismissed as non-merit and one (4%) case was settled.

There were a total of 16 administrative closure records reviewed. Of the 16 records reviewed, three were closed due to withdrawals and two as a result of lack of cooperation from the complainant. The remaining 11 were either untimely filed or they were lacking a required prima facie element.

In 11 of 11 closed cases (100%), with the exception of the withdrawn and the lack of cooperation complaints, there was no mention that the complainant concurred with the recommendation of closure being made by the investigator. The WIM states that if there is no concurrence to administratively close a complaint that the complaint will need to be docketed. Due to the lack of docketing, these complainants were not offered their right to appeal, and it is likely that these cases were also not dual filed with federal OSHA.

One complaint was administratively closed as being untimely without addressing the possibility of equitable tolling. If tolling was addressed, there was no documentation to substantiate that it had been discussed.

It should also be noted that there were four records that were reviewed that did not contain a memo to file regarding conversations that were conducted between the complainant and the investigator.

Case Activity Worksheet

The activity in the log often was not reflected in the file. It would state that interviews were done, closing conferences, telephone conversations and other activities were performed; however, these were not reflected in the files.

Complainant Statement and Witness Interviews

Eight of 25 cases (32%) showed complainant witnesses were not interviewed.

One case claimed that 20 witnesses had been interviewed. However, there was no annotation on the telephone log nor were there any memos to file regarding the interviews. There was a list of names for the witnesses, and the ones who were interviewed were checked off as having been spoken to, but their interviews were not in the case file.

In four of 25 cases (16%) complainant interviews were not placed in a memo to file.

Docketing and Respondent Notification

All reviewed cases showed that neither party was provided a designation of representative form as per the WIM. Also, parties were not notified of their complaints either by certified U.S. Mail, return receipt, or via a third party commercial carrier that provided delivery confirmation as per the WIM.

Two reviewed cases showed that the complaints did not meet the elements of valid work refusals, but were still documented.

In the majority of reviewed cases the dates on the docket letters that were sent to the applicable parties did not match the dates that were entered in Web IMIS for date docketed. Some dates were off by as much as a month.

Report of Investigation

For three of 25 cases, the evidence in the file did not support the determinations made. In 15 of 25 case files (60%), factual discrepancies were found. Nine of the cases (36%) lacked evidence to support the prima facie element. This included inadequately addressing protected activity, failing to address disparate treatment, and failing to adequately address adverse actions. The findings were not always sent as required by certified mail, return receipt, or other method to track the receipt of the findings.

Settlements

There was only one settlement reached during FY 2015. The rough notes referred to the settlement being based on earnings per week. However, the final settlement figure was \$2,500. There was no information in the file explaining the appropriateness of the agreement.

Timeliness

There were 68 cases filed, and 39% (SAMM 14) took longer than 90 days to complete the cases (IMIS). It took an average of 96 days to complete the cases. The Occupational Safety and Health Act of 1970 (OSH Act) requires the complainant be notified of the case determination within 90 days. This is especially problematic as the state has a 120 day statute of limitations for filing the cases with the attorney general. If the case has not been referred to the attorney general's office by day 90, it is likely they will not have time or incentive to review the complaint. If the case is not a state or local government employer and is dual filed, these can be handled by Federal OSHA.

Whistleblower System Program Management

Eight of 68 case files (12%) were found to have merit, which is below the national average of 24%.

The supervisor who assigns the cases and reviews the findings has a multitude of duties other than the WB duties that he was assigned after the last audit. Once the complaints were assigned for screening, the supervisor did not see the complaint again to provide input or concurrence that the appropriate decision was made. Supervisor concurrence is required per the WIM.

None of the administrative closures were reviewed by the Supervisory Investigator prior to being docketed when they should have been administratively closed due to the lack of meeting the required elements for a prima facie complaint.

No reports were being utilized to track complaints.

Finding 15-16 (14-13): Whistleblower investigators failed to properly document and process discrimination cases according to the WIM. Intake and screening of cases and file organization were not being completed per the WIM. The files were not reviewed by a supervisor beyond initial assignment.

Recommendation 15-16 (14-13): Ensure all case files are reviewed by a supervisor, all WIM policies and procedures are followed when processing, files contain all required documentation and are organized as required in the WIM.

Finding 15-17 (14-14): Eight of 25 (32%) whistleblower investigation files did not contain documentation indicating that complainant witnesses were interviewed. In addition, in 4 of 25 (16%) of cases, discussions and interviews were not entered as a memo to the file.

Recommendation 15-17 (14-14): Follow all procedures when conducting complainant and witness interviews in accordance with the WIM.

Finding 15-18 (14-15): Whistleblower cases did not have evidence to support the determination and there was not a correct analysis performed of the prima facie elements.

Recommendation 15-18 (14-15): Provide additional training to staff to ensure that the Whistleblower Investigators understand the application of the prima facie elements and the proper way to correctly analyze evidence for the determination.

Finding 15-19 (14-16): The state has a 120 day statute of limitations for filing the cases with the attorney general. If the case has not been referred to the attorney general's office by day 90, it is likely they will not have time or incentive to review the complaint.

Recommendation 15-19 (14-16): Seek revision of the state 120 day statute of limitations for filing in court to allow investigators the needed time to complete a thorough investigation.

Finding 15-20: Complainant concurrence for administratively closed cases was not requested and documented in the file.

Recommendation 15-20: Ensure complainant concurrence is obtained prior to closing a discrimination case and document the concurrence in the file. If this does not happen, the complainant must be granted appeal rights.

H. Complaint about State Program Administration (CASPA)

IOSHA did not have any CASPAs filed in FY 2015.

I. Voluntary Compliance Program

1. Voluntary Protection Program (VPP)

The IOSHA VPP program follows the same policies and procedures as federal OSHA with the exception of the use of a medical access order (MAO). IOSHA uses an alternative procedure in which they send a notification to the company of their intent to view injury and illness data. The company is asked to post the notification, which provides a means for employee objections. This meets the intent of the MAO.

The VPP is operated by three full time IOSHA employees. They perform almost all of their reviews utilizing 100 Special Government Employees (SGE). Seventy-five companies participated in the VPP program (2016 Grant); this did not meet the projected total of 85 VPP sites (2015 Grant). The goal was lowered to 79 VPP sites in the 2016 Grant. There are 75 companies that have Star or Merit status. In FY 2015, there were 10 Star certifications, 15 Star re-certifications, and two one-year conditional Star companies.

Ten VPP files were reviewed during the audit and no issues were noted. Reports and acceptance letters were appropriately prepared. Review of the e-complaints indicated that one Star company was not inspected after employee complaints were filed. This is addressed with a recommendation in the complaint section of this FAME.

2. Partnerships

Partnerships are developed and managed by the Indiana Consultation Project, INSafe. Since the previous on-site review INSafe has developed a Partnership Directive. Previously, they followed the federal directive.

In the FY 2015 Grant, IOSHA projected to add one new partnership. This goal was met. One new partnership was signed, and one partnership was renewed. IOSHA currently has four partnerships.

3. Alliances

Alliances are developed and managed by the Indiana Consultation Project, INSafe. This prevents any conflicts of interest when inspections of alliance establishments occur. IOSHA continues to be a signatory on the alliance agreements.

In the FY 2015 Grant, IOSHA projected to add one alliance. This goal was met. Two new alliance agreements were signed for a total of six alliances.

J. State and Local Government Sector 23(g) On-Site Consultation Program

INSafe, IOSHA's Consultation group, conducted 15 on-site consultation visits in the public sector during FY 2015 (IN Public Sector Mandated Activity Report for Consultation, MARC). This met their grant projection of 15 visits. Thirty-seven serious hazards and one imminent danger hazard were identified (Public Sector Consultation Report). Due to these visits, 2,747 workers were removed from risk to serious hazards, and 400 workers were removed from exposure to an imminent danger hazard.

IV. Assessment of State Plan Progress in Achieving Annual Performance Goal

In the FY 2015 State OSHA Annual Report (SOAR), IOSHA provided information that outlines their accomplishment for meeting their Five-year Performance Plan. IOSHA shares their Performance Plan and their strategic goals with INSafe, the State Consultation Project. IOSHA has six strategic goals, with ten annual performance goals associated with them. IOSHA met five of their ten annual performance goals. Particularly, IOSHA has not developed a targeting system to identify companies for inspection in the adopted NEPs; nor have they trained employees on NEP procedures.

The following summarizes the activities and/or accomplishments for each of the FY 2015 performance goals.

Strategic Goal #1: Focus resources of INSafe, the Indiana Occupational Safety and Health Administration (IOSHA) and Quality, Metrics and Statistics (QMS) in the underserved Hoosier healthcare industry, which currently has one of the highest single injury and illness rates (5.9 per 100 workers) of all major industries in Indiana. This includes creation of an outreach and education campaign, based upon data, research and stakeholder input and undertaking a focused enforcement effort in the healthcare industry by developing a Local Emphasis Program (LEP), and participating in appropriate National Emphasis Programs (NEPs).

Performance Goal 1.1: Reduce injuries and illnesses in the healthcare industry by 3%.

Results: This goal was not met.

Discussion: The 2014 Indiana nonfatal occupational injury and illness rate for the healthcare industry was 5.2 per 100 workers. This was a 1.9% decrease from the 2013 rate of 5.3 per 100 workers.

Performance Goal 1.3: Conduct four inspections in the healthcare industry by end of FY 2017.

Results: This goal was met.

Discussion: The Indiana Occupational Safety and Health Administration (IOSHA) conducted eight inspections in the healthcare industry during FY 2015.

Strategic Goal #2: Effect improved occupational injury and illness rates in the Hoosier manufacturing industry.

Performance Goal 2.1: Reduce injuries and illnesses in the manufacturing industry by 3%.

Results: This goal was not met.

Discussion: The Indiana manufacturing industry non-fatal occupational injury and illness rate for 2014 was 4.9 per 100 workers. This represents an increase of 2.1% from the 2013 rate of 4.8 for 100 workers.

Strategic Goal #3: Effect improved occupational injury and illness rates in the Hoosier construction industry.

Performance Goal 3: Reduce injuries and illnesses in the construction industry by 3%.

Results: This goal was not met.

Discussion: The 2014 Indiana nonfatal construction industry injury and illness rate is 3.4 per 100 workers. This represents a one-year increase of 17.6% from the 2013 rate of 2.8 for 100 workers.

Strategic Goal #4: Increase the number of stakeholder contacts by all Indiana Department of Labor divisions to reach at least 500,000 unique individuals of Indiana's 2.8 million workers. This will include enforcement inspections and consultations, as well as speeches, printed materials, resource tools distributed, web tools, seminars and conferences.

Performance Goal 4.1: Reach 90,000 individuals.

Results: This goal was not met.

Discussion: In FY 2015, INSafe impacted 26,682 individuals through consultation efforts and IOSHA impacted 57,267 individuals through inspection-related activities. Total individuals impacted by IOSHA and INSafe were 83,949 individuals.

Performance Goal 4.3: Develop 10 electronic outreach products or resources by end of FY 2017, 2 per year.

Results: This goal was met.

Discussion: Three outreach products were developed in FY 2015

- IN Review – 2015, annual occupational safety and health publication.

- An updated Fall Prevention webpage www.in.gov/dol/2876.htm
- Updated materials for DRIVE NOW. TXT L8R.

Strategic Goal #5: Strengthen the cooperative programs of VPP, INSHARP, Partnerships and Alliances to provide support, mentoring, industry best practices, and acknowledgment of top performers without incentivizing mediocre review or diminished credibility of the program in an effort to encourage duplication of exemplary programs throughout Indiana industries. Actively promote employer and employee awareness of the VPP and INSHARP cooperative programs.

Performance Goal 5.1: Conduct at least 30 combined preliminary site visits and new or recertification visits for employer participation in VPP or INSHARP.

Results: This goal was met.

Discussion: The goal of conducting at least 30 combined preliminary site visits and new or recertification visits for employer participation in VPP or INSHARP was exceeded in FY 2015.

- Conducted 5 new certification visits
- Conducted 8 recertification visits
Total INSHARP activities = 13
- Conducted 195 preliminary site visits
- Conducted 16 recertification evaluations
- Conducted 6 SGE training/meetings
- Conducted 7 evaluations of new sites
Total VPP activities = 224

Combined INSHARP/VPP activities were 237.

Performance Goal 5.2: Develop 10 partnerships or alliances by end of FY 2017.

Results: This goal was met.

Discussion: During FY 2015, IOSHA amended and renewed one partnership, entered into one new partnership, and entered into two new alliances.

Strategic Goal #6: Foster a culture of professional growth and development among IOSHA Compliance Safety and Health Officers and INSafe Safety and Health Consultants. Improve the division processes and skills of staff so as to employ the best trained most technically proficient compliance officers, consultants and supervisory staff throughout state plan programs working at top efficiency.

Performance Goal 6.1: Provide 2 non-OTI training opportunities.

Results: This goal was met.

Discussion: IOSHA CSHOs, administration, supervisors and managers and INSafe Safety and Health Consultants participated in more than 40 non-OTI training opportunities during FY 2015.

Performance Goal 6.2: Have one staff member attain a professional certification or

advanced degree.

Results: This goal was not met.

Discussion: No current staff attained a professional certification or advanced degree.

Finding 15-21: IOSHA did not conduct inspections under adopted NEPs or train employees on these NEPs.

Recommendation 15-21: Ensure inspections are conducted using inspection lists developed for each NEP adopted by IOSHA. In addition, ensure all CSHOs are trained to recognize hazards identified in the NEPs and that NEP procedures are followed during inspections.

V. Other Special Measures of Effectiveness and Areas of Note

None.

Appendix A – New and Continued Findings and Recommendations

FY 2015 Indiana State Plan Comprehensive FAME Report

| FY 2015-# | Finding | Recommendation | FY2014# or FY2014-OB-# |
|------------|--|--|---------------------------|
| FY 2015-01 | Compliance staff levels are currently at 63 positions with only 33 positions filled. | Hire and fill current vacancies with qualified staff. | FY 2014-20 |
| FY 2015-02 | Compliance staff classified as safety and health officers (CSHOs) is performing non-enforcement duties. | Ensure staff classified as CSHOs are performing enforcement duties, allowing greater impact for safety and health coverage. | |
| FY 2015-03 | A total of 1,162 inspections (1,028 safety and 134 health) were conducted, falling below the projected inspection goal of 1,600 inspections. | Effectively manage the enforcement division by hiring, training and retaining staff to ensure inspection goals are met. | FY 2014-01 |
| FY 2015-04 | Industrial hygiene case files did not contain adequate documentation to clearly demonstrate that employee exposures were below permissible limits to air contaminants when air monitoring was performed. Opportunities were not taken to perform employee exposure monitoring to document worker exposure to air contaminants alleged in complaints. | Follow the Industrial Hygiene (IH) Technical Manual to ensure proper sampling protocol. Ensure exposure monitoring is conducted to evaluate and document worker exposure to health hazards instead of relying on the employer's sampling data. | |
| FY 2015-05 | The average lapse time to complete safety and health inspections was 74.45 and 109.6 days, respectively; this is almost double the national average of 42.78 for safety and it is more than double the national average 53.48 days for health, respectively. | Ensure open inspection time is measured against the OSHA Express lapsed time report to track aging inspections and reduce lapse time. | FY 2014-02 |
| FY 2015-06 | The average time to initiate a complaint investigation was approximately 39 days, exceeding the further review level of 5 days. | Continue to implement administrative controls including direct assignment to the CSHO to ensure the complaint investigations are initiated in a timely manner. | FY 2014-05 |

Appendix A – New and Continued Findings and Recommendations

FY 2015 Indiana State Plan Comprehensive FAME Report

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|------------|---|--|------------|
| FY 2015-07 | In all of the 22 (100%) complaint investigation files reviewed, and in seven of 37 (18.9%) complaint inspection files reviewed, proper correspondence to the employer and complainant was lacking. Files did not contain evidence to show that complainants were contacted and provided the opportunity to formalize their complaint to have an inspection conducted. | Document all actions in the case file. Ensure a letter with inspection results and a letter communicating the outcome of investigations are sent to the employer and the complainant and copies are placed in the case file. Ensure these letters address all alleged hazards. Ensure when the complainant is contacted advising them how to formalize their complaint and request an inspection, this is documented in the case file. | FY 2014-06 |
| FY 2015-08 | Forty-eight of 115 (42%) e-complaints filed online at www.osha.gov were not entered into IOSHA's database (OSHA Express) and therefore were not acted upon. Thirty-one of the 48 complaints (65%) not entered were determined to have valid safety and health concerns | Process complaints in accordance with the IOSHA FOM Chapter 9, Sections I.E. | FY 2014-21 |
| FY 2015-09 | The dates entered into IOSHA's database (OSHA Express) for the receipt of complaints is routinely later than the actual dates the complaints are received. A review of 37 complaint inspections indicates that incorrect dates were entered in the database for four (11%) of the files. | Enter the actual date complaints are received into the database. | FY 2014-04 |
| FY 2015-10 | Reports documented that work-related fatalities were not responded to within one day in eight of 26 (30.7%) fatalities. | IOSHA shall ensure case files contain proper documentation to show that fatalities are responded to within one day and dates are entered accurately into the database. | FY 2014-07 |
| FY 2015-11 | Penalties were not calculated appropriately. | Ensure severity, probability, and other reduction factors are properly categorized in accordance with IOSHA FOM Chapter 6, Section III. | |
| FY 2015-12 | The noncompliance rate for safety inspections was more than double the national average at | Continue to train CSHOs to recognize hazards to reduce the noncompliance rate further. | FY 2014-10 |

Appendix A – New and Continued Findings and Recommendations

FY 2015 Indiana State Plan Comprehensive FAME Report

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|------------|---|--|------------|
| | 55.41%, and at 45% for health inspections was well above the national average. | | |
| FY 2015-13 | Procedures to Petition for Modification of Abatement (PMA) were not followed correctly in all five files reviewed where PMAs were granted. | Process requests for citation abatement modification using PMA procedures in accordance with IOSHA's FOM Chapter 7. | FY 2014-11 |
| FY 2015-14 | Three of seven (42.8%) follow-up case files reviewed did not include documentation supporting amended citations and penalties. | Ensure that when citations are amended, documentation supporting the changes is included in the inspection file in accordance with IOSHA's FOM Chapter 6. | |
| FY 2015-15 | In seven of 30 (23.3%) case files, IOSHA vacated, reclassified and/or reduced citation penalties without supporting documentation during informal conferences. | Document and summarize all main issues and potential courses of action in the case file for all changes made during informal conferences in accordance with IOSHA's FOM Chapter 7. | |
| FY 2015-16 | Whistleblower investigators failed to properly document and process discrimination cases according to the WIM. Intake and screening of cases and file organization were not being completed per the WIM. The files were not reviewed by a supervisor beyond initial assignment. | Ensure all case files are reviewed by a supervisor, all WIM policies and procedures are followed when processing, files contain all required documentation and are organized as required in the WIM. | FY 2014-13 |
| FY 2015-17 | Eight of 25 (32%) of whistleblower investigation files did not contain documentation indicating that complainant witnesses were interviewed. In addition, in 4 of 25 (16%) of cases, discussions and interviews were not entered as a memo to the file. | Follow all procedures when conducting complainant and witness interviews in accordance with the WIM. | FY 2014-14 |
| FY 2015-18 | Whistleblower cases did not have evidence to support the determination and there was not a correct analysis performed of the prima facie | Provide additional training to staff to ensure that the Whistleblower Investigators understand the application of the prima facie elements and the proper | FY 2014-15 |

Appendix A – New and Continued Findings and Recommendations

FY 2015 Indiana State Plan Comprehensive FAME Report

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| | elements. | way to correctly analyze evidence for the determination. | |
| FY 2015-19 | The state has a 120 day statute of limitations for filing the cases with the attorney general. If the case has not been referred to the attorney general’s office by day 90, it is likely they will not have time or incentive to review the complaint. | Seek revision of the 120 day state statute of limitations for filing in court to allow investigators the needed time to complete a thorough investigation. | FY 2014-16 |
| FY 2015-20 | Complainant concurrence for administratively closed cases was not requested and documented in the file. | Ensure complainant concurrence is obtained prior to closing a discrimination case and document the concurrence in the file. If this does not happen, the complainant must be granted appeal rights. | |
| FY 2015-21 | IOSHA did not train employees on NEPs or conduct inspections under the adopted NEPs. | Ensure all CSHOs are trained to recognize hazards identified in OSHA’s NEPs adopted by IOSHA and that NEP procedures are followed during inspections. | |

Appendix B – Observations Subject to New and Continued Monitoring

FY 2015 Indiana State Plan Comprehensive FAME Report

| Observation # FY 2015-OB-# | Observation# FY 2014-OB-# or FY 2014-# | Observation | Federal Monitoring Plan | Current Status |
|-------------------------------|--|---|---|----------------|
| | FY 2014-OB-2 | Intake documentation not being placed in the fatality/catastrophe inspection files. Three of eight fatality files did not contain intake documentation. IOSHA stated many of these fatalities were obtained from the telephone hotline, which was why no intake had been performed. | OSHA will monitor to ensure that all intake documents are being placed in fatality files as appropriate during the next case file review. | Closed |
| | FY 2014-OB-3 | Complaint inspections not properly coded per IOSHA policy in the database. A review of files between April 1 and September 30, 2014 indicated the type of inspection was often coded as program-related instead of complaint. Safety inspections coded as industrial hygiene and industrial hygiene inspections were coded as safety inspections. | OSHA will review the coding of complaint inspections quarterly and discuss any issues with IOSHA. | Closed |
| | FY 2014-OB-4 | In one inspection file, the inspector cited all violations as general duty when OSHA standards were present that addressed the violations. Required documentation to support the general duty violations was not present. | OSHA will review violations and documentation of violations during the next case file review. | Closed |
| FY 2015-OB-01 | FY 2014-OB-1 | The complaint form was not completed to the fullest extent possible, making it difficult to determine the nature of the hazard allegations. In some cases, the intake information from the complainant was missing from the file altogether. | OSHA will request to review a random selection of cases during the 4 th quarter of FY 2016. | Continued |
| FY 2015-OB-02 | | Complaints were not closed in a timely manner. IOSHA is not following up to obtain responses from employers regarding alleged hazards for complaint investigations and abatement on cited hazards during complaint inspections. | OSHA will request to review a random selection of case during the 4 th quarter of FY2016. | New |
| FY 2015-OB-03 | | IOSHA did not document when action was taken to respond to referrals. Documentation does not | OSHA will request to review a random selection of cases as well as the referral | New |

Appendix B – Observations Subject to New and Continued Monitoring

FY 2015 Indiana State Plan Comprehensive FAME Report

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| | | accurately reflect when referrals meeting the criteria for inspection are inspected. | log during the 4 th quarter of FY 2016. | |
| FY 2015-OB-04 | | Referrals received from employers reporting injuries and illnesses as required under the new recordkeeping requirements lacked sufficient information to determine the extent of the injuries and illnesses. Many of these referrals should have had Accident Investigation reports completed and did not. | OSHA will request to review a random selection of case during the 4 th quarter of of FY2016. | New |
| FY 2015-OB-05 | FY 2014-08 | Plain view hazards are not being cited. | OSHA will request to review a random selection of cases by the end of the 3 rd quarter of FY2016. | New |
| FY 2015-OB-06 | FY 2014-09 | Adequate evidence to support violations was not documented in the file, including employer knowledge and employee exposure. | OSHA will request to review a random selection of case by the end of the 3 rd quarter of FY2016. | New |

Appendix C – Status of FY 2014 Findings and Recommendations

FY 2015 Indiana State Plan Comprehensive FAME Report

| FY 2014-# | Finding | Recommendation | State Plan Response/ Corrective Action | Completion Date | Current Status and Date |
|------------|---|---|--|-----------------|----------------------------|
| FY 2014-01 | In FY 2014, IOSHA planned to conduct 2,019 inspections. IOSHA conducted 1,135 or 56% of the planned inspections in FY 2014. | The agency should review its grant application and revise goals as appropriate to ensure they are achievable and consistent with the mission of the agency. | IOSHA reviewed the grant application and inspection goals were revised based on past performance, staffing levels and staff experience. The number of inspections projected in the FY 2016 grant (1200) is achievable. | 7/1/15 | Open February 26, 2016 |
| FY 2014-02 | In FY 2014, IOSHA's lapse time for safety inspections was 81.5 days and 103 days for health inspections. These are almost double the national averages of 43.4 and 57 days, respectively. | IOSHA should review the policies and processes in place to identify bottlenecks and inefficiencies. | IOSHA is improving lapsed time with the following actions: IOSHA is applying a six sigma project to be completed by Q2 FY 2016. IOSHA will be working with the Columbus, Ohio OSHA area office to benchmark their process for file turnaround. IOSHA is now employing quality checklists and inspection action plans to speed up the review | N/A | Open February 26, 2016 |

Appendix C – Status of FY 2014 Findings and Recommendations

FY 2015 Indiana State Plan Comprehensive FAME Report

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| | | | process. IOSHA directors are using the OSHA Express “lapsed time report” to monitor and address investigations that exceed the present goal of 75 days. | | |
| FY 2014-03 | Sampling results were not being provided to the employer as required in the IOSHA FOM. | A written letter containing all sampling results should be sent to the employer as per the IOSHA FOM. | All sampling letters are being provided to the employer. All supervisors and directors have been put on notice to check for sampling letters to the employer when reviewing files where sampling was conducted. | 8/31/15 | Completed February 26, 2016 |
| FY 2014-04 | IOSHA exceeded the negotiated further review level of 10 days to initiate a complaint inspection. The average time to initiate a complaint inspection (SAMM 1) was 13.94 days. | It is recommended that IOSHA implement administrative controls to ensure that complaint inspections are initiated in a timely manner in order to meet the negotiated SAMM 1 value of 10 days. | IOSHA has implemented the proper administrative controls which include direct assignment of a case to the CSHO from Intake to ensure that complaints are serviced within 10 days. Based on our reports, we are below the 10 day goal. | 4/30/14 | Open February 26, 2016 |

Appendix C – Status of FY 2014 Findings and Recommendations

FY 2015 Indiana State Plan Comprehensive FAME Report

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| FY 2014-05 | IOSHA exceeded the negotiated further review level of five days to initiate a complaint investigation. The average time to initiate a complaint investigation was 71.64 days. | It is recommended that IOSHA implement administrative controls to ensure that complaint investigations are initiated in a timely manner in order to meet the negotiated SAMM 2 value of five days. | IOSHA implemented in CY2015 administrative controls including direct assignment to the CSHO from Intake and a system generated letter to the employer to ensure that complaint investigations are initiated in a timely manner. | 7/30/15 | Open February 26, 2016 |
| FY 2014-06 | As required in Chapter 8 of the IOSHA FOM, IOSHA failed to provide copies of the results of non-formal complaints in 3 of the 6 case files reviewed. | IOSHA shall provide copies of non-formal complaint results to complainants that have provided an address or some other form of contact information. | IOSHA has developed a non-formal complaint checklist that will ensure that appropriate letters are sent out to the complainant. | 9/30/15 | Open February 26, 2016 |
| FY 2014-07 | 54% of fatality inspections were responded to in one day. | It is recommended that IOSHA utilize the use of administrative controls to ensure that fatality investigations are responded to in one day in order to meet the standard as required by SAMM 21 and the Indiana FOM. | IOSHA implemented a policy to ensure the Fatality reports are reviewed regularly to ensure timeliness of these investigations. | 7/1/15 | Open February 26, 2016 |
| FY 2014-08 | Case files contained photos and narrative | Ensure that Compliance Officers are not penalized | To enhance the CSHOs capability to identify | 5/30/15 | Open February 26, 2016 |

Appendix C – Status of FY 2014 Findings and Recommendations

FY 2015 Indiana State Plan Comprehensive FAME Report

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| | description of hazards that amounted to violations and were not cited. | for taking additional time to conduct complex inspections and appropriately identify and document all observed hazards during inspections, including industrial hygiene sampling. Address all hazards in plain view during the course of an inspection within the scope of that inspection. | hazards we have developed and implemented hazard recognition/identification on computer based training for construction and general industry divisions. This is in addition to the OTI training that compliance officers complete. | | Converted to Observation 5 |
| FY 2014-09 | Inadequate documentation was present in the worksheets and file to support that all required elements for a citation existed | Per the IOSHA FOM, inspection files should contain adequate worker exposure, employer knowledge, and evidence that the violation exists. | Finding has been reviewed with Supervisors. Supervisors are required to complete a thorough review of the files. IOSHA has developed and is working with quality checklist for file assembly. Training for IOSHA compliance officers remains a top priority with the agency spending approximately \$150,000 in training cost for the year, mostly for training at the OSHA Training | 7/1/15 | Open February 26, 2016 Converted to Observation 6 |

Appendix C – Status of FY 2014 Findings and Recommendations

FY 2015 Indiana State Plan Comprehensive FAME Report

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| FY 2014-10 | IOSHA's in compliance rate for safety inspections was 66.9%, and the national average was 29.1%. IOSHA's in compliance rate for health inspections was 48.03%, and the national average was 34.1%. | It is recommended that IOSHA utilize administrative controls in order to meet the SAMM 20a value of 29.1% for safety inspections and the SAMM 20b value of 34.1% for health inspections. | IOSHA is communicating expectations to CSHOs, and supervisors are shadowing officers with high in-compliance rates. IOSHA has developed internal hazard recognition computer based training that has been delivered to all IOSHA personnel in FY 2015. | 5/30/15 | Open February 26, 2016 |
| FY 2014-11 | IOSHA failed to follow the Petition for Modification of Abatement (PMA) procedure. All of the required items were not in the files. | IOSHA should follow the petition for modification of abatement (PMA) procedures per the IOSHA FOM. | The supervisors were retrained on the PMA procedures that were in place and were reminded that they were required to follow them. | 7/1/15 | Open February 26, 2016 |
| FY 2014-12 | Nine of forty-one (22%) inspection files reviewed were missing interviews or had insubstantial or inadequate interviews and did not address all relevant concerns. | Per the IOSHA FOM, interviews should be documented and contain content that addresses the safety and health concerns at the establishment being inspected. | IOSHA legal staff has provided educational sessions to CSHOs on proper interviewing techniques. IOSHA employed an investigative consultant to provide CSHOs with | 4/4/14 | Completed February 26, 2016 |

Appendix C – Status of FY 2014 Findings and Recommendations

FY 2015 Indiana State Plan Comprehensive FAME Report

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| | | | proper interviewing techniques. | | |
| FY 2014-13 | Investigators failed to follow the Whistleblower Investigator Manual (WIM) policies and procedures. The required documentation, intake and screening of cases, and file organization were not being completed per the WIM. | Every case file needs to be reviewed by a Supervisor to show compliance with the WIM, policies and procedures. Ensure that all investigative staff is following the same Whistleblower Program policies and procedures. | IOSHA added an additional supervisor position whose responsibility is to supervise, train and review the work of the whistleblower staff. A quality checklist is being utilized to ensure that all whistleblower cases follow the appropriate procedures. | 10/1/13 | Open February 26, 2016 |
| FY 2014-14 | Three of the ten (30%) whistleblower files reviewed were found to have inadequate interviews, interviews of relevant witnesses were not performed, complainants were not provided opportunities for rebuttal, and the testing of the employer's defense was not performed. | Whistleblower Investigators should follow policies and procedures as outlined in the WIM for performing investigations. | IOSHA added an additional supervisor position whose responsibility is to supervise, train and review the work of the whistleblower staff. A quality checklist is being utilized to ensure that all whistleblower cases follow the appropriate procedures. | 10/1/13 | Open February 26, 2016 |
| FY 2014-15 | One of the ten whistleblower cases reviewed was found to not have the prima | Provide additional training to staff to ensure that the Whistleblower Investigators understand | IOSHA added an additional supervisor position whose responsibility is to | 10/1/13 | Open February 26, 2016 |

Appendix C – Status of FY 2014 Findings and Recommendations

FY 2015 Indiana State Plan Comprehensive FAME Report

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| | facie elements correctly analyzed. Cases are being closed without merit prior to a thorough investigation being completed. | the application of the prima facie elements and the proper way to correctly analyze evidence for the determination. | supervise, train and review the work of the whistleblower staff. A quality checklist is being utilized to ensure that all whistleblower cases follow the appropriate procedures. | | |
| FY 2014-16 | Merit whistleblower cases, for which a settlement was not reached, must be filed in state court within 120 days. However, whistleblower investigators are no longer restricted to 60 days to complete investigation of these cases. | Seek revision of the 120 day statutory deadline for filing in court in order to allow investigators the needed time to complete a thorough investigation. | The Indiana Commissioner of Labor submitted a legislative proposal to repeal or extend to at least one (1) year the statute of limitations for whistleblower cases into the proposed agenda for the 2016 legislative session. | N/A | Open February 26, 2016 |
| FY 2014-17 | IOSHA had not developed a procedure to approve Local Emphasis Programs which includes, but, is not necessarily limited to, a rationale, selection process, industries covered, and an evaluation for effectiveness of the program. | Develop a procedure to approve local emphasis programs. As a guide, follow OSHA directive CPL 04-00-001, development of local emphasis programs, and/or develop a procedure for approval similar to this directive. | This action was completed in April of 2015 by the Director of the IOSHA Construction Division. | 4/1/15 | Completed February 26, 2016 |

Appendix C – Status of FY 2014 Findings and Recommendations

FY 2015 Indiana State Plan Comprehensive FAME Report

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| FY 2014-18 | While IOSHA stated that they followed OSHA’s Alliance Program directive (CSP 04-01-001), the Alliance signed agreements that did not follow the required format. IOSHA should draft and implement an Alliance Guidance document. | IOSHA should draft and implement an Alliance Guidance document that is at least effective as OSHA’s. | This action was completed by the Director of INSAFE. | 8/31/15 | Completed February 26, 2016 |
| FY 2014-19 | While IOSHA stated that they followed OSHA’s Partnership Program directive (CSP 03-02-003), the Partnership signed agreements did not follow the required format. | IOSHA should draft and implement a slightly modified version of the federal Partnership Guidance document. | This action was completed by the Director of INSAFE. | 8/31/15 | Completed February 26, 2016 |
| FY 2014-20 | IOSHA currently allocates compliance staff levels at 63 positions, which falls below the required benchmark of 70 positions and only 38 positions are filled. | IOSHA should continue to try and fill allocated benchmark positions while pursuing a modification of the benchmark level with OSHA. | Indiana OSHA currently has 38 compliance officers. That is all that current funding will support. The Indiana Commissioner of Labor is preparing to submit a petition to reevaluate benchmark staffing levels. | 10/30/15 | Open February 26, 2016 |

Appendix C – Status of FY 2014 Findings and Recommendations

FY 2015 Indiana State Plan Comprehensive FAME Report

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|------------|--|---|---|--------|--------------------------------|
| FY 2014-21 | All reported complaints are not being investigated. A file review of ten complaints indicated that three were not investigated. Also, when non-formal complaints are received and investigated, they are not closed in a timely manner. | It is recommended that IOSHA implement administrative controls such as running a weekly inspection report to ensure that all open files are being handled timely. | As part of IOSHA's recent process upgrade that reduced the SAMM #2, the intake supervisor began running reports July 1, 2015 twice a month to verify that all complaints are investigated in a timely manner. | 7/1/15 | Open February 26, 2016 |
| FY 2014-22 | IOSHA is not documenting fatalities as detailed in the IOSHA FOM. The OSHA-36 report was not completed for all fatalities. These must be completed for reported fatalities, even if they are not work-related and no inspection is opened. | Per the IOSHA FOM, the OSHA-36 Fatality/Catastrophe Report should be completed for all reported fatalities. | IOSHA currently has a fatality checklist in place and a note will be included that an OSHA 36 is required even if they are not work-related and no inspection is opened. | 7/1/15 | Completed February 26, 2016 |
| FY 2014-23 | IOSHA is not responding to imminent danger complaints within one day. Of five imminent danger complaints and referrals, only 60% were responded to within one day. | All imminent danger complaints should be responded to within one day, per the IOSHA FOM. | IOSHA will allow only properly trained personnel to work the intake. It is IOSHA's intent to respond to all imminent danger complaints in one day. | 7/1/15 | Completed February 26, 2016 |

Appendix D – FY 2015 State Activity Mandated Measures (SAMM) Report

FY 2015 Indiana State Plan Comprehensive FAME Report

OSHA is in the final stages of moving operations from NCR, a legacy data system, to OIS, a modern data system. During FY 2015, OSHA case files and most State Plan case files were captured on OIS. However, some State Plan case files continued to be processed through NCR. The SAMM Report, which is native to IMIS, a system that generates reports from the NCR, is not able to access data in OIS. Additionally, certain algorithms within the two systems are not identical. These challenges impact OSHA's ability to combine the data. In addition, SAMMs 5, 8, 9, 11, 12, 15, and 17 have further review levels that should rely on a three-year national average. However, due to the transition to OIS, the further review levels for these SAMMs in this year's report will rely on a one-year national rate pulled only from OIS data. Future SAMM year-end reports for FY 2016 and FY 2017 should rely on a two-year national average and three-year national average, respectively. All of the State Plan and federal whistleblower data is captured directly in OSHA's WebIMIS System. See the Notes column below for further explanation on the calculation of each SAMM.

Most of Indiana State Plan's inspection data was captured in IMIS during FY 2015. The Indiana State Plan opened 1,162 enforcement inspections in FY 2015. Of those, 1,036 were captured in the NCR while 126 were captured in OIS.

Measures 1, 2, 8, 9, 11, 12: State Plan data is solely from the NCR. Data from OIS cannot be manually combined due to irregularities in the algorithms between OIS and the NCR.

Measures 3, 4, 5, 6, 7, 10, 13, 17: State Plan data is manually tabulated to include both OIS and NCR data.

Measures 14, 15, 16: State Plan data is from WebIMIS.

Appendix D – FY 2015 State Activity Mandated Measures (SAMM) Report

FY 2015 Indiana State Plan Comprehensive FAME Report

| U.S. Department of Labor | | | | |
|---|---|-----------------|----------------------|--|
| Occupational Safety and Health Administration State Plan Activity Mandated Measures (SAMMs) | | | | |
| State Plan: Indiana – IOSHA | | | FY 2015 | |
| SAMM Number | SAMM Name | State Plan Data | Further Review Level | Notes |
| 1a | Average number of work days to initiate complaint inspections (state formula) | 7.88 | 10 | State Plan data is pulled only from the NCR. Further review level is negotiated by OSHA and the State Plan. |
| 1b | Average number of work days to initiate complaint inspections (federal formula) | 7.88 | N/A | State Plan data is pulled only from the NCR. This measure is for informational purposes only and is not a mandated measure. |
| 2a | Average number of work days to initiate complaint investigations (state formula) | 38.98 | 5 | State Plan data is pulled only from the NCR. Further review level is negotiated by OSHA and the State Plan. |
| 2b | Average number of work days to initiate complaint investigations (federal formula) | 38.98 | N/A | State Plan data is pulled only from the NCR. This measure is for informational purposes only and is not a mandated measure. |
| 3 | Percent of complaints and referrals responded to within one workday (imminent danger) | 100% | 100% | State Plan data is manually tabulated to include both OIS and NCR data. Further review level is fixed for every State Plan. |
| 4 | Number of denials where entry not obtained | 0 | 0 | State Plan data is manually tabulated to include both OIS and NCR data. Further review level is fixed for every State Plan. |

Appendix D – FY 2015 State Activity Mandated Measures (SAMM) Report

FY 2015 Indiana State Plan Comprehensive FAME Report

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| 5 | Average number of violations per inspection with violations by violation type | SWRU: 2.97 | +/- 20% of SWRU: 1.92 | State Plan data is manually tabulated to include both OIS and NCR data. |
| | | Other: .25 | +/-20% of Other: .87 | Further review level is based on a one-year national rate, pulled only from OIS. |
| 6 | Percent of total inspections in state and local government workplaces | 1.55% | +/-5% of 4.35% | State Plan data is manually tabulated to include both OIS and NCR data. Further review level is based on a number negotiated by OSHA and the State Plan through the grant application. |
| 7 | Planned v. actual inspections – safety/health | S: 1,028 | +/-5% of S: 1,300 | State Plan data is manually tabulated to include both OIS and NCR data. |
| | | H: 134 | +/-5% of H: 300 | Further review level is based on a number negotiated by OSHA and the State Plan through the grant application. |
| 8 | Average current serious penalty in private sector - total (1 to greater than 250 workers) | \$847.38 | +/-25% of \$2,002.86 | State Plan data is pulled only from the NCR. Further review level is based on a one-year national rate, pulled only from OIS. |
| | a. Average current serious penalty in private sector (1-25 workers) | \$541.95 | +/-25% of \$1,402.49 | State Plan data is pulled only from the NCR. Further review level is based on a one-year national rate, pulled only from OIS. |
| | b. Average current serious penalty in private sector (26-100 workers) | \$916.73 | +/-25% of \$2,263.31 | State Plan data is pulled only from the NCR. Further review level is based on a one-year national rate, pulled only from OIS. |
| | c. Average current serious penalty in private sector (101-250 workers) | \$1,118.98 | +/-25% of \$3,108.46 | State Plan data is pulled only from the NCR. Further review level is based on a one-year national rate, pulled only from OIS. |

Appendix D – FY 2015 State Activity Mandated Measures (SAMM) Report

FY 2015 Indiana State Plan Comprehensive FAME Report

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| | d. Average current serious penalty in private sector (greater than 250 workers) | \$1,618.70 | +/-25% of \$3,796.75 | State Plan data is pulled only from the NCR. Further review level is based on a one-year national rate, pulled only from OIS. |
| 9 | Percent in compliance | S: 55.41% | +/- 20% of S: 28.47% | State Plan data is pulled only from the NCR. |
| | | H: 45.00% | +/-20% of H: 33.58% | Further review level is based on a one-year national rate, pulled only from OIS. |
| 10 | Percent of work-related fatalities responded to in one workday | 70% | 100% | State Plan data is manually tabulated to include both OIS and NCR data. Further review level is fixed for every State Plan. |
| 11 | Average lapse time | S: 74.45 | +/-20% of S: 42.78 | State Plan data is pulled only from the NCR. |
| | | H: 109.60 | +/-20% of H: 53.48 | Further review level is based on a one-year national rate, pulled only from OIS. |
| 12 | Percent penalty retained | 54.81% | +/-15% of 67.96% | State Plan data is pulled only from the NCR. Further review level is based on a one-year national rate, pulled only from OIS. |
| 13 | Percent of initial inspections with worker walk around representation or worker interview | 100% | 100% | State Plan data is manually tabulated to include both OIS and NCR data. Further review level is fixed for every State Plan. |
| 14 | Percent of 11(c) investigations completed within 90 days | 39% | 100% | State Plan data is pulled from WebIMIS. Further review level is fixed for every State Plan. |
| 15 | Percent of 11(c) complaints that are meritorious | 12% | +/-20% of 24% | State Plan data is pulled from WebIMIS. Further review level is based on a three-year national average pulled from WebIMIS. |

Appendix D – FY 2015 State Activity Mandated Measures (SAMM) Report

FY 2015 Indiana State Plan Comprehensive FAME Report

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| 16 | Average number of calendar days to complete an 11(c) investigation | 95 | 90 | <p>State Plan data is pulled from WebIMIS.</p> <p>Further review level is fixed for every State Plan.</p> |
| 17 | Percent of enforcement presence | 1.00% | +/-25% of 1.35% | <p>State Plan data is manually tabulated to include both OIS and NCR data.</p> <p>Further review level is based on a one-year national rate, pulled only from OIS.</p> |