

**FY 2019 Comprehensive
Federal Annual Monitoring Evaluation (FAME) Report**

**Iowa Workforce Development
Iowa Division of Labor
Iowa Occupational Safety and Health Administration**



Evaluation Period: October 1, 2018 – September 30, 2019

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I. Executive Summary

The purpose of this report is to assess the Iowa Occupational Safety and Health Administration's (Iowa OSHA) activities for Fiscal Year (FY) 2019 and its progress in resolving the outstanding observation from the previous FY 2018 Follow-up Federal Annual Monitoring Evaluation (FAME) Report. Iowa OSHA responded to recommendations made in the FY 2018 Follow-up FAME Report and sustained high-level program performance.

Iowa OSHA continued a long-term trend in the reduction of injuries and illnesses. Specifically, the U.S. Department of Labor (USDOL), Bureau of Labor Statistics (BLS) injury and illness rates for the State of Iowa continues to decline over the past four years. These rates represent the number of injuries and illnesses surveyed per 100 full-time workers. The rates were as follows: 3.9 in CY 2015, 3.8 in CY 2016, 3.6 in CY 2017, and 3.5 in CY 2018. Therefore, Iowa experienced a 10% overall decrease in worker injury and illness rates since 2015.

Iowa OSHA maintained 44 Voluntary Protection Program (VPP) participants, four alliances, five construction partnerships, and six Safety and Health Achievement Recognition Program (SHARP) participants in FY 2019. The VPP program continued to certify and re-certify worksites throughout the fiscal year.

Iowa OSHA experienced changes in executive leadership during the evaluation period with the loss of the Iowa OSHA Administrator and one of the supervisors of the compliance safety and health officers (CSHOs), as well as the Labor Commissioner and Deputy Labor Commissioner. During the transition period, an Acting Administrator led Iowa OSHA (approximately ten months). The Governor appointed a new Labor Commissioner on March 1, 2019, and shortly thereafter, the Commissioner selected the current Iowa OSHA Administrator. In addition to the Iowa OSHA Administrator, a senior employee was promoted to the position of Public Service Manager (Team Leader). The new OSHA Consultation/State Programs Administrator was promoted from within as well. Overall, there was a significant shift in the leadership team and the focus is to improve all aspects of the State Plan Program.

Iowa OSHA made progress in addressing a continued observation from the FY 2018 Follow-up FAME Report (FY 2018-OB-18 and FY 2017-OB-01) regarding timeliness of initiating complaint inspections and investigations. Iowa OSHA has seen a progressively downward (positive) trend in the average number of days to initiate an inspection, but still fell short of the negotiated timeframe. On the other hand, Iowa OSHA saw an increase in the days to respond to complaint investigations (inquiries) and is now far exceeding the negotiated timeframe. Therefore, the FY 2018 observation is continued in respect to initiation of inspections only, and a new finding addresses the average timeframe to initiate a complaint investigation being 10.4 days, which is 9.4 days above the Further Review Level of one day

The comprehensive review of enforcement case files (inspection and inquiry) also includes two additional new findings, identifying deficiencies in case file documentation relative to citation worksheets, specifically, employer knowledge, and severity and probability justification.

Appendix A of this report describes new and continued findings and recommendations. Appendix B describes the single continued observation. Appendix C is for reporting the status of FY 2018 findings, and since Iowa OSHA did not have any findings in last year’s report, this appendix is blank.

II. State Plan Background

A. Background

The Iowa State Plan, referred to as the Iowa Occupational Safety and Health Administration (Iowa OSHA), is part of the Iowa Workforce Development, Labor Services Division, which is administered by the Commissioner of Labor. Iowa OSHA adopted most OSHA standards as promulgated, and its enforcement program functions are very similar to OSHA’s program with no significant differences. Iowa’s enforcement personnel benchmark is 13 safety compliance officers and 12 health compliance officers with three safety and one health position being vacant at the end of FY 2019.

During FY 2019, Iowa OSHA conducted 753 inspections, which exceeds the 645 inspections projected. The inspections by discipline were 526 Safety and 303 Health. Iowa OSHA’s budget is a 50/50 match between federal and state funds with additional state appropriated funds needed beyond the 50/50 match. With the exception of 2015, Iowa OSHA has historically overmatched the federal contribution in funding. Iowa OSHA’s funding levels from FY 2015 through FY 2019 are shown below in Table 1. Iowa OSHA Consultation and Education program conducts public 23(g) and private 21(d) consultation activities, in addition to providing training and education services. The consultation and cooperative programs complement the enforcement effort to reduce exposure to occupational hazards and attempt to reduce fatalities.

| Table 1 FY 2015-2019 Funding History | | | | | |
|---|---------------------------|------------------------------|------------------------------|---------------------------|-------------------------------------|
| Fiscal Year | Federal Award (\$) | State Plan Match (\$) | 100% State Funds (\$) | Total Funding (\$) | % of State Plan Contribution |
| 2019 | 2,040,000 | 2,040,000 | 504,373 | 4,584,373 | 55.5 |
| 2018 | 2,000,600 | 2,000,600 | 1,049,591 | 5,050,791 | 60.3 |
| 2017 | 2,000,600 | 2,000,600 | 1,402,777 | 5,403,977 | 62.9 |
| 2016 | 2,000,600 | 2,000,600 | 795,898 | 4,797,098 | 58.0 |
| 2015 | 2,000,600 | 2,000,600 | 0 | 4,001,200 | 50.0 |

B. New Issues

None.

III. Assessment of State Plan Progress and Performance

A. Data and Methodology

OSHA established a two-year cycle for the FAME process consisting of a comprehensive year and a follow up year. Comprehensive years consist of full case reviews and onsite evaluations. FY 2019 is a comprehensive year and OSHA conducted an on-site evaluation and a full case file review. A five-person OSHA team, including two-whistleblower investigators and three Federal Enforcement Officers, conducted full case file reviews. The on-site evaluation took place at the Iowa OSHA office between February 24, 2019 and March 6, 2019. The review team conducted interviews with Management and employees in conjunction with the evaluation. OSHA reviewed 145 safety, health, whistleblower, Voluntary Protection Program (VPP), and partnership and alliance case files. The randomly selected case files included safety and health enforcement files as well as whistleblower case files that were developed and closed during the evaluation period of October 1, 2018 through September 30, 2019. The population included:

- Nineteen fatality case files
- Ten formal complaint case files
- Forty-five non-formal complaint case files
- Twenty employer-reported referral case files
- Seven unprogrammed-related case files
- Eighteen programmed planned case files
- Two program related case files
- Eleven whistleblower case files
- Four Voluntary Protection Program files
- Six partnership files
- Three alliance files

The analyses and conclusions described in this report are based on information obtained from a variety of monitoring sources, including the:

- State Activity Mandated Measures (SAMM) Report (Appendix D)
- State Information Report (SIR)
- Mandated Activities Report for Consultation (MARC)
- State OSHA Annual Report (SOAR) (Appendix E)
- State Plan Annual Performance Plan
- State Plan Grant Application
- Quarterly monitoring meetings between OSHA and the State Plan
- Full case file reviews

- OSHA Information System (OIS) reports
- Field Operations Manual (FOM)
- State Plan Application (SPA)
- Iowa Administrative Bulletin (IAB)
- Iowa Administrative Code (IAC)

Each SAMM Report has an agreed-upon further review level (FRL) which can be either a single number, or a range of numbers above and below the national average. State Plan SAMM data that falls outside the FRL triggers a closer look at the underlying performance of the mandatory activity. Appendix D presents the State Plan's FY 2019 SAMM Report, which also includes the FRL for each measure.

B. Review of State Plan Performance

1. PROGRAM ADMINISTRATION

a) Training

Iowa OSHA adopted OSHA Instruction TED-01-00-019 Mandatory Training Program for OSHA Compliance Personnel, effective July 21, 2014; and OSHA Instruction TED 01-00-020 Mandatory Training Program for OSHA Whistleblower Investigators, effective October 8, 2015 to administrate its training program. The Public Service Managers tracked individual enforcement officer training and the Consultation and Education Bureau Chief tracked compliance assistance and 21(d) programs staff training. Staff training during FY 2019 included:

- OSHA Training Institute Course 2070, Fire Protection and Life Safety, Minneapolis, MN February-March 2019
- OSHA Training Institute Course 3060 Safety and Health for Grain Handling, Des Moines, IA June 2019
- OSHA Training Institute Course 1000 Initial Compliance Course
- OSHA Training Institute Course 1050 Introduction to Safety Standards for Safety Officers
- OSHA Training Institute 1250 Introduction to Health Standards for Industrial Hygienists

b) OSHA Information System

Iowa OSHA uses various reports within OIS such as Area Office Operational Reports, Audit and Data Reports, DCAT Reports, Enforcement Activity Reports, State Program Performance Measures Reports, and Trending/Statistic Reports. These reports aid in Iowa OSHA's enforcement management to ensure they meet established goals. Since the adoption of OIS in 2014, Iowa OSHA personnel have demonstrated proficiency at entering data and running reports within OIS to evaluate and manage the State Plan. However, during the on-site review, OSHA found an area open to improvement through the identification of some improperly coded inspection files. For example, a fatality case coded as a referral (primary) and fatality (secondary) led to an inaccurate Fatality count. In another example, an inspection improperly coded as a FEDTARGET National Emphasis Program referenced an emphasis program not utilized by Iowa OSHA. These examples were anomalous and did not represent a trend rising to the level of observation or finding.

c) State Internal Evaluation Program Report

Iowa OSHA internally evaluated its program on a quarterly basis to measure progress towards goals and incorporated the evaluated results in its State OSHA Annual Report (SOAR), See Appendix E.

d) Staffing

The enforcement program is benchmarked for sixteen safety compliance officers and thirteen health compliance officers, with three of the safety and one of the health positions being open at the end of the fiscal year.

During FY 2019, Iowa OSHA experienced major changes in executive leadership during the evaluation period. The Labor Commissioner and the Deputy Commissioner both retired. In March, The Iowa Governor, Kim Reynolds appointed a new Labor Commissioner and elected not to appoint a deputy. The Iowa OSHA Administrator and a supervisor of the compliance safety and health officers departed as well, leaving Iowa OSHA with one person supervising all the CSHOs. From October 2018 through September 2019, an acting OSHA Administrator led Iowa OSHA. To fill the Public Service Manager position, the acting OSHA Administrator temporarily promoted a lead compliance officer for the same duration. Iowa OSHA filled the vacated positions. In the process it promoted a Compliance Officer to the position of Public Service Manager (Team Leader). In June of 2019, Iowa OSHA created and filled a new executive officer position, Consultation/State Programs Administrator. The state continues to hire compliance officers to fill vacant positions, while facing challenges with retention. The process

of filling compliance officer positions takes a considerable amount of time and effort. It consists of advertising positions through vacancy announcements, interviewing and hiring new compliance personnel, having them complete at least the OTI Initial Course, providing them with onsite training, and sending them to conduct their first solo inspection, respectively. This process can take between eight and 12 months.

2. ENFORCEMENT

a) Complaints

The FY 2019 SAMM Report indicated the average number of workdays to initiate formal complaint inspections was 5.66, which was outside the FRL of five (5) days (SAMM 1a). The 5.66 days represents a 29.1% improvement compared to 7.59 days in FY 2018, but still falls outside the FRL.

The FY 2019 SAMM Report indicated the average number of workdays to initiate complaint investigations was 10.40 (non-formal complaint inquiries), which is outside the FRL of one (1) day (SAMM 2a) and significantly worse than 3.20 for SAMM 2a in FY 2018.

Because of the vast increase in investigation initiation times in FY 2019, as compared to FY 2018, and the progress made on decreasing inspection initiation times, we are separating the observation, FY 2018-OB-01, into a finding and a continued observation.

Observation FY 2019-OB-01 (FY 2018-OB-01): The SAMM data (SAMM 1a) shows the average number of working days to initiate formal complaint inspections was 5.66 days, which was outside the FRL is five (5) days.

Federal Monitoring Plan FY 2019-OB-01: Complaint inspection and investigation response times will be a subject of quarterly discussion with an emphasis on making further improvements. Response times will remain a part of quarterly discussions and annual FAME evaluation.

Finding FY 2019-01: The SAMM data (SAMM 2a) shows the average number of working days to initiate non-formal complaint investigations was 10.40 days, which was outside the FRL of one day.

Recommendation FY 2019-01: Iowa OSHA should review their complaint triage process to ensure investigations are initiated within one day, on average.

b) Fatalities

The FY19 SAMM Report indicated a 95.24% fatality response time of one workday (SAMM 10). The on-site evaluation included a review of nineteen fatality case

files. Eighteen of the nineteen fatality case files reviewed had one-day response times. The single fatality not responded to within one day was not actually a fatality and was miscoded. Of the nineteen cases, four were identified as “no inspections” as a secondary coding in OIS. The fatality files that were indicated as “No Inspection” as a secondary code in OIS, were found to be non-jurisdictional and should have been entered into the system as “no inspection (NI)” as a primary code. This resulted in four fatalities incorrectly assessed against the overall statistics.

c) Targeting and Programmed Inspection

The FRL for planned actual safety inspections is between 399 and 441. SAMM data shows Iowa OSHA conducted 510 safety inspections, positively indicating that Iowa OSHA exceeded their planned goal for safety inspections. The FRL for health inspections is between 213.75 and 236.25. SAMM data show Iowa OSHA conducted 192 health inspections, which is lower than and outside of the FRL. A subsequent review of an OIS Scan Summary Report indicated that 227 health inspections were conducted placing the Iowa State Plan within the FRL. The discrepancy between the two reports is likely explained by reviewing the dates the reports were run in the system. The OIS Scan Summary Report was accomplished in the second quarter of FY 2020 allowing for inspections conducted during FY2019 to be closed out and the OIS coding updated to reflect accurately.

The FRL for percent in-compliance (IC) for safety inspections (SAMM 9) is +/- 20% of the three-year national average of 30.30%, which equates to a range of 24.24% to 36.36%. Iowa OSHA’s percent in-compliance inspections (IC) for safety is 33.54% and falls within the FRL. The FRL for percent IC for health inspections is +/- 20% of the three-year national average of 36.12%, which equates to a range of 28.90% to 43.35%. The IC rate for health inspections was outside the FRL by 2% at 44.86% and OSHA does not consider this a significant amount requiring further review.

The FY 2019 SAMM data indicated that Iowa OSHA had an average of 1.75 violations per inspection that were classified as serious, willful, repeat, and 0.57 violations per inspection that were classified as other than serious (SAMM 5). Iowa OSHA was within the FRL for classifying serious, willful, and repeat violations.

The FY 2019 Grant set forth goals of 226 National Emphasis Program (NEP), and 527 State Emphasis Program (SEP) inspections. The inspection categories included:

- Falls - 222
- Amputations – 199
- Grain - 20
- Scaffold - 147
- Trench - 17

- Construction /Zip code - 297
- Hexavalent Chromium - 2
- Combustible Dust - 6
- Lead – 14
- Primary Metals – 5
- Asbestos Removal – 140
- Chemical Plant – 16

An OIS Inspection Summary by Program Report indicates that the Iowa State Plan exceeded their overall goals for NEP and SEP inspections with some deviation in individual goals.

d) Citations and Penalties

The FY2019 SAMM data indicates that Iowa OSHA’s percent of enforcement presence (SAMM 17) is 1.05 %. This is within the acceptable FRL of 0.92% to 1.54%. An OIS Issued Violations report indicated that of the 1,332 violations issued in FY 2019, 1,061 (79.65%) were classified as serious, and 271 (20.34%) were classified as other than serious. The average serious penalty of \$3,800.42 (SAMM 8) exceeds the FRL (\$2,153.97 and \$3,589.95) achieving a greater deterrent. SAMM 8a is outside the FRL, indicating the average current serious penalty in private sector (1-25 workers) is \$1,372.11, which is outside the FRL of \$1,436.89 to \$2,394.82. Although this is slightly below the FRL, it does not warrant action at this time.

During the on-site review, OSHA concluded that Iowa OSHA had provided adequate evidence to support violations in all inspections except one. An inspection with repeat violations did not contain supporting repeat documentation, as required the Iowa OSHA FOM. All other files contained appropriate supporting documentation e.g., citations for all apparent violations, appropriately classified violations, appropriate applied grouping, , and appropriate use of willful and repeated violations.

During the on-site review, 28 of 40 (70%) non in-compliance case files reviewed did not include adequate employer knowledge in the worksheets to support citations. IOSH Instruction IACPL 02-00-160, Field Operations Manual, effective date February 11, 2018, Chapter 4.II.C.4 outlines the requirements for establishing “Knowledge of the Hazardous Condition.”. This can be through actual knowledge or constructive knowledge. Paragraph b of this section states: “If it cannot be determined that the employer has actual knowledge of a hazardous condition, the knowledge requirement may be established if there is evidence that the employer could have known of it through the exercise of reasonable diligence. CSHOs shall record any evidence that substantiates that the employer could have known of the hazardous condition. Examples of such evidence include; the violation/hazard was in plain view and obvious; the duration of the hazardous condition was not brief;

the employer failed to regularly inspect the workplace for readily identifiable hazards; and the employer failed to train and supervise employees regarding the particular hazard.”

IACPL 02-00-160, Field Operations Manual, effective date February 11, 2018, establishes the need to document the CSHO findings, while at the inspection location in order to support the violation. Some examples of listed employer knowledge included “Yes”; and “The plant manager is in the building”. The case files did not reflect evidence of employer interviews to establish this knowledge nor were the worksheets documented to show what manager may have had knowledge. IOSH Instruction IACPL 02-00-160 (Field Operations Manual), Chapter 5.II.C.2.j states regarding Violation Worksheets: “Any and all facts which establish that the employer actually knew of the hazardous condition, or what reasonable steps the employer failed to take (including regular inspections of the worksite) that could have revealed the presence of the hazardous condition. The mere presence of the employer in the workplace is not sufficient evidence of knowledge. There must be evidence that demonstrates why the employer reasonably could have recognized the presence of the hazardous condition. Avoid relying on conclusory statements such as “reasonable diligence” to establish employer knowledge. See Chapter 4, Paragraph II.C.4., *Knowledge of the Hazardous Condition*, for additional information.”

Finding FY 2019-02:

Twenty-eight out of 40(70%) non in-compliance case files reviewed had violation worksheets that did not contain information adequate to establish knowledge of the hazardous condition, as required by the IACPL 02-00-160, Field Operations Manual, effective date February 11, 2018, Chapter 4.II.C.4.

Recommendation FY 2019-02: Iowa OSHA should ensure that CSHOs are familiar with the requirements established in IACPL 02-00-160, Field Operations Manual, effective date February 11, 2018, Chapter 4. CSHOs should conduct interviews with managers and document the case files (violation worksheets) with the level of detail to meet the requirements outlined in the FOM. Team Leaders conducting case file reviews should ensure that violation worksheets address the information outlined in the FOM and in cases where the documentation is insufficient, return it to the CSHO for additional action.

During the on-site review, fifteen of the forty (37.5%) non in-compliance case files did not include adequate severity and probability justifications in the worksheets. IACPL 02-00-160, Field Operations Manual, effective date February 11, 2018, Chapter 5.II.C.2 states “The following information shall be documented: c. Specific location of the hazard and employee exposure to the hazard”. Paragraph d states “Injury or illness likely to result from exposure to the hazard”. Paragraph h states “Approximate duration of time the hazard has existed and frequency of exposure to the hazard”. These items are all integral to establishing viable severity and probability assessments which are in turn used to justify the gravity-based

penalties, as outlined in IOSH Instruction IACPL 02-00-160 (Field Operations Manual), Chapter 6.III.A Gravity of Violation.

As part of the CSHO's responsibilities for developing a legally sufficient violation, documentation of prima facie evidence is paramount. Part of the process is to ensure that adequate documentation of the Gravity Based Assessment occurs on the violation worksheet. As previously noted, 37.5% of the reviewed case files did not contain adequate or any documentation showing a probability assessment.

Finding FY 2019-03: Fifteen of the 40 (37.5%) non in-compliance case files reviewed did not include adequate severity and probability justification in the worksheets as outlined in IACPL 02-00-160, Field Operations Manual, effective date February 11, 2018, Chapter 5.II.C.2.

Recommendation FY 2019-03: Iowa OSHA should ensure that all CSHOs are familiar with the requirements established in the FOM, Chapters 5 and 6. CSHOs should conduct an evaluation of the severity and probability and provide documentation in the case files (violation worksheets) with the level of detail to meet the requirements outlined in the FOM. Team leaders conducting case file reviews should ensure that violation worksheets address the information outlined in the FOM. In cases where documentation is insufficient, team leaders should return the case files to CSHOs for additional action.

e) Other Case file Concerns

During the on-site case file review, four closed case files contained personally identifiable employee medical information. Iowa OSHA FOM incorporates OSHA Instruction CPL 2-02-072, Rules of agency practice and procedures concerning OSHA access to employee medical records, effective date August 22, 2007, which states "Personally identifiable employee medical information in electronic form shall be maintained only for so long as needed to accomplish the purpose for access. When no longer needed, the Principal OSHA Investigator shall ensure that **all** personally identifiable employee medical information (PII) files or disks has been deleted, destroyed, or returned to the original record holder. The disposal of personally identifiable employee medical information in electronic form shall be accomplished in such a manner as to make the data unobtainable by unauthorized personnel." Although this was a statistically low number of case files, the presence of medical records in a closed case file, is a significant issue that warrants attention. OSHA will work with Iowa OSHA on developing a tracking system for case files containing PII to ensure that when a case is closed or the PII medical records are no longer needed, the PII is disposed of in accordance with applicable state rules.

f) Abatement

Of the 40 non in-compliance inspections reviewed, all (100%) had appropriate

abatement periods. Adequate verification of abatement was evident in 100% of the files. This is imperative to removing employees from the hazards identified during the inspection process. The state continues to obtain and document abatement documentation as required.

g) Worker and Union Involvement

The FY 2019 SAMM Report indicated that 99.15% of the inspections included worker walk around representation, or worker interview. Sixty-eight of 70 (97%) inspected case files contained documentation of interviews in the case file.

3. REVIEW PROCEDURES

a) Informal Conferences

The FY 2019 SAMM Report indicated a 68.10% penalty retention, which falls within the FRL (SAMM 12). Changes made during informal conferences were appropriate and documentation was sufficient. Iowa OSHA's procedures have been implemented and adequate. SIR data for FY 2019 shows that 3.82 of issued violations were vacated as compared to 2.65% nationally. In uncontested cases, Iowa OSHA retained 76.45% of the issued penalty. The penalty retention for contested vs. non-contested cases was within 4% of each other, showing a high level of consistency. The on-site review did not find any data that contradicted the statistics outlined in the SAMM.

b) Formal Review of Citations

The contest rate for Iowa OSHA's 753 inspection in FY 2019 was 6.1%. Similar to the Occupational Safety and Health Review Commission, Iowa's Department of Inspections and Appeals oversees litigation of Iowa OSHA's contested inspections. SIR data showed that 24.5% of issued violations were vacated once contested which is above the national average of 13.98%. This is not uncommon as part of the settlement process and routinely involves requiring abatement in exchange for vacating or deleting the violation. In cases where the company contested the citation, reclassification took place on 33% of the issued violations with a 73.57% penalty retention rate. All filing of contested cases was proper and timely. The public can obtain information about the process from the Department's website: <https://dia.iowa.gov/employment-appeal-board-resources>.

4. STANDARDS AND FEDERAL PROGRAM CHANGE (FPC) ADOPTION

a) Standards Adoption

Standards adoption reflects appropriate action in accordance with Iowa statutes. The Labor Services Division publishes a notice of intended action for public information and possible public hearing. At the end of the comment or hearing period, scheduling of standard adoptions are effective on a specified date in the near future. There were

no State Plan-initiated standards during FY 2019.

| Table 3 Standards Adoption | | | |
|---|-------------------|----------------|---------------------------|
| Standard | Response Due Date | Responded Date | Adopted Date |
| Final Rule on the Tracking of Workplace Injuries and Illnesses | 10/01/2019 | 05/29/2019 | (effective) 05/29/2019 |
| Final Rule on the Standards Improvement Project – Phase IV | 07/13/2019 | 06/03/2019 | 10/02/2019 |
| Final Rule on the Implementation of the 2019 Annual Adjustment to Civil Penalties for Inflation | 03/23/2019 | 03/22/2019 | 05/29/2019 |
| Final Rule on Crane Operator Certification Requirements | 01/09/2019 | 12/11/2018 | (effective) 04/03/2019 |

b) Federal Program Change (FPC) Adoption

The State Plan made timely adoption of four Federal Program Changes (FPC) in FY 2019. Presently, there are no outstanding FPCs requiring adoption. See Table 4 below.

| Table 4 Federal Program Changes | | | |
|---|-------------------|----------------|--------------|
| Standard | Response Due Date | Responded Date | Adopted Date |
| Shipyard Employment “Tool Bag” Directive | 07/21/2019 | N/A | N/A |
| Enforcement Guidance for Personal Protective Equipment in Shipyard Employment | 07/21/2019 | N/A | N/A |
| Confined and Enclosed Spaces and Other Dangerous Atmospheres in | 07/21/2019 | N/A | N/A |

| | | | |
|--|------------|------------|---------|
| Shipyard Employment | | | |
| Alternative Dispute Resolution Processes for Whistleblower Protection Programs | 04/05/2019 | 03/07/2019 | N/A |
| Site-Specific Targeting 2016 (SST-16) | 12/15/2018 | 12/14/2018 | Unknown |
| National Emphasis Program on Trenching and Excavation, CPL 02-00-161 | 11/30/2018 | 12/10/2018 | Unknown |

5. VARIANCES

No variances were initiated during this reporting period.

6. STATE AND LOCAL GOVERNMENT WORKER PROGRAM

Iowa OSHA has policies and procedures for conducting inspections involving state and local government workers. The FY 2019 SAMM data (SAMM 6) indicates that Iowa OSHA conducted 3.85% of its inspections in state and local government workplaces, achieving an average greater than the FRL (3.09% to 3.42%). Exceeding the FRL helps to ensure that employees in state and local government workplaces are provided with employment free of hazards.

7. WHISTLEBLOWER PROGRAM

Iowa OSHA received 102 whistleblower complaints during FY 2019. Of these, Iowa OSHA docketed 36 complaints for anti-retaliation investigation, administratively closing 66. Thirty-two percent (12/36) of docketed 11(c) cases were meritorious (SAMM 15) which compares favorably to the national average of sixteen percent. The FRL range of acceptable data not requiring further review is from 18.40% to 27.60%; however, exceeding the meritorious level shows a high level of success in proving the merit of cases. The SAMM Report indicated the percent completed within 90 days was 34% (SAMM 13). In comparison 23% were completed within 90 days in 2016, 26% in 2017, and 50% in 2018 (SAMM 14). Iowa OSHA, on average, took 106 days to complete an 11(c) investigation (SAMM 16). All reviewed files contained proper

documentation of prima facie allegations, thorough interviews of all parties and witnesses, proper pretext testing, and accurate reports of investigation.

Iowa OSHA’s percent of cases completed in 90 days changed from 50% in 2018 to 34% in 2019. Additionally, Iowa OSHA’s average number of days to complete a case in FY 2019 was 106 days, lower than the average number of days for all State Plans, federal, and national (federal and State Plans combined), which is historically the case. The average number of days for all State Plan were 298. The Whistleblower Activity Measures Reports show the average number of days for federal was 303. The average number of days for state and federal combined was 300. Iowa OSHA outperformed all State Plans, federal, and national in the number of days it takes to complete a case. To ensure continuous improvement, Iowa OSHA should further review its internal policies and procedures to identify efficiencies and resources that would aid in increasing the percent of whistleblower investigations completed within 90 days.

Lastly, Iowa OSHA appointed a backup Whistleblower Protection Program (WPP) investigator in the event of an emergency, or departure, of its only investigator. This person is scheduled for training during FY2020.

| Table 5 Whistleblower SAMM (14, 15, 16) | | | | | | |
|---|---|--|---|--|---|---|
| Fiscal Year | Percent Completed within 90 Days (SAMM 14) | % Change of 90 Day Completion to Baseline (SAMM 14) | Percent Meritorious for Iowa (SAMM 15) | Percent Meritorious for All State Plans (SAMM 15) | Average # of Days to Complete for Iowa (SAMM 16) | Average # Days to Complete for All State Plans (SAMM 16) |
| 2019 | 34 | +11 | 32 | 16 | 106 | 298 |
| 2018 | 50 | +27 | 21 | 18 | 97 | 287 |
| 2017 | 26 | +3 | 17 | 22 | 180 | 260 |
| 2016 (baseline) | 23 | | | | | |

8. COMPLAINT ABOUT STATE PROGRAM ADMINISTRATION (CASPA)

IOWA OSHA did not receive any CASPAs during this evaluation period.

9. VOLUNTARY COMPLIANCE PROGRAM

Iowa OSHA's written policies and procedures for voluntary and cooperative programs are substantially similar to CSP 03-01-005, Voluntary Protection Policies and Procedures Manual, effective date January 30, 2020, and are adequate to accomplish the program’s goals. The State Plan adopted federal directives for the Voluntary Protection Program (VPP) and the Safety and Health Achievement Recognition Program (SHARP). Iowa OSHA published its own instruction for its partnership program, which is

substantially similar to the federal partnership directive and appropriately provides non-enforcement incentives. There were no changes made to the Iowa OSHA's voluntary and cooperative programs during FY 2019. Iowa OSHA had 44 Voluntary Protection Program (VPP) participants at the end of FY 2019. During the fiscal year, Iowa OSHA did not see a reduction in VPP sites while adding four new participants. The VPP program continued to certify and re-certify worksites throughout the fiscal year. There were not any deficiencies found during a review of eight VPP files. All letters, annual summaries, and ninety-day items were compliant with the established policies.

10. STATE AND LOCAL GOVERNMENT 23(g) ON-SITE CONSULTATION PROGRAM

Iowa OSHA accomplished twenty-five state and local government consultation visits during FY 2019. The majority of visits were conducted between the first and third quarter with 13 visits in the first quarter and nine visits in second quarter. Iowa OSHA identified 101 hazards during all visits for FY 2019.

11. PRIVATE SECTOR 23(g) ON-SITE CONSULTATION PROGRAM

Iowa OSHA's employers benefited from the consultation program's education staff through training on the use of safety and health management programs to help reduce injury and illness rates. In fact, the program affected 4,565 outreach participants through consultation provided training during FY 2019. This was a 6% increase over the 4,323 participants impacted through training in FY 2018. Additionally, youth engagement in safety and health continued through general industry and construction training venues for youth workers. Venues included the Job Corps Center, where OSHA 10-hour training sessions were conducted.

Consultation program staff coordinated events during the National Stand Down for Falls During the 3rd quarter of FY 2019. Event activities included fall protection training and fall protection equipment demonstrations.

Iowa OSHA regularly scheduled monthly visits with each partnership site during FY 2019. Iowa OSHA accomplished walk-around audits, hazard identification, and correction during regularly scheduled visits. There were eight to nine partnerships, on average, each quarter during the year. There were five new partnerships during the year and six closed out with final evaluations accomplished. During the FY2019, none of the partnership participants had an incident (injury or fatality) that required reporting as outlined in 29 CFR 1910.39.

Construction partnerships during FY 2019 had approximately 12,760 workers participate in OSHA outreach programs.

Iowa OSHA maintained 43 Voluntary Protection Program (VPP) participants, four alliances, five construction partnerships per quarter, and six Safety and Health Achievement Recognition Program (SHARP) establishments in FY 2019. Iowa OSHA

visited 125 jobsites, which resulted in uncovering and correcting 350 serious and 16 other-than-serious hazards that exposed approximately 2,865 workers.

The compliance assistance staff continued working with the Employer's Councils of Iowa to provide employers and workers training throughout the state. The Employer's Council members include representatives from Iowa Workforce Development, community colleges, local business development groups, and other government organizations.

Appendix A – New and Continued Findings and Recommendations

FY 2019 Iowa OSHA Comprehensive FAME Report

| FY 2019-# | Finding | Recommendation | FY 2018-# or FY 2018-OB-# |
|------------|---|---|------------------------------|
| FY 2019-01 | The SAMM data (SAMM 2a) shows the average number of working days to initiate non-formal complaint investigations was 10.40 days, which was outside the FRL of one day. | Iowa OSHA should review their complaint triage process to ensure investigations are initiated within one day, on average. | <u>FY 2018-OB-01</u> |
| FY 2019-02 | Twenty-eight of the 40 (70%) non-in-compliance case files reviewed had violation worksheets that did not contain information adequate to establish knowledge of the hazardous condition, as required by the IACPL 02-00-160, Field Operations Manual, effective date February 11, 2018, Chapter 4.II.C.4. . | Iowa OSHA should ensure that all CSHOs are familiar with the requirements established in IACPL 02-00-160, Field Operations Manual, effective date February 11, 2018, Chapter 4. CSHOs should conduct interviews with managers and document the case files (violation worksheets) with the level of detail to meet the requirements outlined in the FOM. Team leaders conducting case file reviews should ensure that violation worksheets address the information outlined in the FOM. In cases where the documentation is insufficient, team leaders should return it to the CSHO for additional action. | |
| FY 2019-03 | Fifteen of the 40 (37.5%) non in-compliance case files reviewed did not include adequate severity and probability justification in the worksheets as outlined in IACPL 02-00-160, Field Operations Manual, effective date February 11, 2018, Chapter 5.II.C.2. | Iowa OSHA should ensure that all CSHOs are familiar with the requirements established in the FOM, Chapters 5 and 6. CSHOs should conduct an evaluation of the severity and probability and provide documentation in the case files (violation worksheets) with the level of detail to meet the requirements outlined in the FOM. Team Leaders conducting case file reviews should ensure that Violation Worksheets address the information outlined in | |

Appendix A – New and Continued Findings and Recommendations

FY 2019 Iowa OSHA Comprehensive FAME Report

| | | | |
|--|--|---|--|
| | | the FOM. In cases where documentation is insufficient, to the CSHO for additional action. | |
|--|--|---|--|

Appendix B – Observations Subject to New and Continued Monitoring
 FY 2019 Iowa State Plan FAME Report

| Observation # FY 2019-OB-# | Observation# FY 2018-OB-# or FY 2018-# | Observation | Federal Monitoring Plan | Current Status |
|-------------------------------|--|--|---|----------------|
| FY 2019-OB-01 | FY 2018-OB-01 | The SAMM data (SAMM 1a) shows the average number of working days to initiate formal complaint inspections was 5.66 days, which was outside the FRL is five (5) days. | Complaint inspection and investigation response times will be a subject of quarterly discussion with an emphasis on making further improvements. Response times will remain a part of quarterly discussions and annual FAME evaluation. | Open |

Appendix C - Status of FY 2018 Findings and Recommendations

FY 2019 Iowa OSHA Comprehensive FAME Report

| FY 2018-# | Finding | Recommendation | State Plan Corrective Action | Completion Date (if Applicable) | Current Status (and Date if Item is Not Completed) |
|-----------|---------|----------------|------------------------------|---------------------------------|--|
| | None. | | | | |

Appendix D - FY 2019 State Activity Mandated Measures (SAMMs)

FY 2019 Iowa OSHA Comprehensive FAME Report

| U.S. Department of Labor | | | | |
|---|---|-----------------|----------------------|--|
| Occupational Safety and Health Administration State Plan Activity Mandated Measures (SAMMs) | | | | |
| State Plan: Iowa – IOWA OSHA | | | FY 2019 | |
| SAMM Number | SAMM Name | State Plan Data | Further Review Level | Notes |
| 1a | Average number of work days to initiate complaint inspections (state formula) | 5.66 | 5 | The further review level is negotiated by OSHA and the State Plan. |
| 1b | Average number of work days to initiate complaint inspections (federal formula) | 3.25 | N/A | 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) | 10.40 | 1 | The further review level is negotiated by OSHA and the State Plan. |
| 2b | Average number of work days to initiate complaint investigations (federal formula) | 0.61 | N/A | 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) | N/A | 100% | N/A – The State Plan did not receive any imminent danger complaints or referrals in FY 2019. The further review level is fixed for all State Plans. |

Appendix D - FY 2019 State Activity Mandated Measures (SAMMs)

FY 2019 Iowa OSHA Comprehensive FAME Report

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|----------|---|-------------|------------------------|--|
| 4 | Number of denials where entry not obtained | 0 | 0 | The further review level is fixed for all State Plans. |
| 5 | Average number of violations per inspection with violations by violation type | SWRU: 1.75 | +/- 20% of SWRU: 1.79 | The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 1.43 to 2.15 for SWRU and from 0.78 to 1.16 for OTS. |
| | | Other: 0.57 | +/- 20% of Other: 0.97 | |
| 6 | Percent of total inspections in state and local government workplaces | 3.85% | +/- 5% of 3.26% | The further review level is based on a number negotiated by OSHA and the State Plan through the grant application. The range of acceptable data not requiring further review is from 3.09% to 3.42%. |
| 7 | Planned v. actual inspections – safety/health | S: 510 | +/- 5% of S: 420 | The further review level is based on a number negotiated by OSHA and the State Plan through the grant application. The range of acceptable data not requiring further review is from 399 to 441 for safety and from 213.75 to 236.25 for health. |
| | | H: 192 | +/- 5% of H: 225 | |
| 8 | Average current serious penalty in private sector - total (1 to greater than 250 workers) | \$3,800.42 | +/- 25% of \$2,871.96 | The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from \$2,153.97 to \$3,589.95. |
| | a. Average current serious penalty in private sector (1-25 workers) | \$1,372.11 | +/- 25% of \$1,915.86 | The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from \$1,436.89 to \$2,394.82. |

Appendix D - FY 2019 State Activity Mandated Measures (SAMMs)

FY 2019 Iowa OSHA Comprehensive FAME Report

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|-----------|---|------------|-----------------------|---|
| | b. Average current serious penalty in private sector (26-100 workers) | \$3,275.74 | +/- 25% of \$3,390.30 | The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from \$2,542.73 to \$4,237.88. |
| | c. Average current serious penalty in private sector (101-250 workers) | \$4,898.83 | +/- 25% of \$4,803.09 | The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from \$3,602.31 to \$6,003.86. |
| | d. Average current serious penalty in private sector (greater than 250 workers) | \$6,768.78 | +/- 25% of \$5,938.59 | The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from \$4,453.94 to \$7,423.23. |
| 9 | Percent in-compliance | S: 33.54% | +/- 20% of S: 30.30% | The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 24.24% to 36.36% for safety and from 28.90% to 43.35% for health. |
| | | H: 44.86% | +/- 20% of H: 36.12% | |
| 10 | Percent of work-related fatalities responded to in one workday | 95.24% | 100% | The further review level is fixed for all State Plans. |
| 11 | Average lapse time | S: 37.38 | +/- 20% of S: 47.61 | The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 38.08 to 57.13 for safety and from 45.78 to 68.68 for health. |
| | | H: 32.25 | +/- 20% of H: 57.23 | |
| 12 | Percent penalty retained | 68.10% | +/- 15% of 66.38% | The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 56.42% to 76.33%. |
| 13 | Percent of initial inspections with worker walk around representation or worker interview | 99.15% | 100% | The further review level is fixed for all State Plans. |

Appendix D - FY 2019 State Activity Mandated Measures (SAMMs)

FY 2019 Iowa OSHA Comprehensive FAME Report

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|-----------|--|-------|------------------|---|
| 14 | Percent of 11(c) investigations completed within 90 days | 34% | 100% | The further review level is fixed for all State Plans. |
| 15 | Percent of 11(c) complaints that are meritorious | 32% | +/- 20% of 23% | The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 18.40% to 27.60%. |
| 16 | Average number of calendar days to complete an 11(c) investigation | 106 | 90 | The further review level is fixed for all State Plans. |
| 17 | Percent of enforcement presence | 1.05% | +/- 25% of 1.23% | The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 0.92% to 1.54%. |

NOTE: The national averages in this report are three-year rolling averages. Unless otherwise noted, the data contained in this Appendix D is pulled from the State Activity Mandated Measures (SAMM) Report in OIS and the State Plan WebIMIS report run on November 12, 2019, as part of OSHA's official end-of-year data run.

Iowa FFY19 State OSHA Annual Report (SOAR)

Evaluation Period:
October 1, 2018 – September 30, 2019



Prepared by:
Russell Perry and Joseph Mullen

Submitted:
3 January 2020

I. Executive Summary

Fiscal Year (FY) 2019 is the fifth year of the Iowa Occupational Safety and Health Administration's five year Strategic Plan (FY 2014-2019).

Iowa OSHA is committed to assuring Iowa's employers provide workplace environments that are safe, healthy, free of recognized hazards and free from retaliation. This commitment will allow businesses to prosper as the State of Iowa supports economic growth. We are committed to our strategic performance plan to assure a balanced approach toward workplace safety.

Iowa OSHA submitted separate 23(g) grant and 21(d) cooperative agreement applications for FY 2019. Therefore, only a discussion of the portions of the 21(d) Consultation Activity Projection Plan (CAPP) that support 23(g) activities are incorporated in the 23(g) SOAR. A separate Consultation Annual Progress Report (CAPR) will be submitted to the Regional and National Office.

FY 2019 saw a significant change in the Iowa Division of Labor Services and the Iowa OSHA Administration leadership team. The Iowa OSHA Administrator (Public Service Manager 2) was relieved of his duties in October of 2018, and the supervisor of the Safety and Health Compliance Officers (Public Service Manager 1) retired at the same time. The Senior Industrial Hygienist supervisor (Public Service Manager 1) was temporarily assigned as the Iowa OSHA Administrator to lead the enforcement branch of Iowa OSHA until a new Administrator could be selected. The temporary Iowa OSHA Administrator promoted one Industrial Hygienist and one Safety and Health Compliance Officer to be lead workers for each of these sections. In March of 2019, the Labor Commissioner retired, along with the Deputy Commissioner. A new Labor Commissioner was appointed by the Governor of Iowa and confirmed by the Iowa Senate on the 1st of March 2019. The new Labor Commissioner elected not to appoint a deputy but instead reorganized the Labor Services Division leadership team. A new Executive Officer position was created and was filled in June of 2019. A new Iowa OSHA Administrator (Public Service Manager 2) and Safety and Compliance Supervisor (Public Service Manager 1) were selected in June of 2019. The temporary OSHA Administrator went back to his position as the Industrial Hygienist Supervisor, and a new OSHA Consultation/State Programs Administrator (Public Service Manager 2) was selected in August of 2019. The new Labor Services Divisions organizational chart is depicted on page 15.

The leadership team at Iowa OSHA Enforcement now consists of the Iowa OSHA Administrator, who directly supervises the two Public Service Manager 1 positions. These two Public Service Manager 1 positions are responsible for the daily supervision of enforcement field staff; which is divided between safety and health compliance officers and industrial hygienists. Duties include daily work and inspection assignments; case file review and correction; training new staff through accompanied visits and assisting with complicated inspections; evaluating work performance for annual evaluations; analyzing training needs; providing technical assistance to subordinates; answering questions from the public; conducting informal settlement conferences and reviewing documentation for violation abatement and corrective means; working with legal staff on contested citations and personnel issues; and providing assistance to the Iowa OSHA Administrator and the Labor Commissioner.

Iowa OSHA had enjoyed a solid working relationship with the Federal OSHA office in Des Moines, Iowa. During this fiscal year, the Des Moines Federal OSHA office reduced its staff to one Compliance Officer and moved the federal oversight of the Iowa OSHA program to the Federal OSHA office in Omaha, Nebraska. The Omaha Federal OSHA Area Director resigned right at the end of this fiscal year, and the search for a new Area Director for the Omaha office is underway.

The Iowa OSHA leadership team communicates with the Region VII leadership team during a teleconference call every 1st Monday of each month. In addition, the Iowa OSHA Administrator participates in a teleconference call every 3rd and 4th Monday with Region VII staff and all Region VII area directors. These calls provide open communication between all parties to share best practices; provide guidance on upcoming events and activities; and discuss / share pertinent information which will help enable our staffs to continue to reach the goals and objectives of our programs.

With new leadership in the Iowa Division of Labor Services, along with the newly established relationship with the Federal OSHA office in Omaha, we shall continue to work towards our common goal of assuring that every worker goes home safe and healthy at the end of each day. Iowa OSHA is committed to maintaining a balanced approach to reaching this goal-through compliance assistance and enforcement.

Iowa continues to hold a Workers Memorial Day to pay tribute to those workers who lost their lives in workplace accidents. The Iowa Workers Memorial Day was held on the 29th of April 2019 honoring twenty six (26) workers who lost their lives in 2018.

II. Summary of Annual Performance Plan Results

During FY 2019, Iowa OSHA conducted a total 753 enforcement inspections (526 safety and 227 health). These inspections resulted in 1,029 violations (726 safety and 303 health). The previous fiscal year totaled 837 enforcement inspections. This represents a 10% decrease in the number of inspections in FY 2019. This decrease in inspections can be attributed to the personnel turbulence that occurred during FY 2019. Only one month in FY 2019 were we at full staffing of industrial hygienists and safety and health compliance officers. With the new leadership team in place, Iowa OSHA is confident that newly assigned personnel will have a positive impact on the number of inspections in FY 2020.

Of the 753 enforcement inspections, 559 were unprogrammed inspections (419 safety and 140 health). Unprogrammed inspections included 154 complaints, 28 fatalities, 27 referral, 245 referral-employers reported and 105 unprogrammed related. There were 194 programmed inspections (107 safety and 87 health). Unprogrammed inspections again compromised the greatest number of inspections conducted. Programmed inspections were targeted on several of Iowa OSHA's local emphasis programs (LEPs) to include amputations; asbestos in construction; falls in construction; scaffolding; and grain handling establishments. Proposed initial penalties for issued citations in FY 2019 equaled \$4,445,035 dollars. The breakout dollar amounts were \$908,471 dollars for health violations and \$3,536,564 dollars for safety violations.

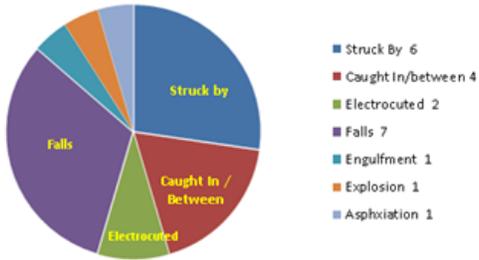
The U.S. Department of Labor (USDOL) Bureau of Labor Statistics (BLS) injury and illness rates for the state of Iowa represents the number of injuries and illnesses surveyed per 100 full-time workers. Injury and illness rates continue to show a decrease over the past five calendar years. BLS collects and publishes the data for the non-fatal injury and illness rates by calendar year so this performance goal is measured as rate changes for calendar years rather than by fiscal years.

Iowa OSHA conducted 28 workplace fatality inspections in FY2019. Of these 28 fatality inspections, 22 fatalities came under Iowa OSHA jurisdiction. This compared to the 24 fatalities under Iowa OSHA jurisdiction in FY 2018. This represents an 8% decrease in workplace fatalities.


Work-Related Fatalities
Federal Fiscal Year 2019
 1 October 2018 – 30 September 2019
 

| | | |
|--------------|--------------|---|
| November 14 | Marshalltown | EE fell from 3' ladder |
| November 17 | Saint Ansgar | EE struck by and crushed by unsecured load |
| December 3 | Marshalltown | EE caught in between building and JLG guardrail |
| December 6 | Dubuque | EE fell 4' onto moving conveyor and related components |
| December 13 | Kalona | EE struck by tire rim while repairing a tire |
| January 5 | Clinton | EE fell during Fire Fighting operation |
| February 21 | Bedford | EE struck by tree after saw became stuck and tree fell |
| March 1 | Altoona | EE caught in laser cutting system |
| March 5 | Oskaloosa | EE caught in garbage truck compactor |
| March 15 | Cedar Falls | EE struck by truck in distribution warehouse back lot |
| April 10 | Newton | EE fell from top of tank truck |
| April 22 | Cedar Rapids | EE fell from steel beam |
| May 22 | Alleman | EE fell 1,000 feet from communications tower |
| June 15 | Wilton | EE asphyxiated when hooked up to air line with nitrogen |
| June 24 | Belmond | EE engulfed in soybean bin |
| June 27 | Brooklyn | EE struck by blown tire |
| July 7 | Davenport | EE electrocuted by open electrical box |
| July 10 | Delta | EE electrocuted when sprayer boom raised into powerline |
| July 16 | Holy Cross | EE struck by falling tree |
| July 31 | Britt | EE killed by explosion / welding on 55gal drum of recycled oil |
| August 2 | Lynrville | EE caught in sweep auger |
| September 21 | Newton | EE killed when scissor lift fell over |

FFY 2019 Fatalities (22)



Of the 36 whistleblower complaints that were docketed in FY19, 25 cases were recommended for dismissal after investigation, 1 case was withdrawn, 6 cases were settled and 4 cases were pending at the end of the fiscal year. An additional 66 cases were administratively closed. Four were closed due to a lack of cooperation from the complainant, 10 cases were administratively closed because they were filed late; 37 cases were administratively closed because the complainant did not allege a protected activity; 1 case was closed due to the complainant not receiving an adverse action; 1 case was administratively closed as there was no possible inference of a nexus; 7 cases were administratively closed due to Iowa OSHA having no jurisdiction; 5 cases were administratively closed because the complainant chose not to proceed; and 1 complaint was closed for an “other” reason. Nine whistleblower complaints were referred to Region VII. Of this last group, 1 was related to the Affordable Care Act; 1 was related to the Solid Waste Disposal Act; 1 was related to the FDA Food Modernization Act; 1 was related to the Federal Railroad Safety Act; and 5 were related to the Surface Transportation Assistance Act.

Voluntary Protection Program (VPP) teams of OSHA 23(g) staff participated in VPP audits. Currently Iowa has 44 active VPP participants. The program saw 4 new participants. We continuously encouraged other companies to strive for VPP in 2019. We anticipate additional companies to submit applications and to be evaluated in FY20.

There were 4 alliances that continued to be active through FY19: Master Builders of Iowa (MBI); the Iowa Renewable Fuels Association (IRFA); the IBEW 55 Transmission and Distribution Union; and the Associated Builders and Contractors of Iowa (ABC).

Partnerships with construction companies continued through FY19 with an average of 5 each quarter. Three were completed during the 1st quarter of FY19 and 1 continued through the year. An additional 5 were added in the 3rd and 4th quarters to end FY19 with a total of 6. The performance goal of adding 1 new partnership to the baseline is not compatible with the available resources and the vacancy of the Compliance Assistance Specialist in the 3rd quarter of FY19. In the alternative, the goal of 10 partnerships can be entertained with the 23(g) Training and Education staff sharing the Partnership responsibilities. Unlike past years, the pending building projects will increase in the next year allowing us to generate additional Partnership projects.

There were 6 Safety and Health Achievement Recognition Program (SHARP) establishments that continued into FY19. Two of the current SHARP establishments were recertified during FY19. Our goal of adding 1 additional location to a level of 7 will continue into FY20 through our continued effort and promotion of the SHARP program.

III. Progress toward Strategic Plan Accomplishments

Strategic Goal 1: Improve workplace safety and health

| | |
|---|--|
| Strategic Objective 1.1: Secure safe and healthy workplaces, particularly in high risk industries by continually decreasing incidences of fatalities, injuries, illnesses and amputations to meet or exceed the national average by the year 2020 | |
| Annual Performance Goal #1 | Improve workplace safety and health through compliance assistance and the enforcement of safety and health regulations and standards. |
| Goal 1.1a | Reduce the number of fatalities by 3% |
| Goal 1.1b | |
| Goal 1.1c | |
| Goal 1.2a | Continue to target the most hazardous workplaces by reviewing BLS data on injuries, illnesses and fatalities in the state of Iowa |
| Goal 1.2b | Improve workplace safety and health through public and private sector consultation visits |
| Goal 1.2c | Improve workplace safety and health through cooperative programs |
| | Improve workplace safety and health through compliance assistance outreach activities that target highest risk workplaces |
| Strategy | Focus Iowa OSHA resources by coordinating both enforcement and consultation and education interventions to maximize effectiveness for each workplace and employee impacted. Utilize enforcement inspections, consultation surveys, and outreach interventions to reduce injuries and illnesses throughout the state. |
| Performance indicator | Percent difference in Total Recordable Case Rate (TRC) and change in number of fatalities |

| | |
|----------|--|
| Baseline | Workplace fatalities in FY 2018 and US Department of Labor, Bureau of Labor Statistics |
|----------|--|

Progress in achieving Iowa OSHA Performance goal #1.1a of **reducing the number of fatalities by 3%**

| FY 2019 Iowa OSHA Performance Goal 1.1a | Number of Fatalities | | | | | Strategic Plan 5 year average | FY 18-FY 19 % change |
|---|----------------------|-------|-------|-------|-------|-------------------------------|----------------------|
| | FY 15 | FY 16 | FY 17 | FY 18 | FY 19 | | |
| Fatality Outcome Measure | | | | | | | |
| Total number of Fatalities | 18 | 24 | 22 | 24 | 22 | 22 | 8% decrease |
| Number of General Industry Fatalities | 13 | 15 | 15 | 13 | 17 | 14.6 | |
| Number of Construction Fatalities | 5 | 9 | 7 | 11 | 5 | 7.4 | |

Progress in achieving Iowa OSHA Performance goal #1.1b of **reducing occupational injury and illness rates by 3%**

| FY 2019 Iowa OSHA Performance Goal 1.1b | Assess progress by tracking the outcome of the non-fatal injury and illness rate changes by calendar year (CY) | | | | | |
|---|--|-------|-------|-------|-------------------------------|---------------------|
| Non-fatal outcome measures | CY 14 | CY 15 | CY 16 | CY 17 | CY 18 | CY 19 |
| Percent change in the injury and illness Total Recordable Case rates for Iowa | 4.4 | 3.9 | 3.8 | 3.6 | 3.5 (2.7% decrease) | Pending publication |
| Percent change in the injury and illness Total Recordable Case rates for General Industry in Iowa | 5.4 | 4.9 | 4.9 | 4.3 | 4.4 | Pending publication |
| Percent change in the injury and illness Total Recordable Case rates for Construction in Iowa | 4.5 | 4.2 | 4.1 | 3.7 | 3.8 | Pending publication |

*Progress in achieving Iowa OSHA Performance goal #1.1c by **targeting the most hazardous workplaces by reviewing BLS data on injuries, illnesses and fatalities in the state of Iowa**

*will use FY 2019 numbers for enforcement interventions as the baseline moving forward

| FY 2019 Iowa OSHA Performance Goal 1.1c | Target the most hazardous workplaces by coordinating enforcement intervention to maximize effectiveness | | | | |
|---|---|--------------------------|--------------------------|---------------------------|--------------|
| Performance measure = number of inspections | 1 st Qtr FY19 | 2 nd Qtr FY19 | 3 rd Qtr FY19 | 4 th Qtr FY 19 | *FY 19 Total |
| Falls in General Industry | 23 | 15 | 15 | 21 | 74 |
| Amputate | 27 | 58 | 57 | 52 | 194 |
| Fall | 28 | 15 | 40 | 39 | 122 |

| | | | | | |
|------------------------|----|----|----|----|-----|
| Grain | 2 | 3 | 3 | 2 | 10 |
| Scaffold | 17 | 29 | 34 | 37 | 117 |
| Trench | 5 | 0 | 10 | 14 | 29 |
| Asbestos | 8 | 2 | 33 | 38 | 81 |
| Construction Targeting | 6 | 21 | 27 | 14 | 68 |

Progress in achieving Iowa OSHA Performance goal #1.2a was assessed *by tracking the outcome of Consultation Program support assistance*

| Compliance Assistance FY 2019 Iowa OSHA Performance Goal 1.2a | Assess progress by tracking number of interventions: | | | | | |
|---|--|---------------------|----------------------|------------------------|---------------------------|------------------------|
| | Performance Measure | Baseline FY 2014 | FFY 2019 Total | FFY 2019 1st Qtr | FFY 2019 2nd Qtr | FFY 2019 3rd Qtr |
| Private Sector - Number of visits associated with falls in construction | 45 | 155 | 26 | 32 | 46 | 51 |
| Private Sector - Number of visits associated with falls in general industry | 5 | 79 | 8 | 14 | 32 | 25 |
| Private Sector - Total Number of consultation Safety visits | 149 | 246 | 39 | 58 | 77 | 72 |
| Trench | 4 | 28 | 2 | 3 | 11 | 12 |
| Amputations | 16 | 46 | 7 | 9 | 16 | 14 |
| Combustible Dust | 4 | 5 | 1 | 0 | 4 | 0 |
| Grain | 2 | 3 | 0 | 0 | 3 | 0 |
| Nursing Homes | 9 | 5 | 0 | 1 | 1 | 3 |
| Residential Building Construction | 0 | 14 | 2 | 4 | 4 | 4 |
| Commercial and Institutional Building Construction | 0 | 147 | 26 | 29 | 45 | 47 |
| Highway and Street Construction | 0 | 9 | 1 | 0 | 3 | 5 |
| Site Preparation / Demolition | 0 | 31 | 3 | 3 | 9 | 16 |
| Power and Communication Lines | 0 | 0 | 0 | 0 | 0 | 0 |
| Lead | 1 | 0 | 0 | 0 | 0 | 0 |
| Silica | 6 | 10 | 0 | 4 | 0 | 6 |
| Isocyanates | 0 | 0 | 0 | 0 | 0 | 0 |

| | | | | | | |
|---|-------|-------|-------|-------|-------|-------|
| Primary Metals | 1 | 3 | 1 | 0 | 1 | 1 |
| PSM Covered Chemical Facilities | 0 | 1 | 1 | 0 | 0 | 0 |
| Other - scrap, waste, refuse, etc. | 0 | 103 | 15 | 16 | 37 | 35 |
| Total all safety visit emphasis programs | 85 | 405 | 59 | 69 | 134 | 143 |
| Private Sector - Total Number of consultation Health visits | 65 | 110 | 15 | 32 | 30 | 33 |
| Hexavalent Chromium | 8 | 4 | 0 | 2 | 0 | 2 |
| Amputations | 19 | 55 | 8 | 12 | 18 | 17 |
| Combustible Dust | 2 | 8 | 2 | 0 | 2 | 4 |
| Lead | 3 | 2 | 1 | 1 | 0 | 0 |
| Silica | 7 | 37 | 3 | 12 | 6 | 16 |
| Primary Metals | 0 | 6 | 1 | 0 | 2 | 3 |
| Isocyanates | 5 | 2 | 0 | 1 | 0 | 1 |
| Nursing Homes | 12 | 7 | 1 | 0 | 3 | 3 |
| Trenching | 0 | 5 | 0 | 3 | 1 | 1 |
| Noise - Hearing Conservation / Respirators | 3 | 13 | 1 | 1 | 4 | 7 |
| Other - scrap, waste, refuse, etc. | 0 | 79 | 11 | 19 | 21 | 28 |
| Total all health visit emphasis programs | 59 | 218 | 28 | 51 | 57 | 82 |
| Private Sector - Percent of visits that are LEP / NEP | 67.3% | 76.4% | 79.6% | 58.8% | 78.5% | 83.0% |
| Public Sector - Number of consultation visits | 20 | 25 | 13 | 9 | 2 | 1 |
| Public Sector - Number of hazards corrected | 54 | 101 | 12 | 60 | 14 | 15 |

Progress in Achieving **IOSHA Performance Goal 1.2b** was assessed by *tracking the outcome of the number of Compliance Assistance Program interventions:*

| Cooperative Programs and Training FY 2019 Iowa OSHA Performance Goal 1.2b | | Assess progress by tracking number of interventions: | | | | | |
|--|-----------------------------|---|--------------------------|-----------------------------|------------------------|-------------------------|--------------------------|
| <i>Performance Measure</i> | Baseline FY 2014 | FY 2019 Goal | FY 2019 TOTAL | FY19 1st Qtr | FY19 2d Qtr | FY19 3rd Qtr | FY 19 4th Qtr |
| Number of training sessions | 73 | Increase by 10% | 150 | 31 | 57 | 38 | 24 |
| Number of employees | 4,323 | Increase by 100 employees | 4,565 | 1,146 | 1,779 | 1,004 | 636 |
| Number of Partnerships | 14 | Increase by 1 | 6 | 4 | 4 | 6 | 6 |
| Number of employees | 25,394 | Increase by 100 employees | 12,760 | 9,415 | 580 | 1,665 | 1,100 |
| Number of SHARP | 6 | Increase by 1 | 6 | 6 | 6 | 6 | 6 |
| Number of VPP | 46 | Increase by 1 | 44 | 40 | 44 | 44 | 44 |

Progress in Achieving IOSHA Performance Goal 1.2c was assessed by *tracking the outcome of the participation in-compliance Assistance Program interventions:*

| Training FFY 2019 Iowa OSHA Performance Goal 1.2.3 | | Assess progress by tracking number of interventions: | | | | |
|---|----------------------------------|---|---------------------------------|-------------------------------------|---------------------------------|---------------------------------|
| <i>Performance Measure</i> | Baseline FFY 2014 | FFY 2019 Total | FFY 2019 1st Qtr | FFY 2019 2nd Qtr | FFY 2019 3rd Qtr | FFY 2019 4th Qtr |
| 1. Increase in training programs: | | | | | | |
| a. Fall hazards in general industry | 4 | 14 | 5 | 5 | 3 | 1 |
| b. Fall hazards in construction | 14 | 59 | 18 | 16 | 16 | 9 |
| c. Youth | 6 | 10 | 6 | 4 | 0 | 0 |
| 2. Increase in outreach activities to establishments covered by NEP and LEP | 116 | 314 | 116 | 84 | 46 | 68 |
| 3. Increase in outreach activities to establishments in agriculture | 5 | 2 | 0 | 1 | 0 | 1 |

23(g) Enforcement Program Activities

Iowa OSHA continues to provide direct intervention through mandated enforcement activities

consultation activities, compliance assistance and outreach.

Iowa OSHA works to reduce hazards by intervening at targeted worksites that have experienced fatalities, severe injuries and employee complaints. Bureau of Labor Statistics (BLS) rates are used to help determine that Iowa OSHA efforts are being focused on the right areas.

Iowa OSHA continues to dedicate one Senior Industrial Hygienist as a point of contact to address all incoming calls to our OSHA line. In FY2019, 1,549 calls were made to our OSHA line. Dedicating one staff member to this duty has allowed Iowa OSHA to handle informal complaints more consistently with better hazard identification and verification. This has provided better ‘customer service’ as this staff member can route calls to our consultation staff to answer OSHA specific questions.

The education staff continued to promote and educate employers on the use of safety and health management programs through direct contact as well as through training programs. The outreach to improve safety and health programs is an important effort to reduce injury and illness rates in this state. For the second year, Iowa OSHA participated in the Safe and Sound campaign with a proclamation by the governor.

Iowa OSHA provided training to 4,323 outreach participants in FY18 and increased the number of outreach participants by 6% in FY19 with a total of 4,565 outreach participants. The 23(g) staff continued to identify methods to educate and engage the grain handling industry. Presentations to safety managers and directors were conducted in the 2nd quarter of FY19. In addition to general safety and health issues, the Fertilizer Grade Ammonium Nitrate (FGAN) emphasis was communicated to the groups. The youth demographic continued to be an emphasis. Training venues for youthful workers included the Job Corps where 10-hour training sessions were conducted.

Iowa OSHA again participated in the National Stand Down for Falls held during the 3rd Quarter of FY19. Activities included fall protection training and demonstrations of fall protection equipment and fall hazards. All of the Iowa partnership sites participated, including those participating in the alliance with MBI, Associated Builders and Contractors, and Kirkwood Community College Outreach Center.

The Training and Education Section maintains an inventory of 19 Spanish-speaking safety videos that are available for lending to those employers seeking assistance in training their employees. A supply of quick cards and other OSHA publications printed in Spanish is maintained for distribution as needed.

Partnerships with construction companies continued through FY19 with an average of five each quarter. Three were completed during the 1st quarter of FY19 and one continued through the year. An additional five were added in the 3rd and 4th quarters to end FY19 with a total of six. The performance goal of adding one new partnership to the baseline is not compatible with the available resources and the vacancy of the Compliance Assistance Specialist in the 3rd quarter of FY19. In the alternative, the goal of 10 partnerships can be entertained with the 23(g) Training and Education staff sharing the Partnership responsibilities. Unlike past years, the pending building projects will increase in the next year allowing us to generate additional Partnership projects.

Rates for the partnerships were low. No fatalities and no serious injuries meeting the mandatory reporting criteria occurred on partnership sites in FY19. Construction partnerships during FY19 had approximately 12,760 employees participate in all the outreach programs.

There were 4 alliances active through FY19: Iowa Renewable Fuels Association, MBI, ABC, and International Brotherhood of Electrical Workers, Local 55.

The Iowa OSHA formal Alliance with the Iowa Renewable Fuels Association (IRFA) which covers Iowa's renewable ethanol and bio-fuels industries, continued through FY19. The focus of this alliance is to share information on hazard recognition, control and best management practices among association members and Iowa OSHA personnel, through quarterly meetings.

The Iowa OSHA formal Alliance with MBI continued through FY19. The focus of this alliance is to share information on hazard recognition, control and best management practices in the construction industry. Iowa OSHA Consultation worked cooperatively with MBI to reach construction companies who are normally not accessible. These include contractors who work exclusively with MBI and do not generally use our services, as well as subcontractors of those contractors and contractors new to the State of Iowa. During FY19, there were 114 visits with 282 serious, 11 other-than-serious, and 13 regulatory hazards identified. The 114 visits protected 1,630 workers.

The fourth alliance was signed with Associated Builders and Contractor (ABC) in FY18 and continued throughout FY19. The focus of this alliance is to share information and resources to the association and its members.

The compliance assistance staff continued to work with the Employer's Council of Iowa to provide training to employers and employees throughout the state. The Employer's Council members include representatives from Iowa Workforce Development, community colleges, local business development groups and other government organizations. In addition to the construction and general industry 10-hour classes, we have expanded the presentations to include workshops on specific topics such as falls, electrical, lockout/tagout, recordkeeping, machine guarding, and ergonomics.

Iowa has forty-four companies who are in VPP Star status and is working with additional companies to achieve the designation. In FY19, four companies achieved VPP Star status. We anticipate FY20 will bring additional applicants for evaluation. An industrial hygienist continues to serve as the VPP team leader and works with companies already in the program while assisting those who are striving to achieve the designation. Three Safety and Health Consultants and three Industrial Hygienists assist the team leader with VPP audits. A list of the current VPP companies is available in the Iowa OSHA Consultation and Education Section.

21(d) Consultation Program Activities:

Iowa Consultation and Education continued to support the Local and National Emphasis Programs of Iowa OSHA Enforcement. Requests were received by Iowa OSHA Consultants to provide presentations and training on nursing homes, trenching, silica, grain, asbestos and falls in construction.

Iowa Consultation and Education staff also provided presentations and staffed booths at the annual Governor's Safety Conference, the Iowa-Illinois Safety Conference, MBI's Conference, and the Hawkeye Safety Conference.

During FY19, we selected industries for promotional mailings based on high TRC and DART rates and inclusion in a national emphasis program. Each mailing explained why the business was selected and provided several avenues for assistance. We were able to provide services to about 8.7% of the employers who received these mailings.

- A mailing about combustible dust hazards went to 148 employers in the Plastics and Rubber Products Manufacturing (NAICS 326) industry. We received 17 consultation visits due to this mailing.

- A mailing about primary metals went to 56 employers in the Primary Metal Manufacturing (NAICS 331) industry resulting in 9 visits for consultation services.
- A mailing about accident rates higher than the national average went to 222 employers in the Miscellaneous Manufacturing Products (NAICS 339) industry resulting in four visits for consultation services.
- A mailing about accident rates higher than the national average went to 109 employers in the Plastic Product Manufacturing (NAICS 3261) industry resulting in 17 visits for consultation services.

Iowa Consultation and Education continued to promote SHARP to employers with the goal of improving their safety and health management programs. Unfortunately, there were not any additional companies achieving SHARP status during FY19 despite our heightened level of promotion encouraging companies to participate.

Iowa Consultation reviewed injury and illness rates for those industries where we had concentrated efforts in past fiscal years as well as worked with those companies individually to assess outreach efforts.

There were 25 public sector consultation visits with 101 serious hazards proposed during FY19. Many of the visits were requested by a state agency to assist in their safety and health efforts. The other requests for services were through county and city governments. Additional requests are likely in FY20 due to increased outreach efforts and presentations in the public sector. Hazards relating to machine guarding, falls, hazard communication, and electrical were identified.

The Iowa Governor's Safety Conference was held in October in the Des Moines area. Iowa OSHA Consultation and Education Administrator for the Iowa Consultation and Education Program and State Programs is the Vice-Chair for the board that selects speakers and topics for the annual conference. A booth at the conference was staffed by Iowa OSHA Consultation and Education personnel to answer questions and promote consultation services.

Iowa Consultation and Education supports the NEPs and the LEPs adopted by Iowa OSHA through outreach, education, and consultation visits. A detailed discussion of these activities may be found in the "Discussion of Results in Achieving Annual Plan (AP) Performance Goals" section of the FY19 Iowa Consultation Annual Project Report (CAPR.) Consultants stressed the importance of safety and health program management during all consultation activities

Strategic Goal 2: Protect Worker's Rights

Iowa Code 88.9(3) of the Iowa Occupational Safety and Health Chapter states that a person shall not discharge or in any manner discriminate against an employee because the employee has filed a complaint related to this chapter. Iowa OSHA addresses employee discrimination in accordance with section 11c of the Federal Occupational Safety and Health Act of 1970.

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|---|--|
| Strategic Objective 2.1: To strengthen the enforcement of the whistleblower protection statutes | |
| Annual Performance Goal # 2.1 | To protect employees rights to file safety and health complaints and prevent discrimination against workers who report hazards Reduce average age in days for pending whistleblower investigation |
| Goal 2.1a | Increase the % of whistleblower investigations completed in 90 days |
| Goal 2.1b | Reduce average age in days to complete new complaint screening process for docketed whistleblower investigations |
| Goal 2.1c | |
| Strategy | Coordinate Iowa OSHA resources to maximize efficiency of discrimination claim processing |
| Performance indicator | Percent improvements in processing rates each year |
| Baseline | FY 2018 Averages |

Progress in achieving Iowa OSHA Performance goal #2 was assessed *by tracking the outcome of Whistleblower investigations*

| | | | | | | |
|--|--|--------------------|-----------------|-----------------|-----------------|-----------------|
| FY 2019 Iowa OSHA Performance Goal 2.1 | Assess progress by tracking number of whistleblower investigations | | | | | |
| Performance Measure | Baseline FY 2018 Average | FY 2019 Average | 1st Qtr FY19 | 2nd Qtr FY19 | 3rd Qtr FY19 | 4th Qtr FY19 |
| Average age in days for pending whistleblower investigations/percent completed in 90 days | 97 / 50% | 106 / 34% | 100 / 45% | 116 / 20% | 97 / 45% | 112 / 30% |
| Average days to complete new complaint screening process for docketed whistleblower investigations | 8.4 | 9.2 | 12.4 | 6.5 | 13.8 | 6.4 |

Iowa OSHA’s whistleblower investigator position has remained filled in FY19. Iowa OSHA no longer employs the compliance officer that had been trained as a backup to the whistleblower investigator; however, another compliance officer is scheduled to attend the Basic Whistleblower Investigations course at OTI in calendar year 2020, which will allow Iowa OSHA to continue to address whistleblower complaints in the absence of the main investigator. The whistleblower investigator continues to strive to reach the goal of completing 100% of all whistleblower investigations within 90 days and to screen complaints as efficiently as possible.

IV. Mandated Activities

The requirement for reporting amputations, hospitalizations, and loss of an eye continues to directly impact Iowa OSHA’s complaint inspection and investigation response time. An additional inspector and administrative assistant supported the complaint officer with processing the severe incident reports, phone & fax complaints, e-correspondence, and over 1,549 phone calls during the year. These individuals perform this function in addition to other duties to manage the influx of severe incident reports and non-formal complaints.

Iowa’s emphasis on reducing amputations continues to be a priority. The majority of programmed inspections target these types of General Industries. Unprogrammed inspections continue to make up the bulk of inspections this fiscal year. Continued turbulence in the staffing of qualified Compliance Safety

and Health Officers has had an effect on overall inspection numbers. The enforcement staff was fully staffed for only two weeks during this fiscal year. This constant turnover in personnel will probably continue throughout the years. Newly assigned CSHOs are given priority to OTI courses and immediately begin to receive mentorship by our more experience staff.

Impact Factors

Iowa OSHA continues to take a balanced approach to employee workplaces by providing quality consultation and active enforcement of OSHA's regulatory policies. Iowa OSHA will continue to respond to the growing economic challenges of Iowa's workforce by proactively providing services that impact safety and health working conditions for both employees and employers in Iowa.

Conclusion

Iowa OSHA has been actively engaged in promoting Partnerships and Alliances proactively helping employers create and sustain safe and healthy employment and workplaces for their employees. Local Emphasis Programs (LEPs) for Amputations, Grain Handling, Hexavalent Chromium, and statewide emphasis on fall protection and trenching have continued to be a primary focus of the Iowa OSHA programs.

Iowa OSHA enforcement will continue to address unprogrammed activities and actively conduct targeting programmed inspections as necessary. Iowa OSHA is committed to maximizing its resources in the areas that will provide the most significant impact in accomplishing performance goals. Iowa OSHA will continue to seek better ways to target resources to ensure that its performance measures are impacting its strategic goals and objectives

