



KENTUCKY
OCCUPATIONAL SAFETY AND HEALTH PROGRAM

STATE OFFICE ANNUAL REPORT

for

FEDERAL FISCAL YEAR 2012

Mark S. Brown, Secretary
Michael L. Dixon, Commissioner

INTRODUCTION

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

The Kentucky Labor Cabinet has experienced two (2) significant reorganizations. By Executive Order 2004-731, issued by Governor Ernie Fletcher in 2004, the Labor Cabinet was abolished with all duties, responsibilities, employees, and functions transferred to the Environmental and Public Protection Cabinet, Department of Labor. Executive Order 2004-731 was ratified into law during the 2005 General Assembly by Senate Bill 41.

Executive Order 2008-472, issued by Governor Steven L. Beshear and effective June 16, 2008, re-established the Labor Cabinet, headed by a Secretary appointed by the Governor, and assigned to it all organizational entities within, attached to, or associated with the former Department of Labor, including all duties, functions, responsibilities, personnel, records, files, equipment, budgets, appropriations, allotments, and cash balances assigned to those entities. All duties, responsibilities, records, files, equipment, budgets, appropriations, allotments, and cash balances assigned to the Office of Occupational Safety and Health were assigned to the Department of Workplace Standards, headed by a Commissioner appointed by the Secretary with the approval of the Governor.

Executive Order 2008-472 was not ratified in the 2009 Regular Session of the General Assembly. Therefore, Executive Order 2009-537 was issued by Governor Beshear on June 12, 2009, to preserve the organizational structure established in Executive Order 2008-472. Executive Order 2009-537 once again established the Labor Cabinet and assigned to it all

organizational entities associated with the former Department of Labor as stated in Executive Order 2008-472.

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

On March 25, 2010, Governor Beshear signed into law House Bill 393, an act relating to reorganization. House Bill 393 amended and created various sections of the Kentucky Revised Statutes to abolish the Environmental and Public Protection Cabinet and created (re-established) the Labor Cabinet. Kentucky's OSH Program now consists of the Division of OSH Compliance, headed by a Director; the Division of OSH Education and Training, headed by a Director; and the OSH Federal-State Coordinator. The OSH Federal-State Coordinator and the appointed directors of the Division of OSH Compliance and Division of OSH Education and Training report to the Commissioner of Workplace Standards who, in turn, reports to the Secretary of the Labor Cabinet.

The Division of OSH Education and Training and the Division of OSH Compliance have developed an effective and comprehensive effort to promote the safety, health, and general welfare of the people of the Commonwealth. This effort focuses on preventing hazardous working conditions and practices at places of work. The Divisions of OSH Education and Training and OSH Compliance provide for voluntary compliance services, education and training, enforcement through inspections of workplaces, onsite consultation services, research, statistics, and other functions that meet the mandate of the Kentucky Revised Statutes (KRS) Chapter 338.

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

The Kentucky OSH Program implemented a new five (5) year strategic plan for Fiscal Years (FY) 2011-2015 that utilizes a combination of resources to address workplace hazards, including enforcement strategies, consultations, training and education, partnership programs, technical assistance, and standards development. The synergistic effect of these combined resources enables the OSH Program to significantly impact worker safety and health in the Commonwealth of Kentucky.

This report is presented in three (3) sections. Section I addresses Kentucky's success in achieving FY 2012 Performance Plan goals. Section II addresses mandated activities during FY 2012. Section III addresses noteworthy accomplishments achieved by the Kentucky OSH Program during FY 2012.

SECTION I SUCCESS ACHIEVING PERFORMANCE GOALS

The first strategic goal of the 2011-2015 Strategic Plan is to improve workplace safety and health for all workers, particularly in high-risk industries, as evidenced by fewer hazards, reduced exposures, and fewer injuries, illnesses, and fatalities.

Performance Goal 1.1 for the five (5) year plan addresses the recidivism rate for repeat, serious, and willful violations in residential construction. The FY 2012 Annual Performance Goal is to reduce the rate for repeat, serious, and willful violations in residential construction.

The baseline set in FY 2011 was four (4) willful serious, ten (10) repeat serious and ninety-six (96) serious violations in residential construction. In FY 2012, the Division of OSH Compliance conducted 108 residential construction inspections resulting in four (4) willful serious violations, eleven (11) repeat serious violations, and 105 serious violations.

The Division of OSH Education and Training continues to offer commercial and residential construction training upon request.

Performance Goal 1.2 aims to reduce amputations, hospitalizations, and illnesses in general industry and construction.

The baseline set in FY 2011 was 151 reported hospitalizations. In FY 2012, the Division of OSH Compliance received 149 hospitalization reports. Fifty-nine (59) inspections were conducted with forty-one (41) serious violations, twenty-five (25) other than serious violations, and four (4) repeat serious violations. Total penalties were \$209,850.

The baseline for reported amputations set in 2011 was fifty-four (54). In FY 2012, the Division of OSH Compliance received fifty-four (54) reported amputations. Forty-four (44) inspections were conducted with fifty-two (52) serious violations, twenty-three (23) other-than-

serious violations, one (1) willful, and one (1) repeat serious violation. Total penalties were \$324,050.

Performance Goal 1.3 addresses the total number of employees removed from hazards through a multi-pronged strategy. This performance goal incorporates efforts for both the Division of OSH Compliance and the Division of OSH Education and Training. The Division of OSH Compliance's portion of this goal consists of response to imminent dangers, staff training, and conducting inspections for reports of hospitalization of fewer than three (3) employees.

The Division of OSH Compliance responded to 217 imminent dangers in FY 2012 within one (1) working day. Although six (6) inspections appear as outliers in FY 2012, the Division of OSH Compliance did respond to five (5) imminent dangers within one (1) working day.

1. An inspection at DHL Global mail was incorrectly identified as an imminent danger. This error has been corrected.
2. An inspection for Ron Eldridge Excavating LLC was opened within one (1) working day; however, a typographical error was made in IMIS. This error has been corrected.
3. A CSHO was dispatched within one (1) working day to Capital Framing LLC. Upon arrival, the job site was inactive and weather conditions prohibited work the following day. The CSHO returned to the site the following day and opened the inspection. The Division of OSH Compliance responded within one (1) working day of notification.
4. An inspection for Eric Cook dba Eric Cook was incorrectly entered into IMIS as an imminent danger complaint. This error has been corrected.

5. An inspection for the Flint Group Inc. was inadvertently assigned to a CSHO who was beginning scheduled time off. The complaint was received December 28, 2011. The inspection was opened January 10, 2012 immediately upon the CSHO's return.
6. An inspection for Voith Industrial Services was incorrectly identified as an imminent danger when in fact it was a Priority B Formal Complaint. This error has been corrected.

The Division of OSH Compliance continued staff training in FY 2012 by sending employees to training programs sponsored by the OSHA Training Institute and Kentucky's Division of OSH Education and Training.

The Division of OSH Compliance inspected fifty-nine (59) reported hospitalizations in FY 2012.

During FY 2012, the Division of OSH Education and Training conducted 145 health surveys of which 117 were considered high hazard. The Division's Safety Branch conducted 157 surveys, of which all were considered high hazard.

Performance Goal 1.4 strives to ensure that employers are adhering to settlement provisions and have abated imminent danger and fatality violations.

The Division of OSH Compliance conducted thirty-four (34) follow-up inspections in FY 2012 including one (1) follow-up inspection to ensure employer compliance with the terms of a settlement agreement.

Performance Goal 1.5 aims to reduce the number of injuries caused by falls, struck-by, and crushed-by incidents in construction by ten (10) percent through a six (6) part strategy.

This performance goal incorporates efforts for both the Division of OSH Compliance and the Division of OSH Education and Training. The Division of OSH Compliance's portion of this

goal consists of responses to imminent dangers, conducting inspections for reports of hospitalizations of fewer than three (3) employees, and ensuring on-going staff training.

Data was collected by the Bureau of Labor Statistics Survey of Occupational Injuries and Illness in cooperation with the Division of OSH Education and Training’s Statistical Services Branch. The following Kentucky and national incident rates for 2011 represent nonfatal occupational injuries and illnesses involving days away from work per 10,000 full-time workers in the construction industry.

2011	Falls	Struck-by	Crushed
Kentucky	10.6	26.0	*
National	20.1	23.8	8.3

***Too few incidents for rate calculation (Two (2) incidents reported)**

Kentucky’s rates were well below the national average for falls and crushed-by incidents in 2011.

The Division of OSH Education and Training continues its Construction Partnership Program (CPP) and monitors the number of enrolled employers, training courses, contact hours, surveys, and technical assistance efforts.

Performance Goal 1.6 addresses the initiation of all fatality and catastrophe inspections by the Division of OSH Compliance within one (1) working day of notification. Kentucky met its goal for FY 2012. Although seven (7) fatalities appear as outliers in FY 2012, the Division of OSH Compliance responded within one (1) working day on each fatality.

1. A fatal accident at the City of Manchester Public Works Department occurred Friday, April 27, 2012, at 9:00 pm. The employer left a message on the OSHA hotline and

- the message was retrieved Sunday, April 29, 2012. The inspection was opened Monday, April 30, 2012. The Division of OSH Compliance responded within one (1) working day of notification.
2. A fatal accident involving an employee of Double G, LLC, a subcontractor of the Kentucky Transportation Cabinet, occurred September 12, 2012 near Hopkinsville and was reported September 13, 2012. An inspection began at the site on September 13, 2012, and the Kentucky Transportation Cabinet was contacted the same day. The CSHO was unable to contact the offices of Double G, LLC until September 20, 2012 due to the employer being located out-of-state. Division of OSH Compliance staff were on site and began an investigation within the one (1) working day of notification.
 3. An accident involving an Associated Press employee occurred October 2, 2011 and an investigation was opened the same day. The employee died October 18, 2011. The Division of OSH Compliance began the investigation before the employee's death.
 4. A B & B Contracting employee was involved in an accident September 28, 2011 and an investigation was opened the same day. The employee died October 11, 2011. The Division of OSH Compliance began the investigation before the employee's death.
 5. A fatality investigation with Lake Tree Farm LLC opened October 25, 2011. An incorrect opening date was entered on the OSHA-1. This error has been corrected.
 6. An accident involving an E. I. du Pont de Nemours and Company employee occurred September 29, 2011. A complaint was filed on September 30, 2011 and an

investigation immediately began. The employee died on October 18, 2011. The Division of OSH Compliance began the investigation before the employee's death.

7. A Worldwide Technologies employee was involved in an accident February 24, 2012 and an investigation was opened the same day. The employee died on March 9, 2012. The Division of OSH Compliance began the investigation before the employee's death.

Performance Goal 1.7 aims to initiate Division of OSH Compliance inspections of all imminent danger reports within one (1) working day of notification. The Division of OSH Compliance responded to all referral imminent dangers in FY 2012 within (1) working day. Although four (4) referral imminent dangers in FY 2012 appear as outliers, the Division of OSH Compliance responded within one (1) working day.

1. An inspection at DHL Global mail was incorrectly identified as an imminent danger. This error has been corrected.
2. An inspection for Ron Eldridge Excavating LLC was opened within one (1) working day; however, a typographical error was made in IMIS. This error has been corrected.
3. A CSHO was dispatched within one (1) working day to Capital Framing LLC. Upon arrival, the job site was inactive and weather conditions prohibited work the following day. The CSHO returned to the site the following day and opened the inspection. The Division of OSH Compliance responded within one (1) working day of notification.
4. An inspection for Eric Cook dba Eric Cook was incorrectly entered into IMIS as an imminent danger complaint. This error has been corrected.

Performance Goal 1.8 strives to reduce Kentucky's total case rate for injuries and illnesses. This performance goal combines efforts for both the Division of OSH Compliance and the Division of OSH Education and Training.

FY 2011 was the first year under the new five (5) year performance plan and is considered a baseline year. The baseline incident rate for all industries was 4.5. Total recordable incidence rates in 2011 for all industries in Kentucky was 4.4 which is an improvement from 2010. Both divisions of the KY OSH Program strive for continuing improvement in the total case rate for Kentucky. Efforts such as the Targeted Outreach Program (TOP) and the Safety Tops Our Priority (STOP) are producing positive results.

Performance Goal 1.9 addresses the reduction of Kentucky's lost time case rate for injuries and illnesses. This performance goal combines efforts for both the Division of OSH Compliance and the Division of OSH Education and Training.

FY 2011 was the first year under the new five (5) year performance plan and is considered a baseline year. The total 2010 lost time rate for Kentucky was 2.2. For 2011, the incident rate for lost time events dropped to 2.1. While this indicator tends to ebb and flow over a period of time, the overall downward trend is a reasonable indication that resources are being directed toward efforts that are having a positive impact on the injury and illness rates in Kentucky. The targeting efforts of the Division of OSH Compliance along with the long-term outreach work of the Division of OSH Education and Training continues to enhance the safety and health of Kentucky's workforce. The Kentucky OSH Program's focus on the highest hazard industries and specific facilities is a direct and effective approach to lowering incident rates.

Performance Goal 1.10 aims to reduce the total case rate in five (5) of the fifteen (15) most hazardous industries in Kentucky and incorporates efforts for both the Division of OSH Compliance and the Division of OSH Education and Training.

During FY 2012, the Division of OSH Education and Training conducted 128 safety and health surveys in the selected top ten (10) Kentucky high hazard NAICS and specific high hazard industries. Additionally, thirty-seven (37) training sessions were presented at four (4) Population (POP) Center Training seminars throughout the Commonwealth. The training addressed subjects relevant to the targeted NAICS such as Injury and Illness Recordkeeping, Mechanical Power Press, Confined Space, Combustible Dust, Mandated Health Programs, Basic Electrical Safety, Fire Safety and Protection, Bloodborne Pathogens, Personal Protective Equipment, Spray Finishing, Lockout-Tagout, Excavation and Trenching, Back Care and Ergonomics, Welding Safety, Noise and Hearing Conservation, and Powered Industrial Trucks. Over 1,106 participants attended the training courses.

In an effort to supplement resources in addressing high hazard industry issues, the Division of OSH Education and Training continued to coordinate outreach with professional and industry associations.

The Division of OSH Education and Training targeted employers in specific NAICS classifications in FY 2012 using 2010 data collected by the Division's Statistical Services Branch. The Division mailed an offer to specific industries encouraging utilization of OSH Education and Training services under the STOP program. The outreach mailings for FY 2012 were also sent under the Division's TOP Program. TOP utilized OSHA Data Initiative information to target specific facilities rather than specific industries. The STOP and TOP outreach efforts resulted in 134 requests for consultative services.

The Division of OSH Compliance conducted inspections at facilities identified in the STOP and TOP outreach effort that chose not to utilize the services of the Division of OSH Education and Training.

Kentucky remains committed to working with these employers and continues to target those industries and employers with the worst injury and illness rates. The Division of OSH Education and Training will continue to focus on a greater awareness and reduction in ergonomic-related injuries. The Division of OSH Education and Training continues to offer ergonomic training and to provide technical assistance to employers upon request.

The second goal of Kentucky's 2011-2015 Strategic Plan is to change workplace culture in order to increase employer and worker awareness of, commitment to, and involvement in safety and health.

Performance Goal 2.1 addresses settlement agreements. Agreements with a monetary penalty reduction of more than \$10,000 will include OSHA's 1989 Safety and Health Management Guidelines; or, engage outside safety and health consultation.

During FY 2012, the Division of OSH Compliance signed eighty-four (84) settlement agreements. Penalties were reduced \$10,000 or more in fourteen (14) cases. Seven (7) of those fourteen (14) agreements did not include the 1989 Safety and Health Management Guidelines or the engagement of outside safety and health consultation.

1. In KOSHRC 4513-07, two (2) serious violations as well as the \$12,600 penalty was dismissed due to the company's implementation of a safety and health program more stringent than OSHA's 1989 Safety and Health Management Guidelines.
2. A willful serious violation in KOSHRC 4808-11 was withdrawn resulting in a penalty adjustment of \$15,000 reducing total penalties from \$20,000 to \$5,000.

3. The penalties in KOSHRC 4853-11 were reduced from \$510,650 to \$1,550 due to employer financial hardship. Documents are contained in the file demonstrating the employer's financial condition.
4. The penalties in KOSHRC 4799-11 were reduced from \$12,500 to \$1,000 due to employer financial hardship. Documents are contained in the file demonstrating the employer's financial condition.
5. The penalties in KOSHRC 4827-11 were reduced from \$48,000 to \$1,000 due to employer financial hardship. Documents are contained in the file demonstrating the employer's financial condition.
6. The citations and penalties totaling \$31,500 in KOSHRC 4790-11 were withdrawn based upon insufficient evidence of employer knowledge of the violative condition.
7. The willful serious violations in KOSHRC 4778-10 were reclassified as serious reducing the penalty from \$37,000 to \$7,000.

Performance Goal 2.2 is to incorporate evaluation of safety and health management systems in 100 percent of the full-service comprehensive surveys.

All Division of OSH Education and Training comprehensive consultative survey reports contained a completed Form 33. Each comprehensive survey case file also included a safety and health program evaluation report.

Performance Goal 2.3 seeks to utilize the Safety & Health Program Assessment Worksheet in all general industry full-service surveys and includes a narrative safety and health program evaluation in all full-service surveys.

All full-service surveys conducted by the Division of OSH Education and Training included a narrative safety and health program evaluation and utilized the Safety and Health Program Assessment Worksheet.

Performance Goal 2.4 aims to provide safety and health program management training.

Five (5) safety and health program management training courses were provided in FY 2012, reaching 149 attendees. In order to continue its efforts at meeting this goal, the Division of OSH Education and Training began efforts developing safety and health program management on-line training. It is expected to be completed and available in FY 2013.

Performance Goal 2.5 addresses the evaluations of worksites on a timely basis, including the certification of VPP sites, the development of construction partnership agreements, and the addition of new employers to SHARP.

The Division of OSH Education and Training's Partnership Program expects to add two (2) new Voluntary Protection Partnership (VPP) sites over the course of the next two (2) calendar years. The Division is working diligently with other candidates to meet Kentucky's high standards required to participate in VPP.

The Partnership Program expects to add five (5) new Construction Partnership Program (CPP) sites over the next two (2) calendar years. Construction industry requests for voluntary partnerships have increased. Construction partnership projects may last several months or several years depending on the size and scope of the project.

The Partnership Program expects to add six (6) new Safety and Health Achievement Recognition Program (SHARP) sites over the next two (2) calendar years. SHARPS experienced growth in FY 2012, adding three (3) new sites. The Division of OSH Education and Training

expects the interest in SHARPs to continue and anticipates level program growth at its current rate.

Monitoring and tracking of partnership programs will continue. This will be enhanced by a new computer-based program developed in-house specifically for the partnership branch. The program allows data to be mined in several different ways, including active sites as well as potential partnership sites.

Performance Goal 2.6 addresses the implementation of a targeted outreach plan for all new Kentucky OSH standards.

The Division of OSH Education and Training developed an electronic online workplace safety and health training website. Content is created by division staff to cover a wide variety of topics. Pertinent to this performance goal was the creation and successful publication of the “Globally Harmonized System of Classification and Labeling of Chemicals” module and webinar.

The Division of OSH Education and Training continues to offer free outreach training at POP Centers for employers and employees across the Commonwealth addressing Kentucky OSH standards. The Kentucky Labor Cabinet also maintains updated and accurate information on the Kentucky OSH webpage as well as cost free publications for employers and employees. The Division of OSH Education and Training distributes a compact disc that contains all state OSH regulations, federal OSH standards, Kentucky safety and health manuals, posters, conference information, and other resource links. The compact disc offers employers a mechanism to register and receive notices regarding new or amended regulations. The Kentucky OSH Program provides the compact disc free of charge.

The Kentucky OSH Program no longer prints the federal regulations. Kentucky now prints a document entitled “Kentucky Occupational Safety and Health Standards for Construction and General Industry.” The document contains Kentucky specific OSH general industry and construction regulations that supersede OSHA’s standards.

The third goal of Kentucky’s 2011-2015 Strategic Plan is to maximize the efficiency and effective use of human and technological resources.

Performance Goal 3.1 is to maintain a reliable data repository.

The Division of OSH Compliance employed one (1) individual dedicated to the IMIS system. IMIS rejects are completed daily and SIR/SAMM reports are reviewed quarterly. The Division of OSH Compliance uses the following reports to maintain a reliable data repository:

- Citations Pending;
- Weekly Response (Complaint);
- Weekly OSHA-7 (Complaint);
- Open Inspections;
- Unsatisfied Activity;
- Default Violation Abatement;
- OSH 31;
- Monthly Tracking;
- Candidates for Follow-up;
- Fat/Cat;
- Complaints;
- Referrals;
- Micro to Host Inspection Activity Report;
- Violations; and
- SIR/SAMM.

The Division of OSH Education and Training continues to maintain data repository by monitoring IMIS rejects, running MARC reports, updating internal tracking, and running backups on a daily and monthly basis.

Performance Goal 3.2 aims for new supervisory staff to complete formal leadership training or complete certification.

The Division of OSH Compliance and the Division of OSH Education and Training did not hire new supervisory staff during FY 2012.

Performance Goal 3.3 encourages and aids professional certification. During FY 2012, the Division of OSH Compliance maintained four (4) certified Occupational Health and Safety Technologist (OHST) employees and seven (7) certified Construction Health and Safety Technician (CHST) employees. During FY 2012, the Division of OSH Compliance also sent employees to attend certification preparation courses. The Division of OSH Compliance maintained one (1) Certified Safety Professional (CSP) employee who has been approved to sit for the Certified Industrial Hygiene (CIH) examination. One (1) employee was renewed as an Associate Safety Professional.

The Division of OSH Compliance continues to encourage and promote professional certification by maintaining two (2) safety position descriptions and increased salaries for the level of certification, paying for certification preparatory courses, and paying for the certification examination after successful completion. Seven (7) employees were promoted or reclassified as a result of successfully attaining professional certification.

One (1) Division of OSH Compliance safety supervisor is a Certified Public Manager (CPM) and the Health Program Manager is a Certified Fundamentals Manager.

During FY 2012, the Division of OSH Education and Training added a fifth dual-certified (CIH/CSP) employee, while maintaining four (4) CSP employees, four (4) OHST employees, and adding a second CHST employee. The Division had four (4) employees that completed the CPM Program through Kentucky State University Governmental Services Center.

Performance Goal 3.4 encourages and aids advanced degrees for OSH Program employees.

In FY 2012, the Division of OSH Compliance funded graduate degrees at Eastern Kentucky University for two (2) safety compliance officers. Both are pursuing Masters of Science in Safety, Security, and Emergency Management degrees.

One (1) industrial hygienist completed a Master of Science degree in Safety, Security, and Emergency Management from Eastern Kentucky University in May 2012.

Since 2009, the Division of OSH Compliance has supported five (5) other compliance officers in attaining Master of Science degrees.

Performance Goal 3.5 aims to implement adult learning theory principles into formal training provided to employers and employees.

The Division of OSH Education and Training implemented tenants of the andragogical model of adult learning theory in its Population Center Training seminars. In practice, this involves a reduction in lecture-based training in exchange for methods that provide for audience participation and interaction, places course content into the learners' contexts, utilizes learning materials and activities that allow for differing experiences, and allows for self-directed learning.

Performance Goal 3.6 aims to develop toolbox talks in the form of short video courses.

The Division of OSH Education and Training purchased video camera equipment and Adobe Connect software. The equipment and software gives the Division the capability to record and develop short video courses for employers to use as a resource for toolbox talks. Toolbox talks in the form of short video courses are being incorporated into the labor cabinet's new eLearning modules at www.laborcabinetetrain.com.

Performance Goal 3.7 seeks to include photographs of actionable hazards in all consultation surveys.

Photographs of actionable hazards were included in all consultation surveys when feasible. This continues to be monitored through the review of all consultation reports.

SECTION II

MANDATED ACTIVITIES

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

Unannounced Inspections, Including Prohibition Against Advance Notice Thereof

During FY 2012, the Division of OSH Compliance conducted a total of 908 unannounced inspections of work sites under the authority of KRS 338.101. Advance notice of inspections is prohibited and punishable under KRS Chapter 338.991(9).

Employee Involvement in Inspection Process

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

Following the inspection, 803 KAR 2:130 requires that employee representative(s) be afforded the opportunity to observe any informal conference requested by the employer. 803

KAR 50:010 Section 14 allows the employee organization, or any interested employee, to intervene in any subsequent contest.

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

KRS Chapter 338.141 mandates the issuance of citations for violations of any OSH requirement. The Division of OSH Compliance continued to improve Kentucky's work environment through enforcement operations, which include first instance citations for violations of workplace safety and health standards and regulations.

The Division of OSH Compliance conducted a total of 908 inspections in FY 2012, 759 safety inspections and 149 health inspections. 759 inspections were unprogrammed, breaking down as:

- 402 referrals;
- 215 complaints;
- 177 unprogrammed related;
- Thirty-two (32) follow-ups; and
- Twenty (20) accidents.

Sixty-two (62) programmed inspections break down as:

- Sixteen (16) planned; and
- Forty-six (46) programmed related.

451 inspections were in the construction industry, 225 were in manufacturing, and 232 were other. 866 private sector and forty-two (42) public sector employers were inspected. The Division of OSH Compliance conducted 759 safety inspections which constitute 84 percent of total inspections while health conducted 149, representing 16 percent of total inspections. Fifty-three (53) inspections were conducted under national emphasis programs. Thirty-nine (39) of these were safety and fourteen (14) were health related.

Safety averaged 35.6 hours per case with 70.9 average days from opening to citation issuance. Health averaged 81.4 hours per inspection with 91.7 average days from opening to citation issuance. A total of 1,148 violations were issued in FY 2012 with penalties totaling \$4,207,575.00 and break down as:

744 violations classified as serious with penalties of \$2,585,700;
Eleven (11) violations classified as willful with penalties of \$478,100;
Six (6) failure to abate with penalties of \$645,750;
Thirty-five (35) repeat with penalties of \$413,900; and
352 violations classified as other than serious with penalties of \$84,125.

In FY 2012, the total amount of penalties collected by the Division of OSH Compliance was \$1,658,889.59.

112 cases were contested representing twelve (12) percent of total inspections.

The Division of OSH compliance inspected establishments employing a total of 232,669 employees and the inspections covered 87,630 employees. The Division of OSH Compliance vacated thirty-five (35) violations which represents 2.9 percent of the violations issued. Additionally, the Division reclassified twelve (12), or one (1) percent of the violations issued. Penalties issued were retained in 62.39 percent of the violations.

Ensuring Abatement of Potentially Harmful or Fatal Conditions

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

inspections after the employer has received the citations. The majority of these inspections deal with residential fall protection, non-residential fall protection, and trenching hazards. Also on the follow-up list are employers who fail to provide the Division of OSH Compliance with abatement documentation.

The Division of OSH Compliance performed thirty-two (32) follow-up inspections in FY 2012, representing four (4) percent of all safety and health inspections.

Six (6) failure-to-abate violations were issued with penalties totaling \$645,750.

Discrimination rights are explained to complainants when they contact the Division of OSH Compliance. Employees interviewed during OSH inspections are also informed of their rights. The Division of OSH Compliance prints discrimination rights on the backs of staff business cards which are given to employees during inspections.

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

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

Prompt, Effective Standard Adoption and Promulgation

On May 8, 2012 the Kentucky OSH Standards Board adopted OSHA's final rule published in the December 27, 2011 Federal Register that made technical amendments and corrections to sixteen (16) OSHA standards. OSHA's amendments did not affect the substantive requirements of the standards and did not establish new rights or responsibilities. The affected Kentucky Administrative Regulations (KARs) were 803 KAR 2:307, 2:309, 2:313, 2:317, 2:319, 2:320, 2:403 and 2:500.

Also adopted on May 8, 2012 by the Kentucky OSH Standards Board was the direct final rule published in the March 8, 2012 Federal Register concerning the safe use of acetylene. The final rule simply stated that the latest pamphlets developed by the Compressed Gas Association are incorporated by OSHA and carry the weight of an OSHA standard. The affected Kentucky regulations were 803 KAR 2:300 and 2:307.

At the May 8, 2012 meeting, the Kentucky OSH Standards Board adopted the amendments published in the March 26, 2012 Federal Register modifying the hazard communication standard to conform to the United Nations' Globally Harmonized System (GHS) of Classification and Labeling. Numerous other standards were also amended to create consistency within the regulations. The affected Kentucky regulations were 803 KAR 2:300, 2:307, 2:316, 2:320, 2:403, 2:405, 2:425, and 2:500.

The Kentucky OSH Standards Board also adopted at its May 8, 2012 meeting the final rule published in the April 18, 2012 Federal Register making technical amendments to 29 Code of Federal Regulations 1926.251, Rigging Equipment for Material Handling. The amendment removed outdated capacity tables and made minor, nonsubstantive revisions to the regulatory text. Several of the outdated tables were removed and replaced by putting stronger emphasis on

the manufacturer's markings that must be located on or attached to each sling. Slings without the manufacturer's markings must be removed from service. This affected Kentucky regulation was 803 KAR 2:407.

All amendments adopted at the May 8, 2012 Kentucky OSH Standards Board meeting became effective in Kentucky on August 31, 2012.

Allocation of Sufficient Resources

The Kentucky OSH Program continued to match federal funding at the required rate. The state provides significant additional dollars beyond the federal match to meet the Program's needs. Kentucky's ratio was 63:37 of state to federal funds for FY 2012.

Counteraction of Imminent Dangers

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

In FY 2012, the Division of OSH Compliance conducted 214 reported imminent danger inspections. Although six (6) inspections appear as outliers in FY 2012, the Division of OSH Compliance responded to five (5) of them within one (1) working day.

1. An inspection at DHL Global mail was incorrectly identified as an imminent danger. This error has been corrected. .
2. An inspection for Ron Eldridge Excavating LLC was opened within one (1) working day; however, a typographical error was made in IMIS. This error has been corrected.

3. A CSHO was dispatched within one (1) working day to Capital Framing LLC. Upon arrival, the job site was inactive and weather conditions prohibited work the following day. The CSHO returned to the site the following day and opened the inspection. The Division of OSH Compliance responded within one (1) working day of notification.
4. An inspection for Eric Cook dba Eric Cook was incorrectly entered into IMIS as an imminent danger complaint. This error has been corrected.
5. An inspection for the Flint Group Inc. was inadvertently assigned to a CSHO who was beginning scheduled time off. The complaint was received December 28, 2011. The inspection was opened January 10, 2012 immediately upon the CSHO's return.
6. An inspection for Voith Industrial Services was incorrectly identified as an imminent danger when in fact it was a Priority B Formal Complaint. This error has been corrected .

Response to Complaints

Kentucky's statutes ensure that employees and their representatives have a right to notify the OSH Program of perceived workplace violations. KRS 338.121 requires that a special inspection be conducted upon receipt of such notifications if reasonable grounds exist that there is a violation or danger. The Division of OSH Compliance prioritizes the employee complaints it receives.

All valid, formal complaints are scheduled for workplace inspections. Formal complaints are given priority based upon classification and gravity of the alleged hazard. Formal serious complaints, for example, are inspected within thirty (30) days; however, it is stressed to compliance officers to respond within five (5) days after being assigned the complaint.

Although three (3) complaints appear as outliers, the Division of OSH Compliance responded within thirty (30) days to two (2) of the complaints.

1. IMIS indicates Complaint 207651977 was received October 10, 2011 and opened August 24, 2011, which is an obvious error. The complaint was actually received July 19, 2011. This has been corrected in IMIS. The Complaint Audit Log excludes weekends from the thirty (30) day calculation. Ten (10) weekend days occurred between July 19, 2011 and August 24, 2011. Discounting the weekend days, the Division of OSH Compliance responded within thirty (30) working days.
2. Complaint 208768135 was received June 13, 2012 and opened August 23, 2012. The assignment delay was due to an oversight by a supervisor.
3. Complaint 208768879 was received July 7, 2012 and assigned to a CSHO who was already conducting an inspection at the establishment. During inspection of the complaint item(s), the CSHO established the complaint item(s) were related to a subcontractor at the facility. The complaint was reassigned and the CSHO opened with the subcontractor on August 23, 2010.

The Complaint Audit Log Report indicates that the average response time to complaints was 9.4 days for safety and 9.6 days for health. The Division's overall average for serious complaints are 9.5 days from the date the complaint is received to the date the inspection is opened. The Complaint Audit Log indicates the average response time to complaints alleging other than serious hazards for safety was seventy-one (71) days, and 11.3 days for health. The Division's overall average was 17.3 days for other than serious hazards from the date the complaint was received to the date the inspection was opened.

Of the 433 complaints received in FY 2012, 178 were handled as letter complaints.

Response to Referrals

The Division of OSH Compliance responded to 402 referrals in FY 2012. Kentucky places the same level of importance to referrals as it does complaints. As provided in paragraph X.N. on Page IX - 8 of 26 in Chapter 9 of Kentucky's Field Operations Manual (FOM), serious complaints must be opened within thirty (30) working days and non-serious complaints within 120 working days. As referrals have the same importance as complaints, Kentucky's Division of OSH Compliance utilizes the same timeline in responding to referrals and stresses a five (5) day response. Utilizing this criteria, the Division of OSH Compliance met the referral response requirement for serious and non-serious hazards.

The Referral Audit Log indicates the average response time to referrals alleging imminent dangers for safety was 0.03 days. The average response time for health was 0.00 days. The overall average for the Division of OSH Compliance was .03 days from the date of referral received to the date the inspection opened.

Fatality/Catastrophe Investigations

Only imminent danger investigations are given a higher priority in scheduling inspections by the Division of OSH Compliance than fatality/catastrophe investigations. It is the policy of the Division of OSH Compliance to investigate all job-related fatalities and catastrophes as thoroughly and expeditiously as possible. In FY 2012, forty-six (46) fatality/catastrophes were reported to the Division of OSH Compliance.

Each Division of Compliance staff personally contacts the next of kin at the outset of a fatality investigation and sends a follow-up letter providing contact information. At the conclusion of a fatality investigation, the next-of-kin receives a letter from the Director of the Division of OSH Compliance and if citations are issued, copies of the citations. If an employer

contests a case in which a fatal accident occurred, the attorney assigned to the case from the Office of General Counsel also sends a letter to the next-of-kin with contact information and a request that the next-of-kin contact him or her if he or she wishes to be kept apprised of developments in the litigation.

The Investigation of Discrimination and Employee Protection from Discrimination

KRS 338.121(3) offers protection to employees from reprisals which might result from the exercise of rights afforded by the OSH statutes. A system of citations and penalties, appeals to the OSH Review Commission, and reinstatement authority by the Commissioner while final determination is pending before the Review Commission, distinguishes the Kentucky anti-discrimination effort. In addition, 803 KAR 2:240 allows any employee who believes he or she has been discriminated against, to file a complaint within 120 days of the alleged violation, as opposed to the thirty (30) days allowed by federal law. The Division of OSH Compliance is responsible for the enforcement of the state's anti-discrimination provisions.

During FY 2012, the Division of OSH Compliance received 142 discrimination complaints. Seventy-four (74) cases were screened and referred to other agencies or not accepted and seventy-seven (77) new cases of alleged OSH discrimination were opened.

The average lapse time for discrimination cases was seventy-nine (79) days per case. Three (3) cases were settled without penalties, sixty-nine (69) cases were dismissed with no violations, six (6) cases are still open, and six (6) cases were contested. Six (6) discrimination violations were issued with penalties totaling \$26,500. Complainants appealed eight (8) no-merit findings. No FY 2012 discrimination cases remain open.

When complainants call, they are informed of their discrimination rights, as are employees when interviewed during inspections. The Division of OSH Compliance also prints

discrimination rights on the back of its business cards which are given to employees during inspections.

Complainants are informed of their discrimination rights when they call the office and employees interviewed during inspections are also informed of their rights. The Division of OSH Compliance also prints discrimination rights on the back of its business cards which are given to employees and employers during inspections.

Ensuring Employees Access to Health and Safety Information

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

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

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

In FY 2012, the Division of OSH Compliance conducted twenty-four (24) inspections relating to toxic material breaking down as:

Six (6) inspections related to silica with a penalty of \$1,700;
Two (2) inspections relating to formaldehyde with penalties totaling \$15,500;
Nine (9) inspections relating to lead with penalties of \$96,500; and
Seven (7) inspections relating to asbestos with penalties of \$11,500.

The Division of OSH Compliance conducted three (3) process safety-related inspections resulting in one (1) other than serious violation and two (2) serious violations with penalties totaling \$4,250.

The Division of OSH Compliance conducted twenty-two (22) inspections specifically related to bloodborne pathogens resulting in forty-one (41) serious violations and twenty-eight (28) other than serious violations with penalties totaling \$136,250.

The Division of Compliance conducted seven (7) indoor air quality inspections resulting in eighteen (18) serious violations and (11) other than serious violations with penalties totaling \$36,650.

Coverage of Public Employees

KRS 338 “Occupational Safety and Health of Employees” establishes definitions for employer and employee which do not exclude public employers and public employees. The exclusions to KRS Chapter 338 cover only employees of the United States government and places of employment over which federal agencies other than OSHA have exercised statutory authority. In addition, written opinions of the Kentucky Office of the Attorney General support the Kentucky Labor Cabinet’s position that public employees are included in the Kentucky OSH Program’s jurisdiction. Therefore, Kentucky’s public employers and employees are subject to the same requirements, sanctions, and benefits as Kentucky’s private sector employers and employees. Consequently Kentucky statutes, regulations, and policies make no distinction

between public and private sector employers and employees. During FY 2012, the Division of OSH Compliance conducted forty-two (42) inspections of public sector work sites, including programmed inspections and responses to public employee complaints. This calculates to .046 percent of the total number of Division of OSH Compliance inspections.

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

Recordkeeping and Reporting

KRS Chapter 338.161 “Statistical records – Posting of notices” requires that employers keep, preserve, and make available to the Kentucky OSH Program and the Secretary of the U.S. Department of Labor or the Secretary of the U.S. Department of Health and Human Resources, records relating to occupational safety and health as may be prescribed by regulation. Kentucky promulgated a regulation, 803 KAR 2:180, which specifically addresses occupational injury and illness recordkeeping, as well as reporting of fatalities or multiple hospitalization accidents. Kentucky’s requirement is identical to OSHA’s rule. In addition, Kentucky’s rule requires employers to report any work-related incident resulting in the in-patient hospitalization of one (1) or two (2) employees. The reporting requirement is limited to hospitalizations that occur within seventy-two (72) hours of the incident. Employers are also required to report any amputation suffered by an employee from any work-related incident. Hospitalizations of one (1) or two (2) employees and amputations must be reported to the Kentucky OSH Program within seventy-two (72) hours after the employer, his agent, or another employee is informed of such a condition.

The Division of OSH Compliance has implemented an inspection scheduling system to prioritize reported accidents and amputations. This allows compliance resources to be focused

on serious hazards in the workplace. In addition, the Division of OSH Compliance is collecting information obtained from the reported accidents that will help identify specific industry sectors where serious accidents are currently occurring in the workplace. In FY 2012, the Division of OSH Compliance received 149 hospitalization reports. Fifty-nine (59) inspections were conducted with forty-one (41) serious violations, twenty-five (25) other than serious violations, and four (4) willful violations. Total penalties were \$209,850.

In FY 2012, the Division of OSH Compliance received fifty-four (54) reported amputations. Forty-four (44) inspections were conducted with fifty-two (52) serious violations, twenty-three (23) other than serious violations, one (1) willful violation, and one (1) repeat serious violation. Total penalties were \$324,050. Total penalties issued for amputation and hospitalization violations in FY 2011 were \$533,900.

Education, Training, and Consultation Services

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

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

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

1. The Kentucky VPP which is similar to OSHA's VPP.

2. The SPP offers long term assistance to smaller employers who have a history of high injury/illness rates and high workers' compensation costs.

3. The CPP focuses specifically on partnering with contractors and builders to address the unique issues of the construction industry.

4. The Kentucky SHARP mirrors the federal SHARP by encouraging small high hazard employers to operate exemplary safety and health management systems.

5. The Governor's Safety and Health Award Program recognizes employers who have reached certain milestones without a lost work time injury or illness.

The division conducted 271 consultative surveys identifying and ensuring the abatement of 2,618 serious hazards. The division also conducted 147 training courses; and reached approximately 3,208 attendees in response to training requests from employers. In response to client needs, the division significantly revised its Hazard Communication course to include OSHA's Hazard Communication final rule conforming to the Globally Harmonized System of Classification and Labeling of Chemicals.

Division staff provided five (5) on-site technical assistance visits and responded to hundreds of inquiries from public and private employers regarding OSH concerns.

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

SECTION III NOTEWORTHY ACCOMPLISHMENTS

Many daily activities of the Kentucky OSH Program resulted in accomplishments which were not easily measured. The impact of the on-site presence of OSH personnel; the hazards identified and corrected through inspection or consultation; and the injuries, illnesses and fatalities that were prevented, while critically important, are ones that do not easily lend themselves to be singularly classified as outstanding accomplishments. Nevertheless, the day-to-day efforts of Kentucky OSH field and office personnel should not go unrecognized. During FY 2012, there were events, activities, and results that merit attention as outstanding accomplishments.

Voluntary Compliance Program

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

The VPP Program maintained ten (10) sites and added another, Veolia, Fort Knox. VPP sites include:

- Dow Corning Corp., Carrolton;
- GE Aircraft Engines, Madisonville;
- GE Lamp, Lexington;
- GE Aviation Infrastructure, Erlanger;
- Hunter Douglas Corp., Owensboro;

International Paper Corp., Bowling Green;
L'Oreal (USA), Florence;
Performance Pipe, Williamstown;
Raytheon Corp., Louisville;
GE Energy-Service and Repair, Louisville; and
Veolia, Fort Knox.

The partnership branch is currently working with several companies striving to attain VPP, each in a different phase of preparation. Partnership consultants spent and continue to spend many hours conducting training to current and potential VPP facilities, with the Auditor I training class being the most requested. The class provides highly detailed training for company employees on the proper way to conduct facility audits, thus helping to prepare them for the VPP audit at their facility in the future. Employees use a tagging system to identify hazards and enter them into a tracking database for abatement and possible root cause analysis, depending on the finding. The class is also offered as refresher training at active VPP sites. This helps maintain integrity and consistency with the auditing process throughout all sites.

The VPP program is renowned for its depth and detail, setting the bar high and maintaining a quality program.

Construction Partnership Program

The Division of OSH Education and Training continues to focus on the construction industry by promoting CPP, and by maintaining Association-Based Partnerships, Training-Based Partnerships and Site-Based Partnerships.

The Partnership Branch continues to add new participants to CPP as previous partnership sites are completed and have successfully run their courses. The CPP program grew tremendously in FY 2012. There were fifteen (15) active CPP sites at the end of the fiscal year, by far the most in the history of the program. The Partnership Branch added seven (7) sites to its roster for FY 2012.

In July 2012, a new CPP Administrator who has experience in construction, Partnership Branch and active CPP sites was hired from within the Division.

The Voluntary Protection Partnership for Construction (VPPC) maintained two (2) participants: Turner Construction and Miller-Valentine.

SHARP and SPP Programs

The Safety and Health Achievement Recognition Program (SHARP), and the Safety Partnership Program (SPP) experienced growth and added new participants. SHARP added:

3A Composites, Glasgow;
Riken Elastomers, Hopkinsville; and
American Standard Brands, Somerset.

Several other companies are on the verge of meeting the requirements to become SHARP certified in Kentucky. The Partnership branch looks forward to adding as many as four (4) new participants in FY 2013.

SPP is designed to assist companies who recognize they need help with their safety and health management structures, basic OSH programs, and lowering injury and illness rates. The program lasts for three (3) years with safety and health professionals from the Labor Cabinet working with the companies over that time period to strengthen their programs.

The Division continues to work with SPP companies and looks forward to adding more participants in FY 2013.

Construction Compliance Inspections

During FY 2012, Kentucky conducted a total of 451 construction inspections as identified by OSH-1 SIC codes. The Division of OSH Compliance conducted ninety-two (92) construction inspections in SICs starting with fifteen (15); fourteen (14) in SICs starting with sixteen (16); and 345 in SICs starting with seventeen (17). Kentucky issued 400 violations for

construction hazards including thirty-four (34) other-than-serious violations, 339 serious violations, twenty-one (21) repeat serious violations, and six (6) willful violations with penalties totaling \$1,484,250.

The Division of OSH Compliance utilized the construction scheduling system provided by the University of Tennessee. Although a state budget shortfall compelled the Division of OSH Compliance to maintain benchmark staffing levels, the Division of OSH Compliance continued an emphasis on construction.

In conjunction with a local compliance emphasis program, Kentucky's state specific regulation 803 KAR 2:412 specifically addresses residential construction fall protection. The regulation, which became effective on January 6, 2006, defines residential construction in Kentucky as construction work on a stand alone single family dwelling, duplex, three-plex, or four-plex structure. Employees engaged in residential construction activities working ten (10) feet or more above a lower level who are exposed to unprotected sides and edges, leading edges, hoist areas, form work and reinforcing steel, or are engaged in roofing work on roof slopes three (3) in twelve (12) or less, must be protected by guardrail systems, safety net systems, personal fall arrest systems, or a specific alternative measure established in the regulation. In FY 2012, the Division of Compliance conducted thirty-eight (38) inspections in residential construction and issued forty-one (41) violations with penalties totaling \$178,550.

Compliance Emphasis on Serious Hazards

The Division of OSH Compliance maintains an emphasis on addressing serious hazards. Imminent dangers receive the highest priority. Referral and complaint hazards are evaluated using the same criteria. In FY 2012, the Division of OSH Compliance issued:

744 serious violations with penalties totaling \$2,585,700;
Thirty-five (35) serious repeat violations with penalties totaling \$413,900;

Eleven (11) willful serious violations with penalties totaling \$478,100; and Six (6) failure to abate serious violations with penalties totaling \$645,750.

For the first time in OSH program history, citations were reinstated to an employer who was not adhering to the terms of a settlement agreement.

Combustible Dust

The Kentucky Labor Cabinet entered into an Interagency Agreement in 2005 with the Office of Housing, Building and Construction, Division of Fire Prevention (State Fire Marshal). Under the agreement, during the inspection of industrial facilities by the State Fire Marshal in which the potential for combustible dust hazards may exist, the State Fire Marshal will inform management of education and technical assistance services which are available from the Kentucky OSH Program's Division of OSH Education and Training. If there are safety and health issues, the State Fire Marshal will make a referral to the Division of OSH Compliance.

If the Kentucky OSH program becomes aware of the existence of fire and safety issues, it will notify the State Fire Marshal. Both the State Fire Marshal and the Division of OSH Compliance will cooperate in the investigation of all fires and explosions involving combustible dust. The Kentucky Labor Cabinet and State Fire Marshal are cooperating to identify facilities and conduct joint investigations, when possible, where combustible dust hazards exist.

The Division of OSH Compliance conducted four (4) combustible dust inspections in FY 2012 resulting in two (2) serious violations, two (2) other than serious violations, and two (2) repeat violations with penalties totaling \$8,100.

Notification of Asbestos Abatement/Demolition/Renovation or Ten (10) Day Notice

The Division of OSH Compliance entered into an agreement with the Division of Air Quality in the Department for Environmental Protection of the Energy and Environment Cabinet in which the Division of OSH Compliance will be alerted of any or all asbestos removals

conducted in the Commonwealth. Employers are required to notify the Division of Air Quality ten (10) days in advance of any job involving asbestos removal.

Occupational Poison Alerts

The Division of OSH Compliance receives notices of injuries involving occupational-related toxins and poisons from The Kentucky Regional Poison Center of Kosair Children's Hospital. These notices made the Division of OSH Compliance aware of events that may have otherwise been overlooked. Many have resulted in citations and penalties. This informal arrangement and notice provides a mechanism to protect employees from future exposures.

Professional Development

During FY 2012, the Division of OSH Education and Training maintained three (3) dual CIH-CSP employees, one (1) CIH employee, four (4) CSP employees, four (4) OHST certified employees, and one (1) CHST certified employee.

The Office of the Federal-State Coordinator maintained one (1) dual CIH-CSP employee and one (1) CSP employee.

The Division of OSH Compliance follows OSHA's 2008 TED 01-00-018, the Training Program for OSHA Compliance Personnel. The Division of OSH Education and Training utilizes TED 01-00-018 as guidance for new employees. The Division of OSH Compliance remains committed to developing and maintaining an experienced, diverse staff and continues to encourage professional development and professional certification, such as the CSP and CIH. In addition, since the development of the Compliance CSP/OHST/CHST position, a number of compliance officers have attained certification and more are in the process.

During FY 2012, the Division of OSH Compliance maintained four (4) OHST certified employees and eight (8) CHST certified employees. The Division maintains one (1) CSP who

has been approved to sit for the CIH examination. The Division of OSH Compliance continues to encourage and promote additional personnel to achieve certification in the safety and health field by maintaining two (2) safety certification position descriptions, paying for certification preparatory courses, and paying for the certification examination upon successful completion. One (1) Division of OSH Compliance safety supervisor is a Certified Public Manager and the Health Program Manager is a Certified Fundamentals Manager.

During FY 2012, the Division of OSH Compliance sent employees to certification preparation courses. The Division continued to send employees to OTI for training.

The Division of OSH Compliance encourages staff education as well as certification by paying full tuition for employees attending Eastern Kentucky University and Murray State University safety programs. In FY 2012, the Division of OSH Compliance funded graduate degrees at Eastern Kentucky University for two (2) safety compliance officers. Both are pursuing a Master of Science in Safety, Security, and Emergency Management.

One (1) Industrial Hygienist completed a Master of Science in Safety, Security, and Emergency Management degree from Eastern Kentucky University in FY 2012.

Since 2009, the Division of OSH Compliance paid for five (5) compliance officers to attain a Master of Science degree.

Focused OSH Public Speaking / Presentations

The Kentucky OSH Program continues to serve as a resource for associations, employers, organizations, etc. requesting specialized and insightful speakers addressing various OSH-related topics.

The Division of OSH Education and Training conducted 147 face-to-face training courses and reached approximately 3,208 attendees in response to training requests from employers.

Thirty-seven (37) training sessions were presented at four (4) POP Center Training seminars throughout the Commonwealth. The training addressed subjects relevant to the targeted NAICS such as Injury and Illness Recordkeeping, Mechanical Power Press, Confined Space, Combustible Dust, Mandated Health Programs, Basic Electrical Safety, Fire Safety and Protection, Bloodborne Pathogens, Personal Protective Equipment, Spray Finishing, Lockout-Tagout, Excavation and Trenching, Back Care and Ergonomics, Welding Safety, Noise and Hearing Conservation, and Powered Industrial Trucks. Over 1,106 participants attended.

Counsel for the Kentucky OSH Review Commission and a Division of OSH Compliance Safety Supervisor presented a workshop at Kentucky's 28th Annual Governor's Safety and Health Conference and Exposition. Employers and employees learned about inspection procedures as well as their obligations and rights. Safety Supervisors led a panel discussion at the Kentucky Association of General Contractors Conference in July 2012 and were available for a question and answer session.

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

Standards Interpretation and Development

The Health Standards Specialist, who is a CIH, earned CSP certification. The Standards Specialists and OSH Federal-State Coordinator provided over 1,000 OSH interpretations during FY 2012. Both Standards Specialists, on behalf of the Kentucky OSH Standards Board and the Labor Cabinet, completed promulgation of several regulations which affected nineteen (19)

Kentucky Administrative Regulations. The new GHS final rule occupied a considerable amount of time on the part of the Health Standards Specialist working with Division of OSH Education and Training consultants to prepare and present outreach training.

National Conference and Exposition Support

At the request of OSHA, the Kentucky OSH Program represented OSHA at the October 2012 National Planet GIE+EXPO and Hardscape North America Conference and Exposition in Louisville. According to conference organizers, the event is the 9th largest trade show in the United States. There were approximately 18,000 participants and approximately 750 exhibitors. Two (2) OSH Standards Specialists and the OSH Federal-State Coordinator staffed an exhibit booth over a two (2) day period where they responded to participants' questions and distributed material provided by OSHA. The OSH Federal-State Coordinator represented OSHA at the daily "Breakfast of Champions" events. The event was good exposure for OSHA and the Cabinet.

KYOSH IMPACT

The Labor Cabinet's OSH Program was on the road in FY 2012 in the OSH Program's incident response-outreach vehicle, the Incident Mobile Post and Consultation Training vehicle, dubbed the KYOSH IMPACT. The KYOSH IMPACT is a Class A state of the art multi-purpose motor coach specifically constructed to support the Division of OSH Compliance and the Division of OSH Education and Training. The KYOSH IMPACT, made possible in 2009 through a one-time federal award, is equipped with satellite service, surveillance equipment, internal and external monitors, workstations, and a host of other devices that serve the Kentucky OSH Program, employers, and employees throughout the Commonwealth.

On Friday, March 2, 2012, tornados devastated several communities in Kentucky; twenty-three (23) Kentuckians died and more than 300 suffered injuries. The National Weather Service concluded a single EF-3 tornado traveled ninety-five (95) miles across Kentucky and into West Virginia. One of the hardest hit areas was West Liberty in Morgan County. The small town in the state's eastern region was essentially obliterated. The Labor Cabinet's incident response/outreach vehicle, the KYOSH IMPACT, was deployed to West Liberty for thirteen (13) days to provide technical assistance to responders, contractors, and the general public. The KYOSH IMPACT and Kentucky OSH Program staff were welcomed with open arms and assisted hundreds of individuals. Several companies donated personal protection equipment to the Kentucky OSH Program to support the mission. Division of OSH Education and Training consultants distributed personal protection equipment, performed on-site hazard analysis, and provided training in areas such as respirators, personal protection equipment, chain saw safety, scaffolding, and fall protection.

The KYOSH IMPACT deployed in 2012 to eight (8) additional events participating in outreach efforts affecting over 5,200 people.

Governor's Safety and Health Conference and Exposition

The Labor Cabinet, in conjunction with the Kentucky Safety and Health Network, Inc., presented the 28th Annual Governor's Safety and Health Conference and Exposition in Louisville on May 8-11, 2012. This year's very successful event, the largest safety and health exposition in the Commonwealth, featured pre-conference courses, fifty-one (51) concurrent workshops, and outstanding keynote speakers.

Dr. David Michaels, Assistant Secretary of Labor for Occupational Safety and Health, presented the opening luncheon keynote address. His remarks to over 450 attendees were timely, extremely well received, and appreciated.

Additionally, Scholastic Achievement for Education Awards, or “SAFE” awards, totaling \$40,000 were presented at the conference to fifteen (15) university students matriculating in the areas of occupational safety and health, industrial hygiene, or a closely related field. Kids Chance of Kentucky also presented scholarships to children of Kentucky workers killed or seriously injured in work-related incidents.

Thirty-six (36) Kentucky employers were presented with the Governor’s Safety and Health Award. The award is presented to employers and employees who together achieve a required number of hours worked without experiencing a lost time injury or illness. Air Products and Chemicals in Calvert City recorded a remarkable 11,044,784 hours without a lost time injury or illness.

Additional Efforts

The Labor Cabinet recognized the need to make occupational safety and health training more accessible and economical for all of Kentucky’s employers and employees and charged the OSH Program to make it happen. The Kentucky OSH Program applied for, and received, a one (1) time federal award in FY 2011 to purchase web conferencing software, a video editing computer, and video equipment. After much planning and preparation, the Cabinet launched an online workplace safety and health training website, www.laborcabinetetrain.ky.gov, the same year. Employers and employees now have FREE, 24/7 access to a variety of occupational safety and health training courses. To date, the website has been extremely popular and has been utilized by more than 4,700 participants.

The online training consists of two (2) modes of instruction: webinars and the KyOSH School. The KyOSH School offers two (2) separate tracks: Stand-alone Courses and the eLearning Achievement Program.

Webinars are live and provide real-time instruction and offer immediate feedback to participants. Advanced registration for webinars is required and is free to all participants. As each webinar is presented, it is recorded and available for review at any time.

KyOSH School stand-alone courses offer self-guided instruction on a range of safety and health subjects. Currently, there are over twenty (20) courses available including an OSHA overview, electrical safety and standards, fire protection and prevention, and excavation basics. Additional courses will be continually added. Courses range in length from eight (8) to thirty (30) minutes and are followed by a short exam. Participants scoring eighty (80) percent or better receive an attendance certificate.

The KyOSH School eLearning Achievement Program is a compilation of safety and health courses that build upon one another to improve the participant's awareness of occupational safety and health. There are three (3) levels of eLearning: Apprentice, Proficient, and Graduate. Each course within these levels concludes with an exam. Participants scoring eighty (80) percent or better may print a completion certificate for each course.

The Apprentice level requires completion of approximately three (3) hours of online instruction. There are seven (7) courses that include an OSHA Overview (parts 1 and 2), Fire Protection and Prevention (parts 1 and 2), Electrical Safety and Standards (parts 1 and 2), and Health Hazard Recognition.

Following the Apprentice level, participants graduate to the Proficient level which requires approximately four (4) hours of instruction time. The eight (8) courses in this level

include Forklift Safety (parts 1 and 2), Personal Protective Equipment (parts 1 and 2), and Hazard Communication (parts 1, 2, 3 and 4). The Proficient level concludes with a Recordkeeping Basics webinar.

After completing the Proficient level, participants advance to the Graduate level. The Graduate level includes approximately three and one-half (3½) hours of instruction time for its eight (8) courses. These courses include Emergency Eyewash and Showers, Lead Awareness, Hazcom 2012, Excavations (parts 1 and 2), Excavation Emergency Action Plan, Bloodborne Pathogens, and NFPA Diamond. The Graduate level also includes a Lockout/Tagout webinar.

Upon successful completion of an eLearning Achievement level, the participant may print the appropriate recognition certificate for that level.

Kentucky is particularly proud of the fact that www.laborcabinetetrain.org has been created, designed, and developed solely by Labor Cabinet staff. Division of OSH Education and Training consultants, in addition to their full plate of regular duties, compose all course content and a Division training development specialist assists with presentation and production details.

Heat Blast

During the week of August 8-12, 2012, the Labor Cabinet continued its support of OSHA's heat-related illness campaign. The Division of OSH Education and Training deployed all field staff to businesses and industries across the state to conduct educational briefings on heat-related illnesses awareness. Consultants hand-delivered information and provided cost-free instruction for employers and employees on recognizing the signs and symptoms of heat-related illness and how to handle such emergencies. This outreach affected over 64,000 Kentucky employees. The Division of OSH Education and Training is proud of this effort.