



KENTUCKY
OCCUPATIONAL SAFETY AND HEALTH PROGRAM

STATE OFFICE ANNUAL REPORT

for

FEDERAL FISCAL YEAR 2013

Larry L. Roberts, Secretary
Anthony Russell, 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 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 2013 Performance Plan goals. Section II addresses mandated activities during FY 2013. Section III addresses noteworthy accomplishments achieved by the Kentucky OSH Program during FY 2013.

Empirical information presented in this report reflects accurate data representative of the period sampled. Some case files have matured since then while others are still working through the process. Subsequently, some of the information would be different if resampled.

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 2013 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 2013, the Division of OSH Compliance conducted fifty-seven (57) residential construction inspections resulting in four (4) repeat serious violations, seventy-three (73) serious violations, and three (3) other than serious violations. Total penalties were \$227,500.

The Division of OSH Education and Training offers training, upon request, to employers engaged in residential and non-residential, construction.

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 2013, the Division of OSH Compliance received 140 hospitalization reports. Fifty-six (56) inspections were conducted resulting in one (1) willful serious violation, two (2) repeat serious violations, sixty (60) serious violations, and twenty (20) other than serious violations. Total penalties were \$430,175.

The baseline for reported amputations set in 2011 was fifty-four (54). In FY 2013, the Division of OSH Compliance received fifty-two (52) reported amputations. Forty-one (41) inspections were conducted with two (2) repeat serious violations, thirty-nine (39) serious violations, and fifteen (15) other than serious violations. Total penalties were \$269,075.

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 205 imminent dangers in FY 2013 within one (1) working day. Although three (3) inspections appear as outliers in FY 2013, the Division of OSH Compliance responded to two (2) of the imminent dangers within one (1) working day.

1. An imminent danger complaint for Conco Inc. was received April 25, 2013 and a health inspection opened April 25, 2013. During the inspection, the industrial hygienist made a referral to safety. The safety inspection was incorrectly linked to the original referral date, thus the outlier. The Division of OSH Compliance responded within one (1) working day and the data entry error corrected.
2. An imminent danger referral for Softouch Auto Wash Inc. was received July 24, 2013. The referral was related to a July 20, 2013 amputation that was not reported to the Division of OSH Compliance. A Compliance Safety and Health Officer (CSHO) was in the vicinity on another inspection but was unable to complete the inspection in time to respond to Softouch Auto Wash Inc. The CSHO responded to Softouch Auto Wash Inc. promptly on July 26, 2013.

3. An imminent danger referral for Jason Luke dba Jason Luke was received Friday, July 19, 2013. A CSHO arrived on site same day but no one was on site. Kentucky responded within one (1) working day of notice. The CSHO returned at a later date and opened an inspection.

The Division of OSH Compliance continued staff training in FY 2013 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-six (56) reported hospitalizations in FY 2013.

During FY 2013, the Division of OSH Education and Training conducted 183 health surveys of which 183 were considered high hazard. The Division's Safety Branch conducted 179 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-one (31) follow-up inspections in FY 2013.

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 that combines efforts by the Division of OSH Compliance and the Division of OSH Education and Training. The results are addressed throughout the body of this report; however, the injury and illness data performance indicator is specifically addressed here.

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 2012 represent nonfatal occupational injuries and illnesses involving days away from work per 10,000 full-time workers in the construction industry.

2012	Falls	Struck-by	Crushed
Kentucky	14.5	16.1	*
National	17.7	28.6	5.9

*Too few incidents for rate calculation.

Kentucky’s rates were well below the national average for falls and crushed-by incidents in 2012.

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. Although three (3) fatalities appear as outliers in FY 2013, the Division of OSH Compliance did not have jurisdiction for one (1) fatality and responded to the others fatalities within one (1) working day. Kentucky met its goal.

1. A fatal accident involving an employee of Tom Lane Contractors was reported early Friday, January 4, 2013. However, necessary information to conduct an immediate inspection was not provided. Necessary information was obtained late the same day and the CSHO opened an inspection Monday, January 7, 2013. The Division of OSH Compliance responded within one (1) working day.

2. A fatal accident involving an individual reported to be a sole proprietor was received April 15, 2013. On June 4, 2013, the Division of OSH Compliance received information from the next of kin that the victim was employed by Brandon Lamb McIntosh dba Brandon Lamb McIntosh. A CSHO made contact with the employer and determined there was no employer-employee relationship.
3. A July 25, 2013 fatality involving an individual doing contract painting at Paradise Inc. dba KY Fillies was reported August 2, 2013 to the Division of OSH Compliance and a CSHO responded August 3, 2013. The Division of OSH Compliance responded within one (1) working day of notification. However, the establishment was closed and no one was on site when the CSHO arrived. The CSHO returned at a later date and opened an inspection.

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 received 205 reports of imminent danger in FY 2013 and responded to all within (1) working day. Although three (3) inspections appear as outliers in FY 2013, the Division of OSH Compliance responded to two (2) of the imminent dangers within one (1) working day.

1. An imminent danger complaint for Conco Inc. was received April 25, 2013 and a health inspection opened April 25, 2013. During the inspection, the industrial hygienist made a referral to safety. The safety inspection was incorrectly linked to the original referral date, thus the outlier. The Division of OSH Compliance responded within one (1) working day and the data entry error corrected.
2. An imminent danger referral for Softouch Auto Wash Inc. was received July 24, 2013. The referral was related to a July 20, 2013 amputation that was not reported to

the Division of OSH Compliance. A Compliance Safety and Health Officer (CSHO) was in the vicinity on another inspection but was unable to complete the inspection in time to respond to Softouch Auto Wash Inc. The CSHO responded to Softouch Auto Wash Inc. promptly on July 26, 2013.

3. An imminent danger referral for Jason Luke dba Jason Luke was received Friday, July 19, 2013. A CSHO arrived on site same day but no one was on site. Kentucky responded within one (1) working day of notice. The CSHO returned at a later date and opened an inspection.

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 of the new five (5) year strategic plan and is considered a baseline year. The 2011 baseline incident rate for all industries was 4.5. The total recordable incidence rate in 2012 for all industries in Kentucky was 4.2, which is an improvement from the baseline rate. 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 five (5) year strategic plan and is considered a baseline year. The 2011 baseline time rate for Kentucky was 2.1. For 2012, the incident rate for lost time events was 2.0, which is an improvement from the baseline rate. 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 2013, the Division of OSH Education and Training conducted 100 safety and health surveys in the selected top ten (10) Kentucky high hazard NAICS and specific high hazard industries. Additionally, thirty-nine (39) 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. Approximately 1,088 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 Education and Training targeted employers at specific facilities using 2011 OSHA Data Initiative information. 190 letters were sent to employers encouraging them to request consultation services. 101 employers responded to the outreach letters with survey requests. Division staff are working with these employers to improve the safety and programs in their places of employment. Employers who did not respond or chose not to use the voluntary services of the Division of OSH Education and Training are referred to the Division of OSH Compliance.

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 2013, the Division of OSH Compliance signed ninety-nine (99) settlement agreements. Penalties were reduced \$10,000 or more in eleven (11) contested cases that did not include the 1989 Safety and Health Management Guidelines or require the engagement of outside safety and health consultation. The 1989 Safety and Health Management Guidelines were not required due to, or a combination of:

1. The documented financial condition of the employer.
2. The employer was a construction company. Construction activities are not addressed in the 1989 guidelines because they are covered by Subpart C of the construction standards found at 29 CFR Part 1926.
3. The citation(s) were reclassified resulting in a penalty reclassification of \$10,000 or more.

A brief synopsis of the cases follows.

1. The penalties in KOSHRC 4961-12, City of Manchester, were reduced from \$21,700 to \$2,170 due to employer financial hardship. Documentation in the case file demonstrates the employer's financial condition.
2. The penalties in KOSHRC 4991-12, Tom Drexler Plumbing, were reduced from \$50,400 to \$13,500 due to employer financial hardship. Documentation in the case file demonstrates the employer's financial condition.
3. The penalties in KOSHRC 5022-13, Jeremiah Sharkey dba Pro Built Homes, were reduced from \$16,000 to \$1,200 due to employer financial hardship. Documentation in the case file demonstrates the employer's financial condition. Additionally, construction activities are not addressed in the 1989 guidelines because they are covered by Subpart C of the construction standards found at 29 CFR Part 1926.
4. The penalties in KOSHRC 4891-12, Marksby Cornett Engineering, were reduced from \$11,400 to \$400 due to employer financial hardship. Documentation in the case file demonstrates the employer's financial condition. Additionally, construction activities are not addressed in the 1989 guidelines because they are covered by Subpart C of the construction standards found at 29 CFR Part 1926.

5. The penalties in KOSHRC 4846-11, Carbide Industries, were reduced from \$56,000 to \$11,200 in consideration of the abatement measures implemented by the employer. The next of kin were consulted before reaching settlement with the employer.
6. The penalties in KOSHRC 5016-13, Master Installers, were reduced from \$31,250 to \$20,000. Construction activities are not address in the 1989 guidelines because they are covered by Subpart C of the construction standards found at 29 CFR Part 1926.
7. A willful violation in KOSHRC 4951-12, Millennium Forge, was reclassified to serious resulting in a \$49,000 penalty reclassification to \$7,000.
8. As part of a settlement involving three (3) Mr. Roof, LLC, cases, a willful violation in KOSHRC 4928-12 was reclassified to serious and other violations were vacated resulting in an \$112,000 penalty reclassified to \$11,200. The penalties in KOSHRC 5007-13 were reduced from \$136,000 to \$13,600 and the penalties in KOSHRC 5018-13 were reduced from \$22,400 to \$11,200. The employer implemented other measures specified in the settlement agreement. Additionally, construction activities are not addressed in the 1989 guidelines because they are covered by Subpart C of the construction standards found at 29 CFR Part 1926.
9. Penalties in KOSHRC 4862-11 and 4893-12, City of Cumberland, were reduced from \$29,400 to \$7,000 due to employer financial hardship. Documentation in the case file demonstrates the employer's financial condition.
10. Violations in KOSHRC 4850-11, Sun Chemical, were vacated and reclassified resulting in penalty reclassification from \$75,000 to \$33,825.
11. The penalties in KOSHRC 4944-12, TMW Contracting, were reduced from \$35,000 to \$2,162 due to employer financial hardship. Documentation in the case file

demonstrates the employer's financial condition. Additionally, construction activities are not addressed in the 1989 guidelines because they are covered by Subpart C of the construction standards found at 29 CFR Part 1926.

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. The Division of OSH Education and Training developed a cost free online eLearning safety and health program management training module during FY 2013. The division expects to publish the module to the Labor Cabinet's eLearning website, www.laborcabinetetrain.ky.gov, in December 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.

Kentucky added one (1) new Voluntary Protection Partnership (VPP) site in September 2013, making eleven (11) total active sites. The Division of OSH Education and Training's Partnership Program expects to add two (2) new 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 largest Construction Partnership Program (CPP) agreement in the history of the program, the Louisville Bridges project, began early October 2013. The Labor Cabinet established a formal site-based partnership with Walsh Construction Company and WVB East End Partners (a team of Walsh Investors LLC, VINCI Concessions and Bilfinger Project Investments), which are building the Downtown Crossing and East End Crossing, respectively. The National Construction Alliance II and the National Heavy and Highway Coalition represent both projects and are signatory participants in the partnership as well as the Kentucky Transportation Cabinet. The \$2.6 billion Ohio River Bridges project is Kentucky's largest current transportation infrastructure improvement and is one of the biggest underway in the nation.

The project includes two (2) crossings over the Ohio River. The Downtown Crossing will connect downtown Louisville, Kentucky and Jeffersonville, Indiana, running parallel to the existing Kennedy Bridge. In addition to the construction of a new six (6) lane bridge, the Downtown Crossing includes reconfiguring three (3) major interstates as well as related approaches, more than sixty (60) overpasses and bridges, more than sixty (60) retaining walls, and complete rehabilitation of the six (6) lane Kennedy Bridge. The new cable-stayed bridge will have three (3) sets of twin towers, be more than 2,000 feet long, and will require nearly sixteen (16) million pounds of steel.

The East End Crossing is situated eight (8) miles upstream and will connect Prospect, Kentucky, and Utica, Indiana. The East End Crossing includes a new 2,500-foot cable-stayed bridge across the Ohio River, twenty (20) additional bridges and infrastructure improvements around it, a 1,700-foot traffic tunnel that will be under U.S. Highway 42, construction of a new, full highway interchange, as well as reconstruction of a current interchange.

Both bridges are expected to be open to traffic in late 2016.

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 2013, adding two (2) new sites. The Division of OSH Education and Training expects interest in SHARPs to continue and anticipates level program growth.

Monitoring and tracking of partnership programs continues. This has been greatly enhanced by a new software 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. The software has worked very well.

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 maintains a workplace safety and health training website. Content is created by division staff and covers 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 as well as the update of four (4) hazard communication modules.

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 employs 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.

The Kentucky OSH Program deployed new comprehensive data management software in FY 2013 for both the Division of OSH Compliance and the Division of OSH Education and Training that “replaced” OSHA’s NCR/IMIS system. The software did not actually replace the NCR/IMIS system; NCR equipment is presently maintained as required by OSHA but Kentucky OSH Program staff members do not utilize it. Kentucky’s new software communicates to OSHA’s IMIS “behind the scenes” via the NCR equipment. In addition to the collection, retention, and transmission of Kentucky’s data to OSHA, the software provides new, advanced OSH Program capabilities including report writing, inspection and survey milestone tracking, time management, and program performance reports, etc. Each division also has specific functionality and capabilities unique to their individual needs.

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 2013.

Performance Goal 3.3 encourages and aids professional certification. During FY 2013, the Division of OSH Compliance maintained three (3) certified Occupational Health and Safety Technologist (OHST) employees and eight (8) certified Construction Health and Safety Technician (CHST) employees. During FY 2013, the Division of OSH Compliance also sent

employees to attend certification preparation courses. The Division of OSH Compliance maintained two (2) Certified Safety Professional (CSP) employees.

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. Two (2) 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 holds a Certificate of Management Fundamentals.

During FY 2013, the Division of OSH Education and Training maintained five (5) dual-certified (CIH/CSP) employees, four (4) CSP employees, two (2) CIH employees, six (6) OHST employees, and three (3) CHST employees. The division has four (4) employees that completed the CPM Program through Kentucky State University Governmental Services Center. The division has one (1) Master Logger certified employee and one (1) employee who is a Certified Government Meeting Planner.

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

In FY 2013, 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. Two (2) employees completed their courses and two (2) more entered the program.

Since 2009, the Division of OSH Compliance has supported seven (7) other compliance officers attaining Master of Science degrees.

The Division of OSH Education and Training has several employees working toward advanced 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 which gives the division the capability to develop video courses for employers to use as a resource for toolbox talks. Toolbox talks in the form of video courses are incorporated into the Labor Cabinet's eLearning modules at www.laborcabinetetrain.com.

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

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 2013, the Division of OSH Compliance conducted a total of 899 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 establishes that an authorized representative of the employees is given an opportunity to accompany compliance officers 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 may participate 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 899 inspections in FY 2013, 749 safety inspections and 150 health inspections. 717 inspections were un-programmed, breaking down as:

- 336 referrals;
- 200 complaints;
- 131 un-programmed related;
- Thirty-one (31) follow-ups; and
- Nineteen (19) fatalities/catastrophes.

182 programmed inspections break down as:

- Sixty-two (62) planned; and
- 120 programmed related.

491 inspections were in the construction industry, 394 were in manufacturing, and fourteen (14) were other. 859 private sector and forty (40) public sector employers were inspected. The Division of OSH Compliance conducted 749 safety inspections which constitute 83.3 percent of total inspections while health conducted 150, representing 16.7 percent of total inspections. Thirty (30) inspections were conducted under national emphasis programs. Fourteen (14) of these were safety and sixteen (16) were health related.

Safety averaged 35 hours per case with 99 average days from opening to citation issuance. Health averaged 99.4 hours per inspection with 125.5 average days from opening to citation issuance. A total of 1,082 violations were issued in FY 2013 with penalties totaling \$3,112,945 and break down as:

718 violations classified as serious with penalties of \$2,404,295;
Seven (7) violations classified as willful with penalties of \$236,000;
Twenty-eight (28) repeat with penalties of \$398,700; and
316 violations classified as other than serious with penalties of \$73,950.

In FY 2013, the total amount of penalties collected by the Division of OSH Compliance was \$2,072,270.58.

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

The Division of OSH compliance inspected establishments employing a total of 216,679 employees and the inspections covered 66,114 employees. The Division of OSH Compliance vacated twenty-two (22) private sector violations which represents 1.75 percent of the violations issued. Additionally, the Division reclassified five (5), or .4 percent of the violations issued. Penalties issued were retained in 71.5 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 violations, 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-one (31) follow-up inspections in FY 2013, representing 3.4 percent of all safety and health inspections.

No failure-to-abate violations were issued in FY 2013.

Discrimination rights established in KRS 338.121 and 803 KAR 2:250 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 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

The Kentucky OSH Standards Board, hereinafter referred to as Board, held a public meeting on May 7, 2013 in Louisville to consider state adoption of several amendments to OSHA's standards.

The Board considered and adopted OSHA’s technical amendment published in the January 22, 2013 *Federal Register* that made changes to the laboratory standard found at 29 Code of Federal Regulations (CFR) 1910.1450. The amendments did not affect the substantive requirements of the standard and did not establish new rights or responsibilities. The affected Kentucky regulation was 803 KAR 2:320.

The Board considered and adopted a final rule published in the February 8, 2013 *Federal Register* that corrected and technically amended several regulations related to OSHA’s adoption of the United Nations’ Globally Harmonized System of Classification and Labeling. The rule did not establish new compliance responsibilities. The affected Kentucky regulations were 803 KAR 2:307, 2:320, 2:403, 2:425, and 2:500.

The Board considered and adopted amendments published in the February 15, 2013 *Federal Register* that corrected construction industry material handling text found at 29 CFR 1926.251. The correction did not create additional compliance requirements. The affected Kentucky regulation was 803 KAR 2:407.

The Board considered and adopted a final rule published in the April 3, 2012 *Federal Register* making corrections and technical amendments to 29 CFR 1910.1030, Bloodborne Pathogens. The amendments revised the placement of the “Sharps injury log” requirements and did not create additional compliance requirements. The affected Kentucky regulation was 803 KAR 2:320

The Board considered and adopted a final rule published in the August 7, 2012 *Federal Register* that set forth corrections and technical amendments to the respiratory protection requirements found at 29 CFR 1910.134, mechanical power press requirements found at 29 CFR 1910.217, and scaffold guidelines found at 29 CFR Part 1926, Subpart L, Appendix A. All

corrections were minor in nature and did not create additional compliance duties. The affected Kentucky regulations were 803 KAR 2:308, 2:314, and 2:411.

The Board considered and adopted a direct final rule addressed in three (3) separate Federal Register notices that updated several existing OSHA head protection standards based on national consensus standards. The first notice was published in the June 22, 2012 *Federal Register*, corrected in the July 23, 2012 *Federal Register*, and confirmed in the November 16, 2012 Federal Register. The rule did not establish additional compliance duties. The affected Kentucky regulations were 803 KAR 2:300, 2:308, 2:400, 2:404, and 2:500.

The Board considered and adopted a final rule published in the April 23, 2013 *Federal Register*. The rule clarified that provisions in OSHA's 2010 Cranes and Derricks in Construction rule applied to underground construction and demolition. The rule also corrected inadvertent errors in the underground construction and demolition standards. The affected Kentucky regulations were 803 KAR 2:418 and 2:419.

All amendments adopted by the Board at the May 7, 2013 public meeting became effective in Kentucky on October 4, 2013.

Allocation of Sufficient Resources

The Kentucky OSH Program continued to match federal funding at the required rate. The state provides significant additional dollars beyond the federal match to meet the Program's needs. Kentucky's ratio was 65:35 of state to federal funds for FY 2013.

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.

The Division of OSH Compliance responded to 205 imminent dangers in FY 2013 within one (1) working day. Although three (3) inspections appear as outliers in FY 2013, the Division of OSH Compliance responded to two (2) of the imminent dangers within one (1) working day.

1. An imminent danger complaint for Conco Inc. was received April 25, 2013 and a health inspection opened April 25, 2013. During the inspection, the industrial hygienist made a referral to safety. The safety inspection was incorrectly linked to the original referral date, thus the outlier. The Division of OSH Compliance responded within one (1) working day and the data entry error corrected.
2. An imminent danger referral for Softouch Auto Wash Inc. was received July 24, 2013. The referral was related to a July 20, 2013 amputation that was not reported to the Division of OSH Compliance. A Compliance Safety and Health Officer (CSHO) was in the vicinity on another inspection but was unable to complete the inspection in time to respond to Softouch Auto Wash Inc. The CSHO responded to Softouch Auto Wash Inc. promptly on July 26, 2013.
3. An imminent danger referral for Jason Luke dba Jason Luke was received Friday, July 19, 2013. A CSHO arrived on site same day but no one was on site. Kentucky responded within one (1) working day of notice. The CSHO returned at a later date and opened an inspection.

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.

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 assignment of the complaint.

Although two (2) complaints appear as outliers, the Division of OSH Compliance responded within thirty (30) days to both. Kentucky met its requirement.

1. Complaint 208774877 was recorded as being received on March 19, 2013, however that was a data entry error and has been corrected. The complaint was actually received August 19, 2013 and an inspection opened on September 10, 2013. The Division of OSH Compliance responded within thirty (30) working days.
2. Informal complaint 208773523 was received June 10, 2013. A signed complaint was later received and subsequently reclassified as formal on July 30, 2013, and an inspection opened August 6, 2013. The Division of OSH Compliance responded within thirty (30) working days.

The Complaint Audit Log Report indicates that the average response time to complaints was 8.3 days for safety and 7.9 days for health. The Division's overall average for serious complaints are 8.2 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 6.6 days, and 8.4 days for health. The Division's

overall average was 7.2 days for other than serious hazards from the date the complaint was received to the date the inspection was opened.

Of the 601 complaints received in FY 2013, 212 were processed as formal complaints resulting in 190 inspections and 367 were processed as informal complaints.

Response to Referrals

The Division of OSH Compliance responded to 390 referrals in FY 2013. 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 0.1 days and 0.3 days for health. The overall average for the Division of OSH Compliance safety was 1.8 days and for health was 1.6 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 2013, twenty-four (24) work-related fatality/catastrophes were reported to the Division of OSH Compliance.

A Division of Compliance staff member 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 2013, the Division of OSH Compliance received 114 discrimination complaints. Eighty-two (82) cases were screened and referred to other agencies or not accepted and fifty-five (55) cases of alleged OSH discrimination were opened.

The average lapse time for discrimination cases was fifty-four (54) days per case. Six (6) cases were settled with penalties totaling \$20,343 in lost wages. Forty-three (43) cases were

determined to have no merit, ten (10) cases are still open, and no cases were contested. Two (2) discrimination violations were issued with penalties totaling \$15,500.

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.

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 and medical records. 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 2013, the Division of OSH Compliance conducted thirty-one (31) inspections relating to toxic material and harmful agents breaking down as:

Five (5) inspections related to silica with a penalty of \$2,500;
One (1) inspection relating to formaldehyde with penalties totaling \$32,700;
Nine (9) inspections relating to lead with penalties of \$96,500; and
Sixteen (16) inspections relating to asbestos with penalties of \$27,875.

The Division of OSH Compliance conducted nine (9) inspections specifically related to bloodborne pathogens resulting in twelve (12) serious violations and six (6) other than serious violations with penalties totaling \$31,350.

The Division of Compliance conducted seven (7) indoor air quality inspections resulting in two (2) serious violations and two (2) other than serious violations with penalties totaling \$3,850.

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 2013, the Division of OSH Compliance conducted forty (40) inspections of public sector work sites, which includes

programmed inspections and responses to public employee complaints. This calculates to .044 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.

During FY 2013, ten (10) training sessions were provided to public sector employers and employees totaling 185 participants. Thirty-three (33) consultative surveys were conducted in public sector facilities resulting in the identification of 191 serious and 70 other than serious hazards.

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 2013, the Division of OSH Compliance received 140 hospitalization reports. Fifty-six (56) inspections were conducted with sixty (60) serious violations, twenty (20) other than serious violations, two (2) repeat serious violations, and one (1) willful violation. Total penalties were \$430,175.

In FY 2013, the Division of OSH Compliance received fifty-two (52) reported amputations. Forty-one (41) inspections were conducted with thirty-nine (39) serious violations, fifteen (15) other than serious violations, and two (2) repeat serious violations. Total penalties were \$269,075.

Total penalties for violations related to amputation and hospitalizations in FY 2013 were \$699,250.

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 Safety Partnership Program (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 362 consultative surveys identifying and ensuring the abatement of 3,044 serious hazards. The division also conducted 111 training courses and reached approximately 2,841 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 four (4) 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 Protection Partnership

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 on-site surveys of worksite operations, assure that only companies that have a strong commitment to workplace safety and health and institutionalized safety and health management systems in place, as well as proven success maintaining a safe and healthful workplace, qualify for Kentucky's highest achievement recognition.

The VPP Program maintained ten (10) sites and added another, Kimberly Clark, Owensboro. Other VPP sites include:

- Dow Corning Corp., Carrolton;
- GE Aircraft Engines, Madisonville;
- 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.

Unfortunately, GE Lamp was removed from VPP in early 2013 due to differing factors that contributed to their inability to sustain VPP level recognition.

The partnership branch is currently working with several companies striving to attain VPP status, 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 and maintain a high level of hazard recognition. 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, training-based, and site-based partnerships.

The Partnership Branch continues to add new participants to CPP as previous partnership sites have successfully concluded. The CPP program grew tremendously in FY 2013. There

were as many as twenty-one (21) active CPP sites during FY 2013, by far the most in the history of the program.

The largest Construction Partnership Program (CPP) agreement in the history of the program, the Louisville Bridges project, began early October 2013. The Labor Cabinet established a formal site-based partnership with Walsh Construction Company and WVB East End Partners (a team of Walsh Investors LLC, VINCI Concessions and Bilfinger Project Investments), which are building the Downtown Crossing and East End Crossing, respectively. The National Construction Alliance II and the National Heavy and Highway Coalition represent both projects and are signatory participants in the partnership as well as the Kentucky Transportation Cabinet. The \$2.6 billion Ohio River Bridges project is Kentucky's largest current transportation infrastructure improvement and is one of the biggest underway in the nation.

The project includes two (2) crossings over the Ohio River. The Downtown Crossing will connect downtown Louisville, Kentucky and Jeffersonville, Indiana, running parallel to the existing Kennedy Bridge. In addition to the construction of a new six (6) lane bridge, the Downtown Crossing includes reconfiguring three (3) major interstates as well as related approaches, more than sixty (60) overpasses and bridges, more than sixty (60) retaining walls, and complete rehabilitation of the six (6) lane Kennedy Bridge. The new cable-stayed bridge will have three (3) sets of twin towers, be more than 2,000 feet long, and will require nearly sixteen (16) million pounds of steel.

The East End Crossing is situated eight (8) miles upstream and will connect Prospect, Kentucky, and Utica, Indiana. The East End Crossing includes a new 2,500-foot cable-stayed bridge across the Ohio River, twenty (20) additional bridges and infrastructure improvements

around it, a 1,700-foot traffic tunnel that will be under U.S. Highway 42, construction of a new, full highway interchange, as well as reconstruction of a current interchange.

Both bridges are expected to be open to traffic in late 2016.

SHARP and SPP Programs

The Safety and Health Achievement Recognition Program and the Safety Partnership Program experienced growth and added four (4) new participants. SHARP added:

- American Standard Brands, Somerset;
- MVP Group International, Mayfield;
- Blair Technology Group, Covington; and
- River City Metals, Newport.

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 2014.

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.

Logan's Healthcare Linen joined SPP in FY 2013.

SHOTS Initiative

The Kentucky OSH Program had serious concerns regarding employee exposure to lead during clean-up operations at indoor shooting ranges. Specifically, concerns were raised by evidence of extremely high lead exposure during removal and recycling of catch materials. To address the concern, the Division of OSH Education and Training initiated the Safety and Health Outreach for Target Shooting (SHOTS) initiative. The initiative was an opportunity for employers to take advantage of the division's expert consultative services to address employee

lead exposure without the risk of monetary penalties. Although SHOTS was primarily concerned with lead clean-up operations at shooting ranges, employers were notified of all hazards encountered during consultative visits to the facilities.

The Division of OSH Education and Training sent written correspondence to indoor shooting ranges in Kentucky explaining the nature of SHOTS and offered employers an opportunity to participate. Facilities that declined were referred to the Division of OSH Compliance. Eight (8) facilities received full service industrial hygiene surveys focusing on employee and contractor exposure to lead. These surveys resulted in fifty-two (52) serious Notice of Violations identifying hazards that were subsequently fully abated.

Construction Compliance Inspections

During FY 2013, Kentucky conducted a total of 501 construction inspections as identified by OSH-1 SIC codes. The Division of OSH Compliance conducted 107 construction inspections in SICs starting with fifteen (15); twenty-nine (29) in SICs starting with sixteen (16); and 365 in SICs starting with seventeen (17). Kentucky issued 455 violations for construction hazards including thirty-six (36) other-than-serious violations, 395 serious violations, eighteen (18) repeat serious violations, and six (6) willful violations with penalties totaling \$1,592,075.

Although a state budget shortfall compelled the Division of OSH Compliance to maintain only 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 2013, the Division of Compliance conducted fifty-seven (57) inspections in residential construction and issued eighty (80) violations with penalties totaling \$227,500.

Compliance Emphasis on Serious Hazards

The Division of OSH Compliance maintains an emphasis on addressing serious hazards. Imminent danger hazards receive the highest priority. Referral and complaint hazards are evaluated using the same criteria. In FY 2013, the Division of OSH Compliance issued:

- 718 serious violations with penalties totaling \$2,404,295;
- Twenty-eight (28) serious repeat violations with penalties totaling \$398,700; and
- Seven (7) willful serious violations with penalties totaling \$236,000.

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 informs employer representatives of the availability of education and technical assistance services that 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 ten (10) combustible dust inspections in FY 2013 resulting in six (6) serious violations, seven (7) other than serious violations, and one (1) repeat violation with penalties totaling \$16,925.

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

The Division of OSH Compliance has 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 is 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.

The Division of OSH Compliance conducted sixteen (16) inspections relating to asbestos in FY 2013 resulting in eight (8) serious violations and seven (7) other than serious violations with penalties totaling \$27,875.

Occupational Poison Alerts

The Division of OSH Compliance receives notices of incidents involving occupational exposure to 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 2013, the Division of OSH Education and Training maintained four (4) dual CIH-CSP employees, two (2) CIH employees, three (3) CSP employees, six (6) OHST certified employees, and three (3) CHST certified employees.

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 training newly-hired 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. Since the development of the CSP/OHST/CHST position within the division, a number of compliance officers have attained certification and more are in the process of doing so.

During FY 2013, the Division of OSH Compliance maintained three (3) OHST certified employees and eight (8) CHST certified employees. 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 certificated position descriptions, paying for certification preparatory courses, and paying for the certification examination upon successful completion of the examination. One (1) Division of OSH Compliance safety supervisor is a Certified Public Manager and the Health Program Manager holds a Certificate of Management Fundamentals.

During FY 2013, the Division of OSH Compliance sent employees to professional certification preparation courses. The Division continued to send employees to the OSHA Training Institute 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 2013, the Division of OSH Compliance funded new 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. Two (2) safety compliance officers previously in the program graduated. One (1) is still employed and one resigned following graduation.

Since 2009, the Division of OSH Compliance has paid for seven (7) compliance officers to attain Master of Science degrees.

Software

The Kentucky OSH Program deployed new comprehensive data management software in FY 2013 for both the Division of OSH Compliance and the Division of OSH Education and Training that “replaced” OSHA’s NCR/IMIS system. The software did not actually replace the NCR/IMIS system; NCR equipment is presently maintained as required by OSHA but Kentucky OSH Program staff members do not utilize it. The new software communicates to OSHA’s IMIS “behind the scenes” via the NCR equipment. In addition to the collection, retention, and transmission of Kentucky’s data to OSHA, the software provides new, advanced OSH Program capabilities including report writing, inspection and survey milestone tracking, time management, and program performance reports. Each division also has specific functionality

and capabilities unique to their individual needs. Kentucky is very pleased with the new software.

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 ninety-three (93) face-to-face training courses and reached approximately 1,381 attendees in response to training requests from employers.

Thirty-eight (38) training sessions were presented at four (4) POP Center Training seminars throughout the Commonwealth. The training addressed subjects relevant to targeted NAICS industries 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 1,143 participants attended.

Counsel for the Kentucky OSH Review Commission and a Division of OSH Compliance safety supervisor, and a CSHO presented a workshop at Kentucky's 29th Annual Governor's Safety and Health Conference and Exposition. Employers and employees learned about inspection procedures as well as their obligations and rights. Also, a safety supervisor presented at the AGC Safety Day regarding the multi-employer citation policy and general contractor citations. The Director of OSH Compliance spoke at two (2) Chamber of Commerce events.

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 OSH Standards Specialists and OSH Federal-State Coordinator provided over 1,000 OSH interpretations during FY 2013; and, on behalf of the Kentucky OSH Standards Board as well as the Labor Cabinet, completed promulgation of several regulations which affected fourteen (14) Kentucky Administrative Regulations.

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.

KYOSH IMPACT

The Labor Cabinet's OSH Program was on the road in FY 2013 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 Division of OSH Education and Training staff members 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 OSH Program participated with the Mexican Consulate for an event in Lexington that affected over 1,000 immigrants. The IMPACT and Labor Cabinet staff were on hand to disseminate OSH information, answer OSH questions, and provide wage and hour information, all in Spanish and English.

Governor's Safety and Health Conference and Exposition

The Labor Cabinet, in conjunction with the Kentucky Safety and Health Network, Inc., presented the 29th Annual Governor's Safety and Health Conference and Exposition in Louisville on May 7-10, 2013. This year's very successful event, the largest safety and health exposition in

the Commonwealth, featured pre-conference courses, fifty-three (53) concurrent workshops, and outstanding keynote speakers.

Additionally, Scholastic Achievement for Education Awards, or “SAFE” awards, totaling nearly \$40,000 were presented at the conference to seventeen (17) 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.

Twenty-four (24) Kentucky employers were presented with the Governor’s Safety and Health Award at the event. 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. An additional twenty-one (21) companies received the Governor’s Safety and Health Award at their facilities.

Collection of Delinquent OSH Penalties

In FY 2013, pursuant to KRS 45.239(4) and 45.241, the Kentucky OSH Program entered into an agreement with the Kentucky Revenue Cabinet to collect delinquent debts. Employers who have outstanding OSH debts are reported to the Revenue Cabinet for collection and further action. Such action may include:

- Adding a 25% collection fee to the total debt to defray the cost of collection;
- Filing a notice of State Lien. The filing of a lien will be reflected in credit reports maintained by various credit bureaus;
- Seizing all property rights, both real and personal. This includes, but is not limited to, the attachments of any funds held by a bank, any wages paid to the employer, and the seizure and sale of any real estate; and
- Using any tax refund or other monies that may become due to the employer from the Commonwealth of Kentucky to offset the outstanding debt.

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 with achieving the goal. 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 have cost free, 24/7 access to a variety of OSH webinars and training courses. The eLearning program has grown by leaps and bounds since its launch. To date, more than 20,000 participants have utilized the website.

Webinars are streamed 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.

The eLearning library grew with the addition of modules such as Mechanical Power Press Safety, Bloodborne Pathogens, The Globally Harmonized System of Classification and Labeling of Chemicals, Fall Protection, Heat Stress Awareness for Construction and General Industry, Forklift Fundamentals, and Recordkeeping. A Spanish-language class, Introducción to OSHA Parte 1, was also added to the library. The module provides valuable information regarding the history of OSHA, employee rights, the inspection process, and numerous other topics.

Recorded webinars added to the eLearning website library include GHS Hazcom 2012 Q&A, Slips, Trips, and Falls, and Basics of Confined Space for General Industry.

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.

Fall Prevention Campaign

The Division of OSH Education and Training developed and led a 2013 Fall Prevention Campaign centered on raising awareness of fall hazards, training, collaborating with partners, and briefly stopping work to offer training. Consultants distributed campaign posters and stickers, met with employers, provided training, as well as explained the importance and need for the campaign. Kentucky also partnered with unions and associations to spread the message.

The multi-week campaign was launched with press releases in English and Spanish that were picked up in both print and radio media. The news release was followed by promotion and distribution of campaign materials. Weekly flyers, addressing fatalities among Kentucky construction workers, aerial lifts, scaffolds, steel erection, protective equipment and rescue, residential construction fall protection, and ladders, were developed and sent out each week to the OSH Program's 4,000+ email distribution list. The flyers and campaign message were also promoted via social media on the Labor Cabinet's Facebook page and Twitter account.

Flyers and other outreach materials were shared with retail stores such as Lowe's, Home Depot, lumber supply stores, and equipment rental facilities. Campaign posters, in English and Spanish, were posted at all forty-nine (49) state parks. To obtain further awareness, consultants worked to spread the campaign to other outlets such as gas stations, convenience stores, and banks. The campaign's final flyer asked employers and employees to get involved and join the

campaign. By repeating the e-mail blast and social media promotion, awareness was raised on the topic of fall protection and it help set the stage for other aspects of the campaign.

A safety stand down was held in August in conjunction with OSHA's Region 4 office. This practice again raised awareness among the contractor community and employees. Employers were asked to voluntarily stop work for one (1) hour to conduct safety training focused on the prevention of falls in the workplace.

Kentucky developed a free on-line training module, Introduction to Fall Protection, that is available at laborcabinetetrain.ky.gov. The module covers topics such as the common causes of falls, when fall protection is required, philosophies of fall protection and details on the common ways to provide fall protection. A certificate of completion is available for those passing a short quiz. Attendance for the course grew significantly as the campaign created awareness and demand for the module.

The Labor Cabinet developed a webpage dedicated to the 2013 Fall Prevention Campaign that can be found at www.labor.ky.gov.

The OSH Program plans to continue the campaign. Areas that have proven effective will be expanded in the future.

Heat Blast Campaign

During FY 2011 and FY 2012, the Division of OSH Education and Training conducted concentrated state-wide efforts to educate the working public concerning the hazards of working in the summer heat. The "heat blast campaigns" targeted construction as well as general industry and included the efforts of all division consultants.

The 2011 campaign began with the identification of target groups and central locations where affected employees would have access to information. Materials were developed and

printed and division staff fanned out across the entire Commonwealth spreading the message of heat-related dangers. Home improvement stores, nurseries, garden centers, feed stores, contractor rental stores, and other central locations were targeted as dissemination points for heat stress publications. Countless copies of brochures and information bulletins were distributed in these locations with cooperation from owners. Division staff actively engaged construction workers, pavers, mowing and landscaping crews, factory employees, and management. The division estimates that approximately 80,000 employees were affected by the week-long outreach program.

In FY 2012, the division deployed all field staff to businesses and industries across the state to continue educational briefings on heat-related awareness and illnesses. Consultants once again 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. The week-long FY 2012 outreach affected over 64,000 Kentucky employees.

In FY 2013, the division developed, produced, and posted on the Labor Cabinet's eLearning website, www.laborcabinetetrain.com, a module entitled "Heat Stress Awareness for Construction and General Industry." The module covers the types of heat injuries, the risk factors associated with heat stress, prevention of heat-related injuries, and what to do if a worker starts showing signs of a heat-related injury. The module has experienced hundreds of views since its April 2013 posting. An emphasis on heat stress awareness was also incorporated into FY 2013 POP Center training activities throughout the Commonwealth, reaching over 500 employees, and heat-related awareness information was disseminated via the Labor Cabinet's website and social media accounts. On June 4, 2013, OSHA's Region 4 office conducted a one (1) hour safety stand-down to focus on heat-related illness and injuries. Unfortunately, OSHA

did not offer the Kentucky OSH Program an opportunity to participate in the stand-down.

Kentucky has enjoyed tremendous success with its heat awareness campaign and looks forward to participating with OSHA in a future joint heat-related campaign effort.

Ammonia Safety Day

The Kentucky OSH Program co-sponsored and facilitated a free one (1) day ammonia safety workshop in Louisville. Topics included managing hazards, risks, and threats of ammonia, managing pressure to avoid an emergency event, reducing pipeline and valve problems, improving valve operations and readiness, maintaining the ammonia detection system to achieve reliable and timely warning of problems, and the “One Plan” emergency response system. There was also a panel discussion with regulators and responders.