



KENTUCKY
OCCUPATIONAL SAFETY AND HEALTH PROGRAM

STATE OFFICE ANNUAL REPORT

for

FEDERAL FISCAL YEAR 2015

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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 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 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 2015 Performance Plan goals. Section II addresses mandated activities during FY 2015. Section III addresses noteworthy accomplishments achieved by the Kentucky OSH Program during FY 2015.

Information presented in this report reflects accurate data representative of the period sampled. Some case files have matured since preparation of this report while others are still working through the process. Subsequently, some of the information may 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.

Goal 1.1 of the FY 2015 Annual Performance Plan addresses the aforementioned Strategic Plan goal. Goal 1.1 is to reduce the recidivism rate for repeat, serious, and willful violations in residential construction.

The FY 2011 baseline was four (4) willful serious, ten (10) repeat serious and ninety-six (96) serious violations in residential construction. In FY 2015, the Division of OSH Compliance conducted forty-two (42) residential construction inspections resulting in four (4) repeat serious violations, and sixty-three (63) serious violations. Total penalties were \$224,850. Kentucky met its goal.

The Division of OSH Education and Training offers training, technical assistance, and consultative services, upon request, to employers engaged in residential and non-residential construction. The division also published several internet-based training modules applicable to residential construction, such as fall protection. Several offerings are available in Spanish.

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

The baseline for reported amputations set in 2011 was fifty-four (54). In FY 2015, the Division of OSH Compliance received eighty-one (81) reported amputations. Sixty-two (62) inspections were conducted with one (1) repeat serious violation, forty-one (41) serious violations, and twelve (12) other than serious violations. Total penalties were \$214,075.

The FY 2011 baseline was 151 reported hospitalizations. In FY 2015, the Division of OSH Compliance received 254 hospitalization reports. 115 inspections were conducted resulting in two (2) repeat serious violations, sixty-three (63) serious violations, and thirty-five (35) other than serious violations. Total penalties were \$365,800.

Performance Goal 1.3 addresses the total number of hazards identified 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. Each of these areas is addressed throughout this report.

During FY 2015, the Division of OSH Education and Training conducted 177 health surveys of which 177 were considered high hazard. The division's safety branch conducted 162 surveys, of which all were considered high hazard.

Performance Goal 1.4 strives to ensure that employers are adhering to settlement provisions and verify abatement.

The Division of OSH Compliance conducted fourteen (14) follow-up inspections in FY 2015 with three (3) repeat serious violations. Total penalties were \$13,500.

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 2014 represent nonfatal occupational injuries and illnesses involving days away from work per 10,000 full-time workers in the construction industry.

2014	Falls	Struck-by	Crushed
Kentucky	12.0	36.2	0
National	17.7	28.4	4.7

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 aims to initiate all fatality and catastrophe inspections by the Division of OSH Compliance within one (1) working day of notification. Although two (2) fatalities appear as outliers in FY 2015, the Division of OSH Compliance responded to both fatalities within one (1) working day. Kentucky met its goal.

1. A fatal accident involving Skaggs Energy Inc. occurred on Sunday, February 8, 2015 and was reported to the Division of OSH Compliance by the media on Tuesday, February 10, 2015. On Wednesday, February 11, 2015, a CSHO made numerous attempts to contact an employer representative and open an inspection. The employer was unable to schedule an opening conference due to grieving and funeral arrangements. An opening conference was scheduled for Monday, February 15, 2015 which was subsequently

cancelled due to weather. An opening conference took place Monday, February 23, 2015.

2. A fatal accident occurred involving Brothers Logging on Monday, August 31, 2015 and reported to the Division of OSH Compliance by the media on the same day. A CSHO attempted to open an inspection on the same day. After speaking with the next of kin, the CSHO determined there was no employer-employee relationship; therefore an inspection was not conducted.

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 193 reports of imminent danger in FY 2015. Although three (3) inspections appear as outliers in FY 2015, the Division of OSH Compliance responded to all within one (1) working day. Kentucky met its goal.

1. An imminent danger referral for Steel Services of KY, Inc. was received Monday, January 26, 2015. A CSHO arrived onsite same day but no one from the reported company was onsite. Kentucky responded within one (1) working day of notice. The CSHO returned Friday, January 30, 2015 and opened an inspection.

2. An imminent danger referral for Howard Roberts dba Howard Roberts was received Monday, May 11, 2015. A CSHO arrived onsite same day but no one was onsite. Kentucky responded within one (1) working day of notice. The CSHO returned Wednesday, May 13, 2015 and opened an inspection.

3. An imminent danger complaint for Bushnell Building was received Tuesday, September 29, 2015. A CSHO arrived onsite same day but an employer representative was not onsite. Kentucky responded within one (1) working day of notice. The CSHO

returned Thursday, October 1, 2015, determined the complaint to be invalid, and did not open 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.

The 2011 baseline incident rate for all industries was 4.5. The total recordable incidence rate in 2014 for all industries in Kentucky was 3.8, which is a significant improvement from the 2011 baseline rate.

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.

The 2011 baseline rate for Kentucky was 2.1. For 2014, the incident rate for lost time events was 1.9, matching the baseline. Kentucky continues to direct resources 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 2015, the Division of OSH Education and Training conducted 113 safety and health surveys in the selected top ten (10) Kentucky high hazard NAICS and specific high hazard

industries. Additionally, forty (40) training sessions were presented at five (5) Population (POP) Center Training seminars throughout the Commonwealth. The training addressed subjects relevant to the targeted NAICS such as Injury and Illness Recordkeeping, Fall Protection, Confined Space, Basic Electrical Safety, Welding Safety, Bloodborne Pathogens, Personal Protective Equipment, Spray Finishing, Lockout-Tagout, Electrical Safe Work Practices, Back Care and Ergonomics, and Powered Industrial Trucks. Over 950 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.

Bureau of Labor Statistics 2013 data was utilized to target employers in the industries with the highest injury and illness rates. 521 letters were sent to employers encouraging them to request consultation services. 169 employers responded to the outreach letters with survey requests. Division staff members 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 to increase employer and worker awareness of, commitment to, and involvement in occupational safety and health.

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

During FY 2015, the Division of OSH Compliance signed ninety-nine (99) settlement agreements. Penalties were reduced \$10,000 or more in fourteen (14) agreements that did not include the 1989 Safety and Health Management Guidelines or require the engagement of outside safety and health consultation. In general, settlement agreements may be permitted based on, 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 aforementioned fourteen (14) agreements follows.

- The penalty in Atlantic Construction, KOSHRC 5134-14, was reduced from \$15,000 to \$3,800. 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.
- The penalty in Stewart-Richey Constriction, Inc., KOSHRC 5016-13, was reduced from \$44,500 to \$18,750. 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.

- The penalty in Campus Crest Construction, Inc., KOSHRC 5229-14, was reduced from \$64,400 to \$50,000. 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.
- The penalty in Scott, Murphy, Daniel, LLC, KOSHRC 5065-13, was reduced from \$28,900 to \$3,250. 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.
- The penalty in K.R. Drenth Trucking, KOSHRC 5075-13, was reduced from \$62,200 to \$31,000 based on the documented financial condition of the employer.
- The penalty in Kentucky State University, KOSHRC 5155-14, was reduced from \$22,000 to \$5,000 based on the documented financial condition of the employer.
- The penalty in Rising Point, LLC, KOSHRC 5160-14 was reduced from \$35,000 to \$12,500 based on the documented financial condition of the employer.
- The penalty in The Trixie Foundation, KOSHRC 5220-14, was reduced from \$35,000 to \$1,800 based on the documented financial condition of the employer.
- The penalty in Enrique Hernandez dba E.H.R. Construction, KOSHRC 5158-14, was reduced from \$27,550 to \$7,750 based on the documented financial condition of the employer.
- The penalty in H and H Sheet Metal Fabrication, KOSHRC 5248-15, was reduced from \$23,850 to \$12,000 based on grouping serious violations Citation 1, Items 1 and 2,

amending instances a and b under Citation 1, Item 6 and grouping under Citation 1, Item 5, and withdrawal of Citation 1, Item 6.

- The penalty in QC of Kentucky, KOSHRC 5172-14, was reduced from \$66,450 to \$28,600 based on grouping the penalties in Citation 1, Items 6-11 to a single agreed amount, and the withdrawal of Citation 1, Item 2.
- The penalty in AK Steel Corporation, KOSHRC 4978-12, was reduced from \$23,200 to \$3,500 based on an adjusted penalty for Citation 1, Item 1, the reclassification of Citation 1, Item 2 from serious to other than serious, combining and consolidated citation 1 Item 3a with Citation 1, Item 1, and dismissing Citation 1, Item 3b as well as Citation 2, Item 1.
- The penalty in Schreiner Roofing, KOSHRC 5235-15, was reduced from \$58,200 to \$28,700 based on grouping Citation 1, Items 4, 5, 6, and 7 with a penalty adjustment for those grouped items.

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 general industry consultative survey reports contained a completed Form 33. Each comprehensive survey also included a safety and health program evaluation.

Performance Goal 2.3 seeks to utilize the Safety & Health Program Assessment Worksheet in 100 percent of the general industry full-service surveys and include a narrative safety and health program evaluation in 100 percent of the 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 provided employers and employees a cost-free online eLearning safety and health program management training module on the Labor Cabinet's eLearning website, www.laborcabinetetrain.ky.gov. During 2015, 256 individuals viewed the module.

Performance Goal 2.5 addresses the evaluations of worksites on a timely basis and certify Voluntary Protection Program (VPP) sites, develop construction partnership agreements, and add new employers to the pre-Safety and Health Achievement Recognition Program (SHARP) and SHARP.

The Kentucky OSH Partnership Program continues to be very active working with current participants, adding new participants and always reaching out and looking for new participants for VPP, SHARP and the Construction Partnership Program (CPP).

The largest CPP agreement in the history of the program, the Louisville Bridges project, began early October 2013 and continues. 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. Several full site CPP audits were conducted in FY 2015 at both sites, covering hundreds of employees doing dozens of different jobs and work activities. Kentucky continues to work closely with both sites and expects to add more frequent site audits with the tremendous amount of work occurring at both sites. This partnership is scheduled to last for several more months and continues to be very successful.

Several large projects concluded this fiscal year, two (2) of those being the University of Kentucky football stadium refurbish, and the Louisville Ford Truck Plant expansion. Both were very successful and included multiple site audits facilitating interaction with dozens of sub-contractors and hundreds of workers. The partnership program worked closely with Ford and the general contractors during the Truck Plant expansion project. Ford management gave high praise to the partnership and expressed a great interest to work with the program again.

The partnership program completed the partnership with Gray at the Champions Pet Kitchen project in Auburn. This was an extremely successful partnership and had a very unique twist in that the Champions management expressed interest in pursuing SHARP after their first year of operating history. The partnership branch laid the ground work and scheduled visits, meetings, and trainings to make this happen.

Some new CPP projects of note that began this fiscal year include:

- A \$12 million distillery construction with Buzick Construction which is the program's first construction partnership related to the bourbon industry;
- A new \$25 million academic building on the campus of Morehead State University with Denark Construction; and
- A \$87 million academic science center on the campus of the University of Kentucky with Messer Construction.

VPP continues to be successful and sets the standard for program and participant quality. The Partnership Program is working diligently with several facilities in their quest to become VPP while maintaining twelve (12) very strong, successful sites.

The VPP program also improved the way in which employee perception surveys and interviews are conducted, thus reducing travel and labor costs. Kentucky's partnership program staff can now use Adobe Connect to interview employees online during the perception survey portion of the VPP audit. In the testing phase during the last SOAR, we have now had no fewer than four (4) successful perception surveys with this new method and it appears this will be the way most of the perception surveys will be conducted for years to come.

SHARP continued to grow and added three (3) new companies with several more ready to come aboard very soon. The FY 2015 additions were:

- River Metals Recycling, Owensboro;
- Jackson Ware Washing, Gray; and
- River Metals Recycling, Paducah.

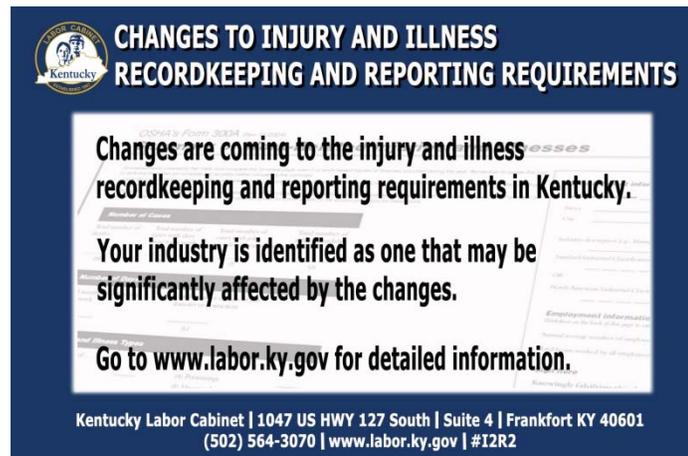
Unfortunately, one (1) SHARP participant was released in FY 2015 due to lack of commitment and a regression in safety culture.

SHARP lost its long time administrator to retirement in December 2014. Fortunately, a veteran Labor Cabinet employee filled the position in April and has already put his stamp on the program, picking right up and working tirelessly to recruit new facilities while maintaining great relationships with current SHARP sites.

Performance Goal 2.6 addresses the implementation of a targeted outreach plan for 100 percent of new Kentucky OSH standards.

The Kentucky OSH Program undertook an extensive state-wide campaign in FY 2015 to educate employers who are newly required to record work-related injuries and illnesses

subsequent to OSHA's September 18, 2014 final rule which is effective in Kentucky on January 1, 2016. The outreach included a webpage devoted to the injury and illness recordkeeping and reporting (I2R2) changes as well as a letter to stakeholders from then Secretary Roberts summarizing the changes and asking for their help in reaching others. Additionally, an I2R2 postcard was developed and mailed to 2,000+ Kentucky employers in sixty-three (63) industry sectors newly required to maintain workplace injury and illness records.



To help educate the regulated community, six (6) face-to-face training sessions were conducted at locations throughout the state that specifically included I2R2 information. The sessions were well attended.

Finally, the I2R2 elearning modules at www.laborlabinetetrain.ky.gov were updated to include the new information. The modules, and one (1) recorded I2R2 webinar, were viewed over 1,000 times in 2015.

The Division of OSH Education and Training offered a cost-free, live webinar that addressed OSHA's April 11, 2014 final rule that created and revised general and construction industry standards related to electric power generation, transmission, and distribution as well as electrical protective equipment. The webinar was recorded and is available at www.laborcabinetetrain.ky.gov. It has been viewed 92 times to date.

The division 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 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 and OIS system. The software did not actually replace OSHA’s systems; NCR equipment is presently maintained as required by OSHA but Kentucky OSH Program staff members do not utilize it. Kentucky’s software communicates to OSHA’s IMIS “behind the scenes” via the NCR equipment. In FY 2015, Kentucky deployed a

customized interface that provides the state's compliance and consultation data to OSHA's OIS system. Kentucky is currently transmitting data to OSHA in both systems, IMIS and OIS.

In addition to the collection, retention, and transmission of Kentucky's data to OSHA, the Kentucky's software provides advanced OSH Program capabilities including report writing, inspection and survey milestone tracking, time management, program performance reports, etc. Each division also has specific functionality and capabilities unique to their individual needs. The software has proven very beneficial to the OSH Program.

The Division of OSH Compliance employs one (1) individual dedicated to maintaining reliable data. The Division of OSH Education and Training also employs one (1) individual dedicated to maintaining reliable data. Both divisions continue to maintain a reliable data repository by monitoring rejects, running various reports, updating internal tracking, and running backups on a regular basis.

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

The Division of OSH Compliance and the Division of OSH Education and Training did not hire new supervisory staff during FY 2015.

Performance Goal 3.3 encourages and aids professional certification. During FY 2015, the Division of OSH Compliance maintained one (1) certified Occupational Health and Safety Technologist (OHST) employee and six (6) certified Construction Health and Safety Technician (CHST) employees. During FY 2015, 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. One (1) employee was 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 2015, the Division of OSH Education and Training maintained one (1) CIH-CSP-OHST certified employee, three (3) CIH-CSP certified employees, two (2) CSP-CHST certified employees, one (1) CSP-OHST certified employee, two (2) CSP certified employees, four (4) CIH certified employees, four (4) OHST certified employees, and two (2) CHST certified employees. Four (4) division employees completed the CPM Program through Kentucky State University Governmental Services Center. The division has one (1) employee who is a Certified Government Meeting Planner, and two (2) Certified Management Fundamentals employees. The Office of the Federal-State Coordinator maintained one (1) dual CIH-CSP employee and one (1) CSP employee.

Performance Goal 3.4 encourages and aids the attainment of advanced degrees. In FY 2015, the Division of OSH Compliance funded graduate degrees at Eastern Kentucky University for two (2) safety compliance officers. One graduated with a Master of Science in Applied Engineering and Technology and another is completing a Master of Science in Safety, Security, and Emergency Management degrees.

Since 2009, the Division of OSH Compliance has supported ten (10) compliance officers attaining Master of Science degrees.

The Division of OSH Education and Training has two (2) employees working toward advanced degrees.

Performance Goal 3.5 aims to develop electronic learning products.

The Division of OSH Education and Training added three (3) cost-free interactive training products to the www.laborcabinetetrain.ky.gov library. They are “Ladder Safety in General Industry”, “Occupational Noise Exposure”, and “Introduction to Construction Cranes”.

Eight (8) new webinars were conducted, recorded, and published to the website for instant viewing. They are *Safety Hazard Recognition, Proposed Rule for Exposure to Respirable Crystalline Silica, Construction Hazard Recognition, Combustible Dust, Kentucky OSH Compliance Inspections, Basic Woodworking Safety, Overview of Changes to 1910.269, and Overview of Welding Safety.*

Performance Goal 3.6 seeks to include photographs of actionable hazards in 100 percent of surveys.

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

SECTION II MANDATED ACTIVITIES

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

Unannounced Inspections, Including Prohibition Against Advance Notice Thereof

During FY 2015, the Division of OSH Compliance conducted 885 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 885 inspections in FY 2015, 728 safety inspections and 157 health inspections. 734 inspections were un-programmed, breaking down as:

- 390 referrals;
- 178 complaints;
- 127 un-programmed related;
- Fourteen (14) follow-ups; and
- Twenty-five (25) fatalities/catastrophes.

151 programmed inspections break down as:

- 111 planned; and
- Forty (40) programmed related.

344 inspections were in the construction industry and 541 were in manufacturing. 853 private sector and thirty-two (32) public sector employers were inspected. The Division of OSH Compliance conducted 728 safety inspections which constitute 82.3 percent of total inspections while health conducted 151, representing 17.7 percent of total inspections. Fifty-nine (59) inspections were conducted under national emphasis programs. Forty-one (41) of these were safety and eighteen (18) were health related.

Safety averaged 30.7 hours per case with 54.58 average days from opening to citation issuance. Health averaged 77.2 hours per inspection with 77.97 average days from opening to citation issuance. A total of 1,332 violations were issued in FY 2015 with penalties totaling \$3,156,220.50 and break down as:

854 violations classified as serious with penalties of \$2,676,320.50;
Thirty-one (31) repeat with penalties of \$378,500; and
447 violations classified as other than serious with penalties of \$68,675.

In FY 2015, the total amount of penalties collected by the Division of OSH Compliance was \$2,405,086.02.

99 cases were contested representing eleven (11) percent of total inspections.

The Division of OSH compliance inspected establishments employing a total of 205,566 employees and the inspections covered 54,079 employees. The Division of OSH Compliance vacated nineteen (19) private sector violations which represents 1.44 percent of the violations issued. Additionally, the Division reclassified ten (10), or .76 percent of the violations issued. Penalties issued were retained in 73.99 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 fourteen (14) follow-up inspections in FY 2015, representing 1.6 percent of all safety and health inspections.

No failure-to-abate violations were issued in FY 2014.

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 5, 2015 in Louisville to consider state adoption of several amendments to OSHA's standards.

The Board considered and adopted OSHA's final rule published in the September 26, 2014 *Federal Register* that revised the deadline for the crane operator certification requirements. The amendment extended the requirement to obtain crane certification by three (3) years. The affected Kentucky regulation Kentucky Administrative Regulation (KAR) 2:505.

The Board considered and adopted correcting amendments in the July 1, 2014 *Federal Register* that corrected typographical errors in the vehicle mounted platforms and logging operations standards. The affected Kentucky regulations were 803 KAR 2:305 and 2:317.

The Board considered and adopted amendments published in the September 24, 2014 *Federal Register* that corrected errors made in the text of the April 11, 2014 *Federal Register* for the electric power generation, transmission, and distribution standard. The corrections did not create additional compliance requirements. The affected Kentucky regulations were 803 KAR 2:317 and 2:421.

The Board considered and adopted amendments to the Kentucky's discrimination regulation, 803 KAR 2:250. The amendment clarified the application of the regulation to complaints made by an employee to her or his employer. Other minor amendments were also made to align the language with the requirements of Kentucky Revised Statute 13A.

The Secretary, as Chair of the Board, adopted the amendments to 803 KAR 2:402, 2:421, and 2:200 resulting from the final rule published in the May 4, 2015 *Federal Register*. The final rule made substantive amendments to Kentucky's confined space in construction requirements.

All amendments adopted by the Board at its May 5, 2015 public meeting, along with those adopted by the Secretary, became effective in Kentucky on October 2, 2015.

On June 11, 2015, Secretary Larry L. Roberts signed an amendment to Kentucky's recording and reporting regulation, 803 KAR 2:180. The amendment adopts in whole the list of

industries identified in OSHA's final rule that are partially exempt from the requirements to keep records of work-related injuries and illnesses due to relatively low occupational injury and illness rates based on the North American Industry Classification System. It will be effective in Kentucky on January 1, 2016.

Since 2006, Kentucky has required the reporting of all fatalities, hospitalizations, and amputations to the Division of OSH Compliance. The aforementioned amendment to 803 KAR 2:180 maintains the same reporting requirement that has been in effect since 2006 with one (1) minor addition. 803 KAR 2:180 amends the reporting requirement to define loss of eye as the physical removal of an eye from the socket; and, specifically requires the loss of an eye to be reported to the Division of OSH Compliance.

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 of state to federal funds for FY 2015 was 67:33.

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 received 193 reports of imminent danger in FY 2015. Although three (3) inspections appear as outliers in FY 2014, the Division of OSH Compliance responded to all within one (1) working day.

1. An imminent danger referral for Steel Services of KY, Inc. was received Monday, January 26, 2015. A CSHO arrived onsite same day but no one from the reported company was on site. Kentucky responded within one (1) working day of notice. The CSHO subsequently returned and opened an inspection.
2. An imminent danger referral for Howard Roberts dba Howard Roberts was received Monday, May 5, 2015. A CSHO arrived onsite same day but no one was on site. Kentucky responded within one (1) working day of notice. The CSHO subsequently returned and opened an inspection.
3. An imminent danger complaint for Bushnell Building was received Tuesday, September 29, 2015. A CSHO arrived onsite same day but an employer representative was not onsite. Kentucky responded within one (1) working day of notice. The CSHO subsequently returned, determined the complaint to be invalid, and did not open 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.

One (1) complaint appears as an outlier. Complaint 209265032 was received Thursday, April 30, 2015 as a fax complaint and classified serious. At the time of complaint, employees at the facility were on strike and remains so to date. An inspection has not been opened pursuant to Chapter 3 of Kentucky's Field Operations Manual (FOM). The Division of OSH Compliance continues to monitor the situation.

The Complaint Audit Log Report indicates that the average response time to complaints was 7.6 days for safety and 8.4 days for health. The division's overall average for serious complaints was 7.5 days from the date the complaint is received to the date the inspection is opened. The Complaint Audit Log indicates the average response time to complaints alleging other than serious hazards for safety was 8.8 days, and 11.2 days for health. The division's overall average was 9.5 days for other than serious hazards from the date the complaint was received to the date the inspection was opened.

Of the 617 complaints received in FY 2015, 180 were processed as formal complaints resulting in 170 inspections and 437 were processed as informal complaints.

Response to Referrals

The Division of OSH Compliance responded to 526 referrals in FY 2015. Kentucky places the same level of importance to referrals as it does complaints. As provided in Chapter 9 of Kentucky's FOM, serious complaints must be opened within thirty (30) working days and non-serious complaints within 120 working days. Referrals have the same importance as complaints and the Division of OSH Compliance utilizes the same timeline in responding to referrals while stressing a five (5) day response. Utilizing this criterion, 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 0.2 days and 0.1 days for health. The overall average for safety was 2.5 days and 3.0 days for health 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 (hospitalization of three (3) or more employees) as thoroughly and expeditiously as possible. In FY 2015, twenty-five (25) work-related fatalities/catastrophes were reported to the Division of OSH Compliance.

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.

In February 2015, the Kentucky Court of Appeals issued a decision in a workplace retaliation case that had a significant adverse effect on Kentucky's discrimination program. The decision found that employees' internal complaints to employers about OSH matters are not

protected. Kentucky appealed the decision to the state Supreme Court, where it awaits review, and undertook amendment to its discrimination rule. Immediately after the appellate decision and during the promulgation process, OSHA investigated all discrimination cases affected by the ruling. The amendment to Kentucky's rule became effective October 2 and the state resumed discrimination investigations related to employees' internal complaints to employers about OSH matters.

During FY 2015, the Division of OSH Compliance received 77 discrimination complaints. Two (2) cases were determined to have no merit, sixty (60) cases were administratively closed, two (2) cases are still open, and ten (10) cases were withdrawn.

The average lapse time for discrimination cases was twenty-seven (27) days per case. Two (2) cases were settled with penalties totaling \$15,614 in lost wages.

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 2015, the Division of OSH Compliance conducted twenty-eight (28) inspections relating to toxic material and harmful agents breaking down as:

One (1) inspection relating to formaldehyde with penalties totaling \$6,500;
Four (4) inspections relating to lead with penalties of \$1,500; and
Nineteen (19) inspections relating to asbestos with penalties of \$15,150.

The Division of OSH Compliance conducted thirteen (13) inspections specifically related to bloodborne pathogens resulting in thirty-eight (38) serious violations and thirteen (13) other than serious violations with penalties totaling \$153,050.

The Division of OSH Compliance conducted six (6) indoor air quality inspections resulting in three (3) serious violations and eleven (11) other than serious violations with penalties totaling \$7,750.

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 2015, the Division of OSH Compliance conducted thirty-two (32) inspections of public sector work sites, which includes programmed inspections and responses to public employee complaints. This calculates to 3.6 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 2015, thirty-five (35) training sessions were provided to public sector employers and employees totaling 2,049 participants. Six (6) consultative surveys were conducted in public sector facilities resulting in the identification of sixty (60) serious and fifteen (15) 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 recordkeeping 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 an inspection scheduling system that prioritizes reported hospitalizations 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 2015, the Division of OSH Compliance received 254 hospitalization reports. 115 inspections were conducted resulting in two (2) repeat violations, sixty-seven (67) serious violations, and twelve (12) other than serious violations. Total penalties were \$214,075.

In FY 2015, the Division of OSH Compliance received eighty-one (81) reported amputations. Sixty-two (62) inspections were conducted with one (1) repeat serious violation, forty-one (41) serious violations, and twelve (12) other than serious violations. Total penalties were \$214,075.

Total penalties for violations related to amputations and hospitalizations in FY 2015 were \$607,875.

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 339 consultative surveys identifying and ensuring the abatement of 3,182 serious hazards. The division also conducted 136 training courses and reached approximately 4,683 attendees in response to training requests from employers. Division staff

members 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 2015, there were events, activities, and results that merit attention as outstanding accomplishments.

Lowest Injury and Illness Rate in Kentucky History

The total recordable incidence rate in 2014 for all industries in Kentucky was 3.8. 3.8 is the lowest rate in Kentucky since the U.S. Bureau of Labor Statistics began recording the data in 1996. (The rate in 1996 was 8.4.) Although Kentucky's incidence rate is slightly higher than the national average of 3.2, Kentucky is closing the gap more than ever before, going from 4.2 in 2012 to 4.1 in 2013 and now to 3.8. Kentucky's 2014 rate is solid, measurable proof that efforts of the Kentucky OSH Program are improving employee safety and health. It is the program's goal, both in consultation and enforcement, to reduce Kentucky's total case rate.

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 twelve (12) Kentucky VPP sites are:

- Cintas, Grayson;
- Dow Corning Corporation, Carrollton;
- General Electric Aircraft Engines, Madisonville;
- General Electric Aviation Infrastructure, Erlanger;
- General Electric Energy Service and Repair Center, Louisville;
- Hunter Douglas Corporation, Owensboro;
- International Paper Corporation, Bowling Green;
- Kimberly-Clark, Owensboro;
- L'Oreal (USA) Florence Manufacturing, Florence;
- Performance Pipe, Williamstown;
- Raytheon Corporation, Louisville; and
- Veolia Water North America, Fort Knox.

VPP continues to be successful and sets the standard for program and participant quality. The Partnership Program is working diligently with several other facilities in their quest to become VPP.

The VPP program also improved the way in which employee perception surveys and interviews are conducted, thus reducing travel and labor costs. Kentucky's partnership program staff can now use Adobe Connect to interview employees online during the perception survey portion of the VPP audit. In the testing phase during the last SOAR, we have now had no fewer than four (4) successful perception surveys with this new method and it appears this will be the way most of the perception surveys will be conducted for years to come.

Construction Partnership Program

The Division of OSH Education and Training continues to focus on the construction industry by promoting CPP. The largest CPP agreement in the history of the program, the Louisville Bridges project, began early October 2013 and continues. 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. Several full site CPP audits were conducted in FY 2015 at both sites, covering hundreds of employees doing dozens of different jobs and work activities. Kentucky continues to work closely with both sites and expects to add more frequent site audits with the tremendous amount of work occurring at both sites.

Several large projects concluded this fiscal year, two (2) of those being the University of Kentucky football stadium refurbish, and the Louisville Ford Truck Plant expansion. Both were very successful and included multiple site audits facilitating interaction with dozens of sub-contractors and hundreds of workers. The partnership program worked closely with Ford and the general contractors and during the Truck Plant expansion project. Ford management gave high praise to the partnership and expressed a great interest to work with the program again.

The partnership program completed the partnership with Gray at the Champions Pet Kitchen project in Auburn. This was an extremely successful partnership and had a very unique twist in that the Champions management expressed interest in pursuing SHARP after their first year of operating history. The partnership branch laid the ground work and scheduled visits, meetings, and trainings to make this happen.

Some new CPP projects of note that began this fiscal year include:

- A \$12 million distillery construction with Buzick Construction which is the program's first construction partnership related to the bourbon industry;
- A new \$25 million academic building on the campus of Morehead State University with Denark Construction; and
- A \$87 million academic science center on the campus of the University of Kentucky with Messer Construction.

SHARP

SHARP continued to grow and added three (3) new companies with several more ready to come aboard very soon. The FY 2015 additions were:

- Jackson Ware Washing, Gray;
- River Metals Recycling, Owensboro; and
- River Metals Recycling, Paducah.

TRACK Partnership

Tech Ready Apprentices for Careers in Kentucky (TRACK) is a partnership between the Kentucky Department of Education's Office of Career and Technical Education and the Labor Cabinet. The goal of this partnership is to prepare students for the workforce, help create and retain local jobs for students and upon successful completion will result in acceptance in a Registered Apprenticeship Program. The partnership between the Office of Career and Technical Education (OCTE) and the Labor Cabinet provides pre-apprenticeship opportunities to high school students through existing programs offered at secondary tech centers across the state.

Employers may design secondary vocational training programs that best suit their needs. A minimum of four (4) courses are required, with one (1) of the courses being a cooperative education placement. In addition to the four (4) courses, students complete eight (8) safety and health modules developed by the Division of OSH Education and Training. The OCTE has

specific training modules for students enrolled in the electrical, welding, or carpentry tracks, and is currently developing requirements for students in information technology and health sciences concentrations

The modules are provided through the Labor Cabinet's e-learning website, www.laborcabinetetrain.com. Upon completing each module with quiz, students receive a certificate from the Division of OSH Education and Training that must be turned in to their instructor and employer. The Division of OSH Education and Training believes this is a great opportunity to educate the young workforce regarding the importance of occupational safety and health. The division's participation in TRACK began January 1, 2015 and there have been 1,290 visits to the modules.

Construction Compliance Inspections

During FY 2015, Kentucky conducted a total of 335 construction inspections as identified by OSH-1 SIC codes. The Division of OSH Compliance conducted seventy-seven (77) construction inspections in SICs starting with fifteen (15); twenty-three (23) in SICs starting with sixteen (16); and 235 in SICs starting with seventeen (17). Kentucky issued 378 violations for construction hazards including thirty-three (33) other-than-serious violations, 332 serious violations, and thirteen (13) repeat serious violations with penalties totaling \$1,176,200.

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 2015, the Division of Compliance conducted forty-six (46) inspections in residential construction and issued eighty-five (85) violations with penalties totaling \$269,950.

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 2015, the Division of OSH Compliance issued:

- 787 serious violations with penalties totaling \$2,564,900;
- Eighteen (18) serious repeat violations with penalties totaling \$250,550; and
- 452 other than serious violations with penalties totaling \$75,800.

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 two (2) combustible dust inspections in FY 2015 resulting in one (1) serious violation and one (1) other than serious violation with penalties totaling \$6,300.

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 eighteen (18) inspections relating to asbestos in FY 2015 resulting in eight (8) serious violations and nine (9) other than serious violations with penalties totaling \$15,150.

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 2015, the Division of OSH Education and Training maintained one (1) CIH-CSP-OHST certified employee, three (3) CIH-CSP certified employees, two (2) CSP-CHST

certified employees, one (1) CSP-OHST certified employee, two (2) CSP certified employees, four (4) CIH certified employees, four (4) OHST certified employees, and two (2) CHST certified employees. Four (4) division employees completed the CPM Program through Kentucky State University Governmental Services Center. The division has one (1) employee who is a Certified Government Meeting Planner, and two (2) Certified Management Fundamentals 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 followed OSHA's TED 01-00-019, Mandatory Training Program for OSHA Compliance Personnel during FY 2015. The Division of OSH Education and Training utilized TED 01-00-018 as guidance for training newly-hired employees for most of FY 2015.

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 2015, the Division of OSH Compliance maintained one (1) OHST certified employees and six (6) 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 2015, the Division of OSH Compliance supported employees' professional certification preparation as well as OSHA Training Institute attendance.

The Division of OSH Compliance encourages staff education and certification by paying full tuition for employees attending Eastern Kentucky University and Murray State University safety programs. In FY 2015, the Division of OSH Compliance funded graduate degrees at Eastern Kentucky University for two (2) safety compliance officers. One graduated with a Master of Science in Applied Engineering and Technology and another is completing a Master of Science in Safety, Security, and Emergency Management.

Since 2009, the Division of OSH Compliance has paid for ten (10) 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. 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, program performance reports, etc. Each division also has specific

functionality and capabilities unique to their individual needs. The software has proven very beneficial to the OSH Program.

In FY 2015, Kentucky implemented an interface to transmit Kentucky's data into OSHA's new OSHA Information System as well as IMIS.

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 136 face-to-face training courses and reached over 4,600 attendees in response to training requests from employers.

Forty (40) training sessions were presented at five (5) Population (POP) Center Training seminars throughout the Commonwealth. The training addressed subjects relevant to the targeted NAICS such as Injury and Illness Recordkeeping, Fall Protection, Confined Space, Basic Electrical Safety, Welding Safety, Bloodborne Pathogens, Personal Protective Equipment, Spray Finishing, Lockout-Tagout, Electrical Safe Work Practices, Back Care and Ergonomics, and Powered Industrial Trucks. Over 900 participants attended the training courses.

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 nearly 1,138 OSH interpretations during FY 2015; and; on behalf of the Kentucky OSH Standards Board as well as the Labor Cabinet, completed promulgation of several regulations that affected six (6) Kentucky Administrative Regulations.

Two (2) other regulations, one (1) relating to injury and illness recordkeeping and reporting and another relating to discrimination were also promulgated.

National Conference and Exposition Support

At the request of OSHA, the Kentucky OSH Program represented OSHA at the October 2014 National Planet GIE+EXPO and Hardscape North America Conference and Exposition in Louisville. The event, sponsored by the National Association of Landscape Professionals, Outdoor Power Equipment Institute, and Professional Grounds Management Society, is the largest industry showcase for the lawn and garden, outdoor power equipment, and landscaping industries attracting over 19,000 attendees. According to conference organizers, the event is the ninth (9th) largest trade show in the United States. There were approximately 19,000 participants and approximately 750 exhibitors. Two (2) OSH Standards Specialists staffed an exhibit booth over a two (2) day period where they responded to participants' questions and distributed material provided by OSHA.

In FY 2015, at OSHA's request, the Office of the Federal-State Coordinator represented the agency at the International Construction and Utility Equipment Exposition (ICUEE) in Louisville in a "Complying with OSHA's New Rule on Confined Space Entry in Construction" panel discussion. ICUEE is the largest event for the utility industry and drew over 18,000 attendees from all fifty (50) states, nine Canadian provinces, and more than sixty (60) other countries worldwide. The panel was part of the Associated General Contractors Utility Infrastructure Conference at ICUEE. Division of OSH Education and Training staff members also presented a mobile cranes workshop.

KYOSH IMPACT

The Labor Cabinet's OSH Program was active in FY 2015 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.

The IMPACT was deployed to nine (9) worksites throughout the state during 2015. The Division of OSH Education and Training used the IMPACT to support the fall protection campaign, provide information on the hazards of heat stress, and conduct other outreach activities reaching over 1,000 employees.

Governor's Safety and Health Conference and Exposition

The Labor Cabinet, in conjunction with the Kentucky Safety and Health Network, Inc., presented the 31st Annual Governor's Safety and Health Conference and Exposition in Louisville on May 5-8, 2015. This year's very successful event, the largest safety and health exposition in the Commonwealth, featured pre-conference courses, thirty (30) 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 thirteen (13) 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-eight (28) 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 (20) companies received the Governor's Safety and Health Award at their facilities in FY 2015.

Collection of Delinquent OSH Penalties

Pursuant to KRS 45.239(4) and 45.241, the Kentucky OSH Program entered into an agreement with the Kentucky Revenue Cabinet in FY 2013 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.

The effort has proven successful; delinquent debts have been collected by Revenue and returned to the OSH Program. And, the OSH Program has seen an increase in employer's efforts to resolve debt payment to avoid being reported to the Revenue Cabinet. Since October 2013, the Division of OSH Compliance has submitted eighty-five (85) cases to the Revenue Cabinet for collection totaling \$641,908. To date, \$82,617 has been collected.

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 50,000 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 Division of OSH Education and Training added three (3) cost-free interactive training products to the www.laborcabinetetrain.ky.gov library. They are “Ladder Safety in General Industry”, “Occupational Noise Exposure”, and “Introduction to Construction Cranes”.

Eight (8) new webinars were conducted, recorded, and published to the website for instant viewing. They are *Safety Hazard Recognition*, *Proposed Rule for Exposure to Respirable Crystalline Silica*, *Construction Hazard Recognition*, *Combustible Dust*, *Kentucky OSH Compliance Inspections*, *Basic Woodworking Safety*, *Overview of Changes to 1910.269*, and *Overview of Welding Safety*.

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

Fall Prevention Campaign

The Kentucky Labor Cabinet's Occupational Safety and Health (OSH) Program enjoyed a comprehensive and very successful 2015 Fall Prevention Campaign that concentrated on raising awareness of fall hazards, collaboration with partners, training, and a two (2) weeklong Stand-Down in conjunction with OSHA's National Stand-Down. It was a great success!

Kentucky's 2015 campaign built off the efforts of its successful 2013 and 2014 campaigns. The 2015 effort began five (5) weeks prior to the national May Stand-Down with the dissemination of weekly announcements, in English and Spanish, to Kentucky employees and employers urging their participation in the Stand-down. Each week featured a different announcement and all were distributed by email via the Cabinet's distribution list of over 4,000 recipients as well as the Cabinet's social media pages. The announcements were posted on the Labor Cabinet's dedicated Fall Prevention Campaign webpage.

Kentucky also developed and printed Fall Prevention Campaign postcards that were mailed to approximately 2,000 employers across the state. A message from then Secretary Larry Roberts promoting and encouraging participation



in the Stand-Down accompanied the postcards and the announcements. The message was sent to employers and labor organizations throughout the Commonwealth and posted on the webpage.

Through a collaborative effort with LAMAR Advertising Company, seven (7) billboards appeared in five (5) cities across the Commonwealth promoting the Stand-Down. The billboards were in place a week prior to, and during, the Stand-Down, receiving over 183,000 impressions per week.

The Labor Cabinet participated at worksite events in two (2) different cities during the national May 4-15 Stand-Down. Kentucky OSH Program staff members distributed fall prevention campaign materials and provided training using the KYOSH IMPACT vehicle. Over 300 employees received hands-on training that demonstrated how to properly pre-wear inspect, don, fit, and clean a wide variety of fall protection equipment such as harnesses, lanyards, and self-retracting lifelines. Defective equipment was also demonstrated to illustrate “what to look for” as well as provide real life examples of “what can go wrong” with the equipment when not properly used.

English and Spanish print media, radio, and television outlets picked up the campaign efforts. Kentucky OSH Program staff members were featured during the Stand-Down.

Kentucky’s Fall Prevention Campaign webpage provided links to cost-free fall prevention resources from www.StopConstructionFalls.com, NIOSH, CPWR - The Center for Construction and Research, and OSHA. Kentucky employers were invited to “Stand Up and Be Recognized!” by the Labor Cabinet for their participation in the campaign. Twenty-three (23) employers and one (1) union were recognized on the Cabinet’s website.

The webpage also featured real life stories and two (2) of the Cabinet’s online training modules, “Introduction to Fall Protection” and “Introducción a la Protección Contra Caídas En Espanol.” The cost-free modules address topics such as common causes of falls, when fall protection is required, philosophies of fall protection, anatomy of a fall, and details on the common ways to provide fall protection. A certificate of completion is available for those that successfully completed a module.

Kentucky’s 2015 Fall Prevention Campaign did not end with the May Stand-Down. For six (6) weeks following the Stand-Down, the Kentucky OSH Program continued its focus on

specific fall hazards. Fliers addressing aerial lifts, scaffolding, fall protective equipment, ladders, and steel erection fall protection were posted on the campaign webpage and distributed weekly via the Cabinet's email distribution list and social media.

Over 1,200 employees participated in the campaign directly with the Labor Cabinet through the involvement of twenty-three (23) employers. OSHA reports that over 4,100 Kentucky employees participated in the Stand-Down through notification on OSHA's National Safety Stand-Down webpage.

Heat Campaign

Since 2011, the Division of OSH Education and Training has participated in the heat awareness campaign and conducted concentrated state-wide efforts to educate the working public concerning the hazards of working in the summer heat. The efforts targeted construction as well as general industry.

Kentucky continued the outreach in FY 2015, reaching out to educate Kentucky's workforce regarding the hazards of heat stress. The outreach was conducted through distance learning as well as direct, face-to-face jobsite contacts. The Labor Cabinet's eLearning website hosts the interactive *Heat Stress Awareness for Construction and General Industry* module and *Occupational Heat Exposure* webinar. The module and webinar were viewed over 1,120 times.