

# REPORT TO THE GOVERNOR & LEGISLATURE

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ANNUAL GOVERNOR'S REPORT FOR JAN. 2014 – DEC. 2014  
BIANNUAL LEGISLATURE'S REPORT FOR JAN. 2013 – DEC. 2014

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[PURSUANT TO 820 ILCS 220/9 AND 225/12]



JANUARY 2015



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[PURSUANT TO 820 ILCS 220/9 AND 225/12]

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## HISTORY AND BACKGROUND

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The Illinois Department of Labor (IDOL), Safety Inspection and Education Division (hereinafter, the Division) has been in place since 1985 to assure safe and healthy working conditions for Illinois state, county, municipal and educational employees in order to prevent work-related injuries and illnesses. To accomplish this, the Division performs inspections and investigations outlined under the provisions of the Illinois Safety Inspection and Education Act [820 ILCS 220], and the Illinois Health and Safety Act [820 ILCS 225].

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## MISSION STATEMENT

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**PROGRAM GOAL:** To assure safe and healthy working conditions for public sector employees in the State of Illinois. To develop, implement and maintain a program for public employees in Illinois that is at least as effective as the federal program for private sector employees.

**STRATEGIC GOALS:** To achieve final certification of the State of Illinois program by the United States Department of Labor – Occupational Safety and Health Administration. To concentrate the Division efforts and resources on identifying and controlling issues that are likely to cause or are causing injury or illness to public sector employees in Illinois.

*“Labor is prior to, and independent of, capital. Capital is only the fruit of labor, and could never have existed if labor had not first existed. Labor is the superior of capital, and deserves much the higher consideration.”*  
– Abraham Lincoln

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## OVERVIEW OF ENFORCEMENT AND CONSULTATION ACTIVITIES

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The Division has jurisdiction over more than one million public sector employees throughout the state. There are over 100,000 public work sites with more than 1,500,000 public employees in Illinois<sup>1</sup>. The majority of public sector employees, approximately 838,100, are employed by government directly with 153,000 of those at the state level and the remaining 685,100 employed in the 6968 units of local government<sup>2</sup>. The public sector constituency also includes approximately 688,400 educational employees. The number employed in the 863 public elementary and secondary school districts is approximately 277,830<sup>3</sup>. The higher education portion of the public sector includes an estimated 70,570 at the 48 community colleges and 340,000 in the nine public colleges and universities<sup>4</sup>.

The Division has the authority to enforce the identical standards (General, Construction and Maritime Industries) as the federal Occupational Safety and Health Administration (OSHA). The specific Code of Federal Regulations (29 CFR 1910, 1915 and 1926) is cited for any violations.

**ENFORCEMENT ACTIVITIES:** The Safety Inspection and Education Division conducts the following types of enforcement inspections: Programmed Planned, Programmed Related, Programmed Other, and Unprogrammed investigations, which includes Fatality/Catastrophic Events, Complaints, Referrals, Monitoring, Follow-up and Other.

Imminent danger situations are addressed immediately by the on-site inspector who has the authority to post the warning, inform the affected employees (or representatives) and recommend to the Director of Labor that an order be issued to require the public employer to cease and desist from the practice creating the imminent danger and to obtain immediate abatement of the hazard.

Any public employee in the State of Illinois has the right to file a complaint with the Division if they believe that a hazard exists in their work area. Written complaints will be accepted as long as a valid signature is present and current employment is established. The complainant has the right to request that their name not be revealed in the process of investigating the concern, which will be honored and upheld by the Department.

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<sup>1</sup> *Illinois Department of Employment Security*. January 2014. < <http://www.ides.illinois.gov/page.aspx?item=915>.

<sup>2</sup> *Illinois Handbook of Government 2013-2014. Illinois Secretary of State.*  
<http://www.cyberdriveillinois.com/publications/handbook/1314handbook.pdf>.

<sup>3</sup> *Illinois State Board of Education*. January 2014. <http://www.illinoisreportcard.com>.

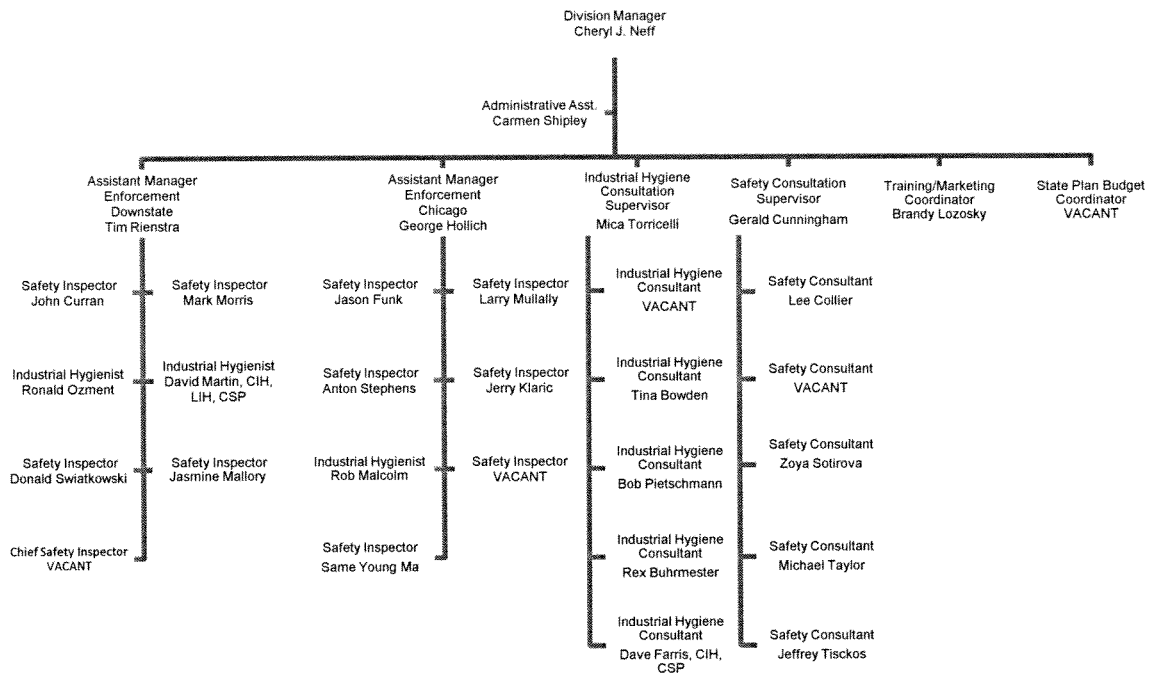
<sup>4</sup> *Illinois Board of Higher Education*. January 2014. <http://www.ibhe.state.il.us/Colleges%20and%20Universities/default.htm>.

CONSULTATION ACTIVITIES: The voluntary compliance duties of the Division are conducted by the Illinois On-Site Consultation Program that is funded by OSHA for the private sector and the public sector. This professional staff of consultants began conducting consultation activities in the public sector in addition to the private sector on October 1, 2011.

Employers can request a consultation visit with a detailed or comprehensive scope of the inspection parameters (i.e., indoor air quality on the 4<sup>th</sup> floor, noise monitoring of the laboratory . . .). An agreement is signed prior to the inspection for which the employer agrees to fix anything serious that the inspector finds during the consultation visit.

**DIVISION PROFILE**

STAFF, HEADCOUNT, ORGANIZATIONAL CHART: The Illinois Department of Labor Safety Inspection and Education Division currently employs 31 professionals. Included in this number are seven managers/supervisors, ten safety inspectors, three industrial hygiene inspectors, five safety consultants, five industrial hygiene consultants and one support staff. Due to delays in hiring, there are five vacant positions.



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## LEGISLATIVE ISSUES

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**LAW CHANGES:** The Safety Inspection and Education Act and the Health and Safety Act were combined into the Occupational Safety and Health Act in 2014 with a January 1, 2015 effective date.

**RULE CHANGES:** The Illinois Administrative Rules, Subpart C (56 Ill. Adm. Code 350) that accompany the aforementioned Acts were rewritten to better reference the complementary federal standards. The new Subparts A, B, C, D & E were adopted in May 2014 and some minor technical changes in October 2014.

**PROGRAM ACTIVITIES**

OVERALL ENFORCEMENT ACTIVITIES: The Division conducted a total of 748 inspection activities in 2013 and 363 in 2014. With the delay in hiring safety inspectors, the average number of inspections per full-time equivalent was approximately 80 inspections. There was significant time dedicated to improving the quality of inspections and reports in accordance with the provisions of the Illinois State Plan and various training associated with the program. The performance statistics are categorized by activity in Table 1.0.

**TABLE 1.0 - TOTALS BY ENFORCEMENT INSPECTION ACTIVITY**

ACTIVITY/YEAR	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
<b>Programmed Planned</b>	1215	1595	1765	1153	1177	1077	1246	1060	885	478	204
<b>Programmed Related</b>							0	2	2	1	1
<b>Programmed Other</b>							0	3	0	0	0
<b>Unprogrammed</b>											
Fatality/ Catastrophe	23	19	29	21	16	11	25	22	24	10	13
Complaint	159	129	168	116	128	123	135	110	110	78	66
Referral							0	19	50	88	47
Monitoring							0	3	1	2	1
Follow-up	533	611	461	481	385	382	178	154	87	73	27
Related							7	0	0	1	0
Other							0	1	1	1	4
<b>TOTALS</b>	<b>1930</b>	<b>2354</b>	<b>2423</b>	<b>1771</b>	<b>1706</b>	<b>1593</b>	<b>1584</b>	<b>1374</b>	<b>1160</b>	<b>748</b>	<b>363</b>



OVERALL CONSULTATION ACTIVITIES: The Consultation Program conducted a total of 636 consultation activities for in 2013. With five safety consultants and five industrial hygiene consultants, the average number of visits per consultant is approximately 64 per year. The performance statistics are categorized by activity in Table 4.1.

**TABLE 4.1 CONSULTATION ACTIVITIES**

<b>ACTIVITY/YEAR</b>	<b>2004</b>	<b>2005</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>
<b>Initial Visits</b>								497	508	590	507
<b>Training &amp; Assistance Visits</b>								3	4	1	10
<b>Follow-up Visits</b>								52	58	45	47
<b>Advisory Inspections *</b>	369	372	318	280	314	189	184				
<b>Educational Activities *</b>	368	265	340	288	238	250	189				
<b>Program Evaluations *</b>	122	182	193	82	109	103	25				
<b>Follow-ups (Advisory) *</b>							30				
<b>TOTALS</b>	<b>859</b>	<b>819</b>	<b>821</b>	<b>650</b>	<b>661</b>	<b>542</b>	<b>429</b>	<b>552</b>	<b>570</b>	<b>636</b>	<b>564</b>

\*- Public Sector only

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## CITATIONS AND HAZARDS PROFILE

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The Safety Inspection and Education Act describes the procedures for issuing citations and proposed penalties. If the inspector believes that a violation of a safety and health standard exists, he or she will propose a violation and recommend a citation be issued. This citation will describe the nature of the violation, including reference to the appropriate regulation and fix a reasonable time for the abatement of the violation. The citations are classified according to the following categories Table 2.0 describes these citations:

- Other-than-Serious – the most serious injury or illness that would be likely to result from a hazardous condition cannot reasonably be predicted to cause death or serious physical harm to exposed employees, but does have a direct and immediate relationship to their safety and health.
- Serious – there is a substantial probability that death or serious physical harm could result from a condition that exists, or from one or more practices, means, methods, operations, or processes that have been adopted or are in use in the place of employment and is known to the employer.
- Willful – the evidence shows either an intentional violation of the Health and Safety Act or plain indifference to its requirements. This does not have to be done with a bad purpose or evil intent, it is sufficient that the violation was deliberate, voluntary or intentional.
- Criminal/Willful – the evidence demonstrates that an employer violated a specific standard, the violation was willful in nature and the violation caused the death of an employee.
- Repeat – an employer has been cited previously for a substantially similar condition and that citation has become a final order.

General Duty Clause – this provision of the Health and Safety Act is cited only where there is no standard that applies to the particular hazard involved.

Monetary penalties are not normally issued along with the first notice of citations for public sector employers in Illinois. These sanctions are reserved for employers who do not meet abatement timeframes or who have repeat or willful violations of the same standards.

The Consultation Program issues notices of hazards in the aforementioned categories that also reference the complementary OSHA standard along with abatement timelines. See Table 2.1.

TABLE 2.0 – ENFORCEMENT CITATIONS

	IMMINENT DANGER	SERIOUS	OTHER-THAN-SERIOUS	REPEAT	WILLFUL
2014 TOTALS	0	685	90	10	0
2013 TOTALS	0	1729	216	72	1
2012 TOTALS	0	1855	326	56	2
2011 TOTALS	0	1586	794	25	3
2010 TOTALS	0	1108	1161	21	0

TABLE 2.1 – CONSULTATION HAZARDS NOTED

	SERIOUS	OTHER-THAN-SERIOUS
2014 TOTALS	2162	40
2013 TOTALS	2522	103
2012 TOTALS	2084	104
2011 TOTALS	2189	174

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## FATALITY AND ACCIDENT INVESTIGATIONS

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If an incident occurs that causes in the death of one or more employees or that results in the hospitalization of three or more employees, the employer must report the incident to the Division as soon as physically possible. This notification shall be made within eight hours after the incident or death and can be either orally or in writing. All of the incidents that meet these criteria are investigated by the Division within 24 hours in conjunction with the other agencies to determine if a violation of a known safety and health standard contributed to the incident. Note: the hospitalization portion was reduced to one with the new Administrative Rule changes in May 2014.

FATALITY INVESTIGATIONS: The Division conducted ten fatality investigations in 2013 and fifteen in 2014. As shown in Table 3.0, heart attacks exceed transportation-related fatalities as the top ranking activity, with Laborers being the highest-risk occupation in the Illinois public sector (See Table 3.1). This classification accounts for 29% of the fatalities in the public sector over the past ten years, followed by the Law Enforcement classification with 27% of such fatalities.

### 2014 CASE SUMMARIES:

- Village of East Hazel Crest – Dept. of Public Works. Laborer suffered chest pains while salting the sidewalk.
- IL State Toll Highway Authority. Laborer was struck and killed by a vehicle while providing motorist assist services.
- IL Dept. of Transportation – Dist. 4 Wyoming Yard. Operator was struck and killed by a vehicle while providing motorist assist services.
- City of Chicago – Police Department Dist. 14 Shakespeare. An officer collapsed while on duty from a heart attack.
- Will County – ICT Department. IT Professional was struck by a vehicle while transferring equipment between polling places.
- Chicago Transit Authority – 79<sup>th</sup> Street Facility. A bus driver felt short of breath and suffered a heart attack while parking a bus.
- Frankfort Square Park District. A laborer was thrown from a mower and died from injuries sustained in the incident.
- Henry County – Highway Department. A laborer died from a 20' fall from an attic space to a concrete floor.
- University of IL at Chicago – Medical Center. An administrative staff employee suffered a heart attack and died while at work.
- Tri Valley CUSD #3. A bus driver died of a heart attack outside of his school bus.

- City of Fairbury – Streets Department. A laborer was found dead near his recycling work station from a heart attack.

#### 2013 CASE SUMMARIES:

- IL Dept. of Transportation – Dist. 1 E34. Laborer suffered chest pains while on snow/ice removal team.
- IL State Police – District #15. State trooper was struck by a semi truck while parked alongside toll way.
- Hudson Community Fire Protection District – Main Station. Three first responder vehicles were struck by a semi truck belonging to Hudson Community Fire Protection District and the Illinois State Police. One firefighter was killed and five others hospitalized.
- West Union Fire Protection District. A volunteer firefighter was killed in a vehicle accident while responding to a call.
- City of Columbia – Public Works Department. Laborer suffered a heart attack while driving municipal truck.
- METRA. Laborer was struck and killed by an oncoming train while performing maintenance duties.
- Village of Wheeling – Police Department. An evidence technician died during a training exercise.
- Chicago Transit Authority – Vincennes Avenue. Laborer collapsed at the station.
- City of Pontiac – Police Department. Two police officers were struck by a vehicle and killed while in their patrol car. Note: one was a K9 police officer.
- Rockford Public School District 205 – Guilford High School. A coach fell, struck his head and died as a result of the injury.

ACCIDENT INVESTIGATIONS: There were no inspections conducted in 2013 where public sector employees were seriously injured or hospitalized not in conjunction with a fatality.

- Village of Midlothian – Fire Department. A firefighter was seriously injured when a wall collapsed during a structural fire trapping him underneath.
- Chicago Transit Authority – Howard Shop. An electrician was running a test on energized equipment and suffered serious burns from an arc flash.

- North Mac CUSD #34 – Intermediate School. Numerous students and employees were overexposed to carbon monoxide.
- McHenry County – Sheriff’s Department. Two deputies were shot while responding to a domestic disturbance call.

TABLE 3.0 - FATALITY BY ACTIVITY

EMPLOYEE ACTIVITY/ YEAR	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	TOTALS
Falls	0	0	0	0	0	2	1	2	1	1	1	8
Heart Attacks (work-related)	3	8	6	4	9	3	10	7	10	0	0	60
Struck by/Caught in Machinery	1	0	3	2	2	1	2	4	6	4	3	8
Transportation-Related	5	5	8	9	0	1	7	1	2	1	1	40
Gunshot	3	0	2	1	2	1	2	2	0	0	0	13
Electrocution	0	0	1	0	0	0	0	1	0	0	0	2
Asphyxiation	0	2	0	0	1	0	4	1	2	0	0	10
Drowning	0	0	1	0	0	1	0	1	0	0	0	3
Natural Causes or Unknown	2	0	0	0	0	1	3	1	1	4	6	18
<b>TOTALS</b>	<b>14</b>	<b>15</b>	<b>21</b>	<b>16</b>	<b>14</b>	<b>10</b>	<b>29</b>	<b>20</b>	<b>23</b>	<b>10</b>	<b>11</b>	<b>182</b>

TABLE 3.1 - FATALITY BY OCCUPATION

OCCUPATION	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	TOTALS
Law Enforcement/ Corrections	5	6	8	2	5	2	5	1	3	4	1	42
Firefighter/EMT	2	1	4	4	4	0	11	3	3	2	0	34
Laborer	3	6	4	5	2	4	7	9	7	4	5	56
Electrician/Lineman	0	0	0	0	1	0	0	3	0	0	0	4
Technician/Engineer	0	0	0	1	0	0	0	1	3	0	1	6
Operator	0	0	0	0	1	1	0	1	1	0	1	5
Janitor/Custodian	3	0	3	0	0	1	3	1	0	0	0	11
Administrator/ Education	1	2	1	1	1	2	3	1	6	1	1	20
Bus/Tow Truck Driver	0	0	1	3	0	0	0	0	0	0	2	6
<b>TOTALS</b>	<b>14</b>	<b>15</b>	<b>21</b>	<b>16</b>	<b>14</b>	<b>10</b>	<b>29</b>	<b>20</b>	<b>23</b>	<b>10</b>	<b>11</b>	<b>182</b>

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### SIGNIFICANT CASES

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There were no significant cases in 2013 or 2014.

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### WHISTLEBLOWER INVESTIGATIONS

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The Illinois Safety Inspection and Education Act contains provisions that a public employer cannot discharge or in any way discriminate against an employee for filing complaints, testifying or otherwise acting to express rights under this or the Health and Safety Act. Such discrimination complaints must be filed within 30 calendar days after such violation occurs. In order for there to be a viable case there must be four determining factors present: a protected activity, employer knowledge, adverse action and a nexus. The Director of Labor may bring action in the circuit court for appropriate relief, including rehiring, and/or reinstatement of the employee to his or her former position with back pay. There were five complaints filed and one investigation pending in 2013 and two cases in 2014.

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### LEGAL ISSUES

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**APPEALS, HEARINGS, PROPOSED FINES AND LAWSUITS:** An employer after receiving a citation, a proposed assessment of penalty, or a notification of failure to correct violation may request a hearing before the Director for an appeal from the citation order, notice of a penalty or abatement period. An employee or representative of an employee may also request a hearing before the Director for an appeal from the citation on the basis that the period of time fixed in the citation for the abatement is unreasonable. There were fifteen cases for which some form of appeal was filed and disposed of for the Division in 2013 resulting in over \$40,000 in penalties paid. There were twelve cases with informal contests and one formal contest settled in 2014 with no penalties paid.



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## SHARP

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The Illinois On-Site Consultation program evaluates smaller companies' health and safety programs to determine if they meet the criteria to be recognized as a SHARP program. SHARP recognizes employers who operate exemplary safety and health programs at their worksites that result in immediate and long-term prevention of job-related injuries and illnesses. Illinois currently has thirty-three companies at various levels of SHARP approval. They include:

- Aleris International
- Armacell LLC
- Avery Dennison
- C. Keller Manufacturing
- Concentric Itasca
- Countryside Care Center
- Crane Composites
- Dekalb Area Retirement Center-Oak Crest
- Del Monte Farms 208
- Elizabeth Nursing Home
- Essentra Specialty Tapes
- Gallagher Corporation
- Harris Rebar Rockford Inc. formerly Ambassador Steel
- Ivex Specialty Paper, LLC
- K-Plus Industrial Services, Inc.
- Obiter Research LLC
- Pactiv Kama
- Scot Forge-Franklin Park
- Scot Forge-Spring Grove
- Spoon River Pregnancy Center
- Sun Chemical
- Sunrise Manor
- Thomas Electronics
- Tru Vue
- Winning Wheels
- Viking Chemical
- CMS Inc.
- The Scoular Company (Channahon)
- The Scoular Company (Andres)
- Dynamax Inc.- Lincolnshire
- Dynamax Inc.- Buffalo Grove
- Dynamax Inc.- Mundelein
- Dynamax Inc.- Wheeling

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## STATE PLAN APPLICATION

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**OVERVIEW AND STATUS:** The Illinois Department of Labor was approved by the United States Department of Labor, Occupational Safety and Health Administration (OSHA), to become a State Plan State for public sector worksites on September 1, 2009. Under the OSHA State Plan Program, states develop and operate their own safety and health programs that are at least as effective as the federal program and are eligible for up to 50 percent matching funds for operating costs. Illinois became the 27<sup>th</sup> state and/or territory that have OSHA-approved State Plans (22 covering both public and private sector worksites and five covering public worksites only).

**OVERVIEW:** The OSHA State Plan process has three major components: The first component is the developmental phase where the state must assure that within three years it will have in place all of the structural elements necessary for an effective occupational safety and health program. The elements include: appropriate legislation, regulations and procedures for standards setting, enforcement, appeal of citations and penalties and a sufficient number of qualified enforcement personnel. Illinois already meets these requirements, but needs to amend the rules to ensure they are at least as effective as the federal statutes. Once the developmental steps have been completed and documented, the state is eligible for certification, which attests to the structural completeness of the plan. An operational status agreement will not be necessary for the Illinois State Plan proposal since OSHA does not have jurisdiction over the public sector and therefore does not have to relinquish any official authority. The ultimate accreditation of a State's plan is called final approval. After at least one year following certification, the State must have demonstrated worker protection at least as effective as the protection provided by the federal program. The State must also meet 100 percent of the established compliance staffing levels and participate in the OSHA computerized inspection data system. Only 20 of the 27 states have attained this level of approval even though their programs have been operational for up to 27 years.

**BENEFITS:** The Department requested and receives \$1.584 million in annual federal matching grants, which will be used to supplement Illinois' current safety and health activities. This will help the Department remain proactive in approaching safety and health issues by providing better coverage, more enforcement, increased public awareness and training to help employees and employers better understand health and safety topics. In addition, OSHA approval will increase the professionalism and awareness of our safety and health program, provide the state with more professional resources, including federal certification and training, computer tracking, program reporting, standards development, laboratory services and testing protocols.

**STATUS:** The Department received approval and was published in the Federal Register on September 1, 2009. The developmental program details were outlined in the Register as well as the original application. The first developmental steps have been initiated which include rules adoption, hiring critical management staff and developing written programs. The FFY 2012 grant application was submitted and approved in August 2011. The FFY 2013 grant application was submitted and approved in August 2012. An extension of three years was granted to meet the developmental steps. The hiring element of the State Plan application and the targeted inspection scheduling program are the final steps to be completed in 2015.

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## SUMMARY AND CONCLUSION

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The Safety Inspection and Education Division has been charged with the duty of enforcing standards developed to protect the occupational safety and health of public sector employees in Illinois. The Division's field staff has experienced some challenges over the past few years due to tight budgets and hiring issues but has demonstrated true commitment to their constituencies. The safety inspectors cover an average of twelve counties each, while the industrial hygienists cover roughly one third of the state each. This is a large territory and very difficult to inspect in a timely manner. With the adoption of the existing Illinois On-Site Consultation Program, the Division has expanded its program coverage even further.

The overall activities per inspector have held relatively consistent for the past seven years; some variation has occurred due to staffing vacancies and leaves. The fatality numbers average for the past six years is just below the national average.

The State Plan program will enhance the Division's program on all levels. Increasing headcount will provide for better coverage, timelier reporting and more efficient use of travel resources. High-risk emphasis programs can be established that focus on more proactive protection of the highest risk occupations and job duties. Unfortunately, the state's first responders (law enforcement and firefighters) have experienced the highest fatality and injury rates for Illinois. The federal OSHA program does not cover this sector, but this will be a major focus of Illinois' program activities. The two Acts that govern the activities of this Division have been combined into one Occupational Safety and Health Act to better illustrate the purpose and activities of the program.

The consultation activities in the public sector will be enhanced with public awareness campaigns, seminars, outreach programs and partnerships which are all a regular component of the private sector program. This will enable public employers to better develop, implement and maintain a proactive approach to their own health and safety programs.

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## APPENDIX A – ACRONYMS/DEFINITIONS

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AFSCME – refers to the American Federation of State County and Municipal Employees union

CFR – refers to the Code of Federal Regulations

CMS – refers to the Illinois Department of Central Management Services

DIRECTOR – refers to the Director of the Illinois Department of Labor, Joseph Costigan for 2011, 2012 and 2013.

DIVISION – refers to the Illinois Department of Labor, Safety Inspection & Education Division

DEPARTMENT – refers to the Illinois Department of Labor

FY – refers to fiscal year

HVAC – refers to the Heating, Ventilation and Air Conditioning system

ILCS – refers to the Illinois Compiled Statutes

ISP – refers to the Illinois State Police

IT – information technology

JCAR – refers to the Joint Committee on Administrative Rules

MABAS – refers to the Mutual Aid Box Alarm System

NFPA – refers to the National Fire Protection Association

OSHA – refers to the United States Department of Labor Occupational Safety & Health Administration

OSHSPA – refers to the professional membership association of states with state plans, the Occupational Safety and Health State Plan Association

PEL – refers to the Occupational Safety and Health Administration Permissible Exposure Limit