

ILLINOIS DEPARTMENT OF LABOR  
SAFETY INSPECTION & EDUCATION DIVISION

# REPORT TO THE GOVERNOR

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ANNUAL GOVERNOR'S REPORT FOR JAN. 2011 – DEC. 2011

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



JANUARY 2012

# REPORT TO THE GOVERNOR

[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 approximately 22,000 public work sites with an estimated 1,071,699 public employees in Illinois<sup>1</sup>. The majority of public sector employees, approximately 851,200, are employed by government directly with 161,200 of those at the state level and the remaining 690,000 being local government employees<sup>2</sup>. The public sector constituency also includes approximately 220,499 education employees. The majority of these are in elementary and secondary education at 127,010<sup>3</sup>. The higher education portion of the public sector includes an estimated 33,196 at the community college level and 60,293 in the eleven public colleges and universities<sup>4,5</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*. September 8, 2008. <[http://lmi.idcs.state.il.us/PDFs/wcig\\_08.pdf](http://lmi.idcs.state.il.us/PDFs/wcig_08.pdf)>.

<sup>2</sup> *Illinois Blue Book 2007-2008. Illinois Secretary of State*. September 8, 2008. <[http://www.cyberdriveillinois.com/publications/illinois\\_bluebook/2007\\_2008/home.html](http://www.cyberdriveillinois.com/publications/illinois_bluebook/2007_2008/home.html)>.

<sup>3</sup> *Illinois State Board of Education*. September 8, 2008. <[http://www.isbe.state.il.us/research/htmls/report\\_card.html](http://www.isbe.state.il.us/research/htmls/report_card.html)>.

<sup>4</sup> *Illinois Community College Board*. September 8, 2008. <<http://www.iccb.org/reports.general.html>>.

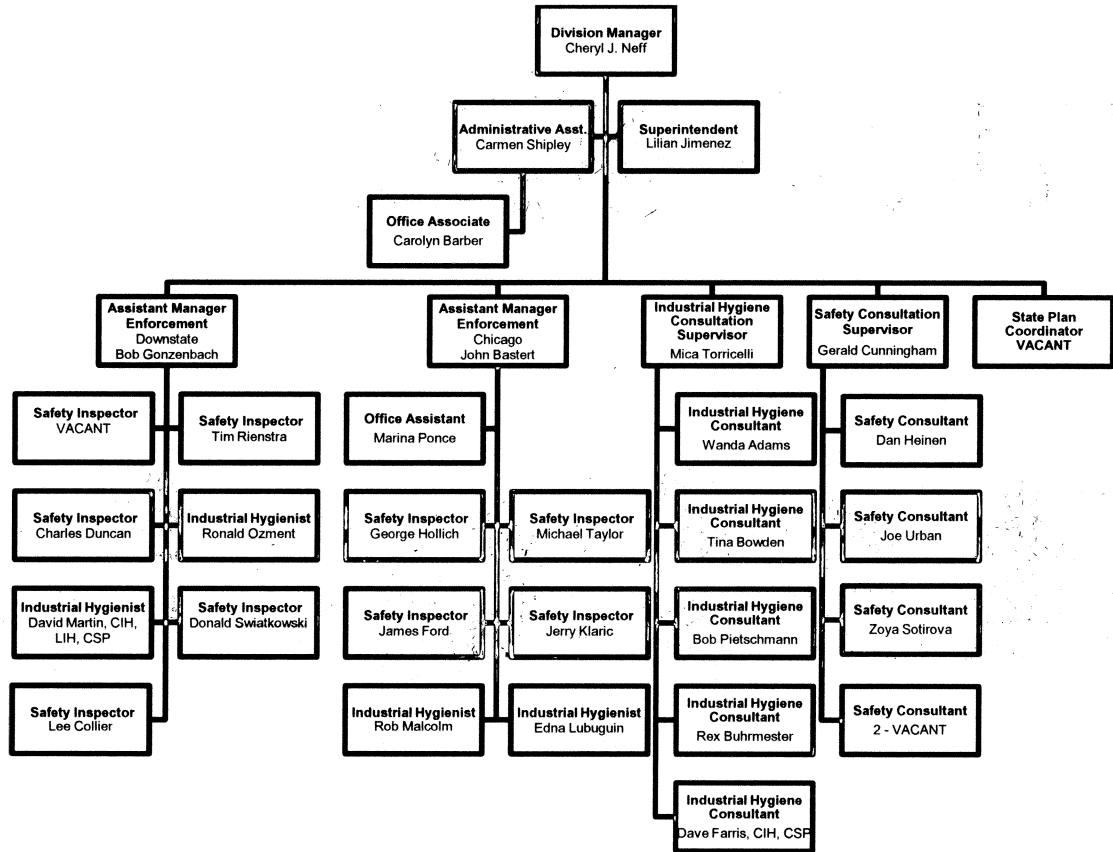
<sup>5</sup> *Illinois Board of Higher Education*. September 8, 2008. <<http://www.ibhe.state.il.us/InstitutionProfiles/Institutions.aspx>>.

**CONSULTATION ACTIVITIES:** The voluntary compliance duties of the Division underwent significant changes this year. The Illinois On-Site Consultation Program that is funded by OSHA for the private sector was transferred to the Division in July 2011. 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 29 professionals. Included in this number are six managers, eight safety inspectors, four industrial hygiene inspectors, three safety consultants, five industrial hygiene consultants and three support staff. Due to retirement and promotions, there are five vacant positions.



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## LEGISLATIVE ISSUES

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**LAW CHANGES:** There were no adaptations to the Safety Inspection and Education Act or the Health and Safety Act in 2011.

**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 draft versions of new Subparts A, B, C, D & E were submitted for concurrent federal and JCAR pre-review in October 2011.

**PROGRAM ACTIVITIES**

OVERALL ENFORCEMENT ACTIVITIES: The Division conducted a total of 1374 inspection activities in 2011. With eight safety field inspectors, the average number of inspections per inspector is approximately 200 per year. This is above the federal OSHA annual average inspections per inspector. Accounting for the differences in numeration, the performance statistics demonstrate that the Division's program is at least as effective as the federal OSHA program, if not more active. There was significant time dedicated to the completion of the Illinois State Plan and various training associated with the new program. The performance statistics are categorized by activity in Table 1.0.

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

ACTIVITY/YEAR		2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
<b>Programmed Planned</b>		1813	1785	1215	1595	1765	1153	1177	1077	1246	1060
<b>Programmed Related</b>										0	2
<b>Programmed Other</b>										0	3
<b>Unprogrammed</b>											
	<b>Fatality/ Catastrophe</b>	23	27	23	19	29	21	16	11	25	22
	<b>Complaint</b>	188	202	159	129	168	116	128	123	135	110
	<b>Referral</b>									0	19
	<b>Monitoring</b>									0	3
	<b>Follow-up</b>	725	596	533	611	461	481	385	382	178	154
	<b>Related</b>									7	0
	<b>Other</b>									0	1
<b>TOTALS</b>		<b>2749</b>	<b>2610</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>

The Consultation Program conducted a total of 552 inspection activities for in 2011. With three safety consultants and five industrial hygiene consultants, the average number of visits per consultant is approximately 70 per year. The performance statistics are categorized by activity in Table 1.1. Note: The previous public sector program had a moratorium implemented in 2010 in preparation for the separation of Enforcement from Consultation activities in accordance with the Illinois State Plan.

<b>ACTIVITY/YEAR</b>	<b>2002</b>	<b>2003</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>Initial Visits</b>										497
<b>Training &amp; Assistance Visits</b>										3
<b>Follow-up Visits</b>										52
<b>Advisory Inspections *</b>	613	608	369	372	318	280	314	189	184	
<b>Educational Activities *</b>	414	427	368	265	340	288	238	250	189	
<b>Program Evaluations *</b>	270	291	122	182	193	82	109	103	25	
<b>Follow-ups (Advisory) *</b>									30	
<b>TOTALS</b>	<b>1297</b>	<b>1326</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>

\*- 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

	<b>IMMINENT DANGER</b>	<b>SERIOUS</b>	<b>OTHER-THAN-SERIOUS</b>	<b>REPEAT</b>	<b>WILLFUL</b>
<b>2011 TOTALS</b>	<b>0</b>	<b>1586</b>	<b>794</b>	<b>25</b>	<b>3</b>
<b>2010 TOTALS</b>	<b>0</b>	<b>1108</b>	<b>1161</b>	<b>21</b>	<b>0</b>

TABLE 2.1 – CONSULTATION HAZARDS NOTED

	<b>SERIOUS</b>	<b>OTHER-THAN-SERIOUS</b>
<b>2011 TOTALS</b>	<b>2189</b>	<b>174</b>

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## FATALITY AND ACCIDENT INVESTIGATIONS

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If an incident occurs that results 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.

**FATALITY INVESTIGATIONS:** The Division conducted twenty fatality investigations in 2011. 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.

### 2011 CASE SUMMARIES:

- City of Chicago – Fire Department E28. A firefighter was found unresponsive at the firehouse.
- Park Ridge Park District – Oakton Ice Arena. A laborer passed away of unknown causes at his desk.
- City of Chicago – Streets & Sanitation Dept. A parking attendant was struck by a vehicle and killed.
- Village of Western Springs – Public Works Dept. A laborer fell to his death from a water tower.
- Avon Fire Protection District – Avon First Responder. A first responder suffered a fatal heart attack during a response incident.
- City of Chicago – Streets & Sanitation Dept. A laborer suffered a fatal heart attack while shoveling snow.
- Kane County – Department of Transportation. A laborer suffered a heart attack while filling the salt bin during a blizzard response.
- Metropolitan Water Reclamation Dist. – Hanover Park Plant. An electrician was thrown from a Bobcat™ he was operating.
- City of Rochelle – Rochelle Municipal Utilities. An electrician was electrocuted while working on a high voltage line.
- City of Chicago – Police Department. An officer died from respiratory failure.
- Housing Authority of Jefferson County. A laborer died from a gunshot wound.

- IL Dept. of Natural Resources – Wm. G. Stratton State Park. A groundskeeper was struck by a vehicle and killed. Two other workers were injured.
- Village of Hanover Park – Public Works. A groundskeeper suffered a heart attack and was struck by mowing equipment.
- City of Bridgeport – Public Works. A meter reader drowned.
- City of DuQuoin – Fire Department. A firefighter was crushed by a wall during a fire response.
- City of Fulton – De Immigrant Windmill. A worker struck his head and fell 10 – 12 feet.
- Decatur Park District – Administration Building. An electrician suffered chest pains while driving a work truck.
- IL Dept. of Natural Resources – Moraine View State Park. A campground host collapsed and died while at work.
- IL Dept. of Transportation – Dist. 1. An engineer was struck and killed by a vehicle in a work zone.
- University of IL at Chicago – Hospital. A custodial worker was shot and killed by a fellow co-worker.

ACCIDENT INVESTIGATIONS: There were two inspections conducted in 2011 where public sector employees were seriously injured or hospitalized not in conjunction with a fatality. The highest risk classification for these accidents is shared between Firefighters and Highway Workers.

- IL Dept. of Transportation – Dist. 8 Salem Yard. Four workers were injured in a work zone incident.
- City of Chicago – Fire Department Engine 54. Two firefighters were hospitalized with severe burns and two more were injured while fighting a fire.

TABLE 3.0 - FATALITY BY ACTIVITY

<b>EMPLOYEE ACTIVITY/ YEAR</b>	<b>2002</b>	<b>2003</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>TOTALS</b>
<b>Falls</b>	3	0	0	0	0	0	0	2	1	2	<b>8</b>
<b>Heart Attacks</b>	4	5	3	8	6	4	9	3	10	7	<b>59</b>
<b>Struck by/Caught in Machinery</b>	2	4	1	0	3	2	2	1	2	4	<b>21</b>
<b>Transportation-Related</b>	6	5	5	5	8	9	0	1	7	1	<b>47</b>
<b>Gunshot</b>	4	3	3	0	2	1	2	1	2	2	<b>20</b>
<b>Electrocution</b>	0	1	0	0	1	0	0	0	0	1	<b>3</b>
<b>Asphyxiation</b>	0	4	0	2	0	0	1	0	4	1	<b>12</b>
<b>Drowning</b>	1	0	0	0	1	0	0	1	0	1	<b>4</b>
<b>Natural Causes or Unknown</b>	1	0	2	0	0	0	0	1	3	1	<b>8</b>
<b>TOTALS</b>	<b>21</b>	<b>22</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>182</b>

TABLE 3.1 - FATALITY BY OCCUPATION

OCCUPATION	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	TOTALS
Law Enforcement	8	7	5	6	8	2	5	2	5	1	49
Firefighter/EMT	0	2	2	1	4	4	4	0	11	3	31
Laborer	8	4	3	6	4	5	2	4	7	9	52
Electrician/Lineman	0	2	0	0	0	0	1	0	0	3	6
Technician/Engineer	1	0	0	0	0	1	0	0	0	1	3
Operator	0	1	0	0	0	0	1	1	0	1	4
Janitor/Custodian	2	1	3	0	3	0	0	1	3	1	14
Administrator/Education	1	5	1	2	1	1	1	2	3	1	18
Bus/Tow Truck Driver	1	0	0	0	1	3	0	0	0	0	5
<b>TOTALS</b>	<b>21</b>	<b>22</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>182</b>

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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 two whistleblower investigations conducted in 2011.

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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 eleven cases for which some form of appeal was filed and disposed of for the Division in 2011.

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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 now 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 19 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 received \$1.5 million (+12.6% in 2010, 2011) 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.



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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 health and safety of public sector employees in Illinois. The Division's field staff has experienced some challenges over the past few years due to tight budgets, serious health issues and military duty, 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 of the Division have held relatively consistent for the past seven years; some variation has occurred due to staffing vacancies and leaves, emphasis programs and limited travel resources. The fatality numbers average 18 for the past six years, which is just below the national average.

The State Plan program will enhance the Division's health and safety 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 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.

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

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