

# Indiana Labor Insider

April 2010

Advancing the safety, health and prosperity of Hoosiers in the workplace

Mitchell E. Daniels Jr., Governor  
Lori A. Torres, Commissioner of Labor

## New Endeavors of the IDOL

The Indiana legislature has once again come and gone, leaving us with a project in their wake. The agency has been tasked with proposing a method to reduce the frequency of employers who fail to properly claim and classify workers as employees. By failing to properly classify them, these workers cannot enjoy all the incumbent benefits that employees enjoy in Indiana, like workers compensation coverage and unemployment benefits. We will be undertaking this effort in 2010, and more on how you can participate in this process is outlined on page 2 of this issue.

We're also busy tracking trends and numbers, and invite you to see our most recent annual report for many of Indiana's primary industries in our *IN Review* publication. You can access it from our website at [www.in.gov/dol/files/IN\\_Review\\_2010\\_Website.pdf](http://www.in.gov/dol/files/IN_Review_2010_Website.pdf). You will find information you can use for your own safety talks there.

Finally, as Indiana has its roots in agriculture, and spring planting season looms (did we ever think spring would

come this year?), we are preparing a special publication dedicated to those in the agricultural industry. With the single highest injury and illness rate of **ANY** industry in Indiana, and with small farms exempt from direct IOSHA authority, we thought we should devote some extra attention to reaching out to farmers in conjunction with the Indiana Farm Bureau in providing some resources. We want our farmers to be as safe as our miners and construction workers! More on this initiative will be available shortly.



Lori A. Torres  
Commissioner of Labor

Go Butler Bulldogs!

*Lori Torres*

Lori A. Torres  
Commissioner

## Seven Hoosier Companies Receive Governor's Workplace Safety Award

Seven Indiana companies received top occupational safety and health honors from Commissioner of Labor Lori A. Torres, on behalf of Governor Mitch Daniels, Jr. The **2010 Governor's Workplace Safety Awards** were presented in conjunction with the annual Safety and Health Conference on March 3, 2010.

The award provides recognition to companies who utilize best practices for eliminating workplace injuries and illnesses. The State of Indiana salutes those organizations for which occupational safety and health have been made a top priority.

All Hoosier businesses, unions, municipalities, schools, service organizations, nonprofit organizations and individuals are eligible to apply for the awards. To qualify, a company must be deemed to be free of compliance disputes concerning all applicable local, state and federal statutes and regulations.

Governor's Workplace Safety Award recipients are



demonstrated leaders in the occupational safety and health field. The 2010 Governor's Workplace Safety Award recipients are as follows:

### **Overall Safety for General Industry**

Chemical Processing, Essex Group, Inc.  
OFS Brands, Plant #6  
Roche Diagnostics

### **Education, Outreach and Partnerships**

Eli Lilly and Company - Pharmaceutical Research and Development

### **Overall Safety for Construction**

Weigand Construction Co., Inc.

### **Partnerships in Construction**

Indianapolis Roofers Safety Group

### **Education and Outreach in Construction**

Superior Construction Co., Inc.

Additional information about each 2010 Governor's Workplace Safety Award recipient is available online at [www.in.gov/dol/2708.htm](http://www.in.gov/dol/2708.htm).

# Indiana Department of Labor 2010 Legislative Update

Contributed By: Sean M. Keefer, Deputy Commissioner  
Indiana Department of Labor  
Email: [skeefe@dol.in.gov](mailto:skeefe@dol.in.gov)

The 2010 legislative session ended in the early morning hours of March 13. During this short session, 115 bills were passed through both the Senate and the House, and signed into law by Governor Daniels. The following is a synopsis of two enrolled acts which affect both the Indiana Department of Labor and Hoosier businesses.

**SEA 23:** Senate Enrolled Act 23 primarily deals with Unemployment Insurance premiums for employers, delaying an increase in these premiums until 2011. In addition, SEA 23 contains language regarding Employee Misclassification, that is, the illegal classification of employees as independent contractors. The language, in its final form, requires the Indiana Department of Labor to develop guidelines and procedures for investigating questions and complaints concerning employee classification and a plan for implementation of those guidelines and procedures.\* In addition, the department must:

1. Make a presentation to the pension management oversight commission not later than October 1, 2010, outlining the proposed guidelines and procedures.
2. Make recommendations to the legislative council before November 1, 2010, concerning any legislative changes needed to implement the guidelines and procedures, including a budgetary recommendation for the implementation of the plan and a funding mechanism, to the extent possible.
3. Convert the guidelines and procedures to rules before August 1, 2011.

**HEA 1065:** House Enrolled Act 1065, while not directly related to the Department of Labor, affects Indiana employers and employees. This law prohibits a person, including an individual, a corporation, and a governmental entity, from adopting or enforcing a policy or rule that prohibits or has the effect of prohibiting an employee of the person, including a contract employee, from legally possessing a firearm or ammunition that is locked in the trunk of the employee's vehicle, kept in the glove compartment of the employee's locked vehicle, or stored out of sight in the employee's locked vehicle while the vehicle is in or on the person's property, unless the firearm or ammunition requires a certain federal license to possess.

## **Notice of Opportunity for Public Comment on Employee Misclassification:**

On March 25, 2010, Governor Daniels signed Senate Enrolled Act 23, which requires the Indiana Department of Labor to develop guidelines and procedures for investigating questions and complaints concerning employee classification, as well as a plan for implementation of those guidelines and procedures. In an effort to be responsive to all of our stakeholders, you are invited to submit commentary, proposed language, statistics or any other information that you believe would be helpful in this effort.

The Department will be hosting two separate sessions where it will solicit such information from the public. Time and location for these two sessions is listed below.

### **Notice of Opportunity for Public Comment on Employee Misclassification**

**Friday, April 23, 2010, 9 - 11 a.m.**

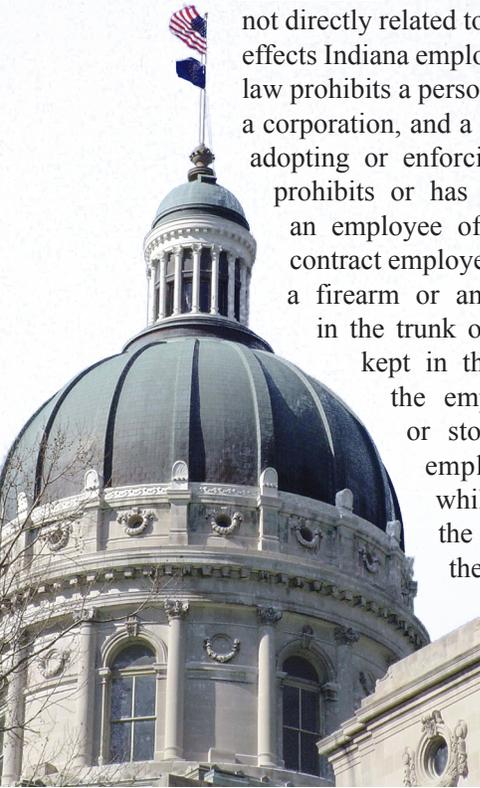
Indiana Government Center South, Conf. Room C  
402 West Washington Street  
Indianapolis, Indiana 46204

**Wednesday, April 28, 2010, 1:30 - 3:30 p.m.**

Indiana Government Center South, Conf. Room 1 & 2  
402 West Washington Street  
Indianapolis, Indiana 46204

The Indiana Department of Labor looks forward to your input in this process. For those that wish to make public comments at either one of the April sessions, please email your intent to do so to [commissioner@dol.in.gov](mailto:commissioner@dol.in.gov), so that we can gauge the amount of interest, the number of potential speakers and the amount of time involved. It is possible that not every speaker will have time to present a position. In the event you cannot speak, please be prepared to submit your comments in writing. In addition, written comments or suggestions may be submitted at any time prior to May 15, 2010. Written submissions may be made electronically to [commissioner@dol.in.gov](mailto:commissioner@dol.in.gov), or by regular mail to:

Lori A. Torres  
Commissioner of Labor  
Indiana Department of Labor  
402 West Washington Street, Room W195  
Indianapolis, Indiana 46204





# SAFETY ALERT:

## Safe Operation of Wood Chippers

**O**perating wood chippers is a dangerous task.

Those who work with chippers risk getting caught in the machinery, which could result in amputation of limbs and even death.

Nationally, from 2004 to 2008, 22 workers have been killed from the use of wood chippers. Of these 22 fatalities, the majority occurred among **Caucasian males**, and all of the fatalities were a result of **contact with the equipment**. During this same time frame, U.S. private industry companies recorded 870 non-fatal work-related injuries, which required at least one day away from work, as a result of work with wood chippers.

Chippers generally consist of a powered feed mechanism, knives mounted on a rotating disc or drum and an internal combustion engine. Many chippers are equipped with a mechanical feed control bar that activates the feed rollers when it is pulled. The bar is mounted across the top and along the sides of the infeed chute for quick and easy access. The American National Standards Institute (ANSI) ANSI Z133.1-2006 standard, "Safety Requirements for Arboricultural Operations," requires that chippers equipped with a mechanical feed control bar must have quick-stop and reverse feed devices for emergencies. The chipper involved in the accident described in the next section met this ANSI requirement.

OSHA standards require that employees be protected from contacting components of wood chippers, including knives, feed rollers and discharge spouts. OSHA's Machine Guarding Standard, 29 CFR 1910.212(a)(1), requires that all machines have at least one method of machine guarding to protect workers from hazards created by rotating parts and flying debris. The point of operation must also be guarded in accordance with 1910.212(a)(3). There are additional regulations in the OSHA Logging Operations standard, 29 CFR

1910.266(h)(4), which requires that infeed and outfeed chutes be guarded to prevent contact with discs, knives or blades.

In addition to machine guarding, many manufacturers have equipped wood chippers with safety devices, to reduce the likelihood of contact with hazardous parts and/or to stop machine operation in an



Curtain flaps are installed on wood chippers to protect operators and other workers from debris. (Photo from [www.osha.gov](http://www.osha.gov))

emergency situation. Some examples of such types of safety devices are "**feed control bars**," which can stop and/or reverse the motion of the chipper, "**emergency pull ropes**" which can be pulled in order to immediately reverse the action of the feed rollers and "**rubber curtain/flaps**," which reduce the likelihood of "caught in" accidents and serve as a warning to operators to keep their hands clear of the infeed chute.

A combined effort from employers and employees is necessary to ensure employee safety when working with wood chippers. This joint effort must include employ-

ers providing employees with the proper training, and employees abiding by safe work practices. Employees should be trained, and retrained as necessary, in the correct operation of the machinery they work with, including the machinery's safety controls. They should be knowledgeable in the manufacturer's operation, inspection and maintenance instructions, as well as the proper startup and shutdown operations of the machinery.

Employees should also be provided **Personal Protective Equipment** (PPE), as well as trained on its appropriate usage. Types of PPE may include hand (i.e. glove), eye (i.e. safety goggles or glasses) and head (i.e. helmets). Wood

### Safe Operation of Wood Chippers

- Never reach into a chipper while it is in operation.
- When working with chippers, **do not** wear loose fitting clothing.
- Maintain a safe distance between chipper operations and other work or employees. OSHA recommends two tree or log lengths.
- When servicing or providing maintenance to machinery, ensure equipment is deenergized by using a lockout system.

chipper operators and those individuals working near this machinery should also be discouraged from wearing baggy or loose clothing and jewelry, as this poses an entanglement hazard. In addition, when chipping is being done as part of a logging operation, training is required by the Logging Operations standard (29 CFR 1910.266(i)). This standard establishes specific training requirements for all employees, including training content, frequency and portability.

While training is necessary and important, no amount of training can protect a worker who does not utilize safe work practices. When working with wood chippers, being aware of, and utilizing, basic safe work practices can help to keep workers safe. For suggestions, please review the

“Safe Operation of Wood Chippers” in the information box on page three of this newsletter.

While the suggested list of safe operation of wood chippers and work practices is not an all-inclusive list, utilizing these methods will help to keep wood chipper operators safe while working. For more information on wood chipper safety, training and safe work practices, please visit [osha.gov/dts/shib/shib041608.html](https://www.osha.gov/dts/shib/shib041608.html). If you have further questions on wood chipper safety or other occupational safety or health-related questions, please contact INSafe by email at [insafe@dol.in.gov](mailto:insafe@dol.in.gov) or by phone at (317)232-2688 to speak with an INSafe Consultant.



## It Happened Here: Kosciusko County

**Background:** Wood chippers, while not the most common cause of workplace incidents, are high risk machinery. In 2008, three U.S. workers were killed while working with wood chippers, and another 80 were injured and had to spend at least one day away from work. Wood chippers operate at very quick speeds, and once something is caught in the flow of movement, it is extremely difficult to stop production and emerge entirely unscathed.

**Event:** On September, 1 2009, a 37 year-old employee of a tree removal and trimming company was working with a coworker, in Kosciusko County. Upon completion of trimming trees, the victim fed branches through a wood chipper, while his coworker raked the excess debris. The coworker heard the chipper slow down, and was unable to locate the victim. When he called out and did not receive a response, the coworker saw evidence that the victim had gone through the chipper. It is believed that something caught the victim and dragged him into the chipper. The machinery had received some maintenance in the previous year, but one essential repair had not been completed. The feed arm was held in position by a rubber strap, rendering the emergency quick stop and reverse feed devices ineffective. This was the second fatal incident at this company involving a wood chipper in that past ten years.

**Lessons Learned:** To reduce the likelihood and prevent similar incidents from occurring in the future, employers and employees should take the following steps:

- Employers should work to foster a culture of workplace safety and health, and hold themselves accountable for their

employees understanding and following all written safety and health policies, rules, procedures and regulations.

- Train employees in all safety procedures, such as the standard 29 CFR 1910.212 (a)(1) - Types of Guarding: One or more methods of machine guarding shall be provided to protect the operator and other employees in the machine area from hazards such as those created by point of operation, ingoing nip points, rotating parts, flying chips and sparks.



The wood chipper pictured above was the scene of a workplace fatality in Kosciusko County in September 2009. (OSHA Inspection File Photo)

- Working together, employers and employees must ensure that machine guards are secure, strong, durable and cannot be bypassed. Operators and other employees must not be able to reach under, over, around or through the guard to the point of operation.

- Employers should not allow employees to wear loose-fitting clothing.

- Employees should also be given the appropriate personal protective equipment (PPE), and trained on

the proper use of such equipment.

- Employees must ensure that, prior to service or routine maintenance, all energy sources are locked or tagged out to prevent stored energy from energizing through the machine. If equipment or machinery is found through inspections to be unsafe, it should be taken out of service until repaired by qualified service personnel.

- Employers should provide employees with the appropriate level of supervision.

- Employers should investigate all near-miss incidents to determine causality, as well as perform a root cause analysis (RCA).

- Employers should work with employees to complete and revise job hazard analyses (JHAs) as often as necessary.

# R

## ecognizing and Rewarding Excellence in Hoosier Occupational Safety and Health

Most people do not often associate regulatory agencies with employer rewards and recognition. In fact, when someone mentions the Indiana Department of Labor (IDOL) or OSHA, inevitably, most people think of workplace inspections and citations for safety and health hazards. While this function is a very important part of what the IDOL does, there are other facets to the occupational safety and health programs that the department administers.

The IDOL features two exemplary programs, which seek to recognize Hoosier employers for well developed, implemented and maintained workplace safety and health programs. OSHA facilitates the **Voluntary Protection Program**, or **VPP**, and INSafe facilitates the **Indiana Safety and Health Achievement Recognition Program**, or **INSHARP**. Both of these programs have strict guidelines for admittance, however, being accepted into either program is evidence that a company has a strong dedication to workplace safety and health. Both programs offer incentives for companies to have superior safety and health cultures.

Currently, there are 55 companies participating in **VPP**. Company participants range from 20 employees to more than 8,000, and they include pharmaceutical, snack food

and recycling companies, as well as many more. The average **VPP** participant has a lost workday incidence rate that is 50% lower than the rest of their industry. In return for their excellent safety and health management programs, **VPP** participants are acknowledged as leaders in workplace safety and health. These employers are also removed from the OSHA programmed inspection lists.

INSafe's **INSHARP**, a federally recognized program, is similar to **VPP** in that it provides recognition to employers who maintain excellent occupational safety and health management programs. Like **VPP** participants, **INSHARP** companies are exempt from programmed OSHA inspections. **INSHARP** is administered by the non-compliance division of the IDOL, and tends to primarily work with small Hoosier employers. However, employers of all sizes are encouraged to apply to either program. There are currently 43 **INSHARP** certified worksites in Indiana.

Additional information about both **VPP** and **INSHARP** is available online at [www.in.gov/dol](http://www.in.gov/dol). If your workplace is interested in participating in **VPP**, please contact **VPP** Manager Mike Gaskill by email at [migaskill@dol.in.gov](mailto:migaskill@dol.in.gov). Companies interested in pursuing **INSHARP** certification may contact **INSHARP** Coordinator Michelle Ellison by email at [insharp@dol.in.gov](mailto:insharp@dol.in.gov).



## Becoming a Special Government Employee

Contributed By: Stephanie Lancaster  
Global Environmental Health & Safety, Mead Johnson Nutrition

**Mead Johnson Nutrition**, a leading employer in Southwestern Indiana and a world leader in pediatric nutrition, has assisted Indiana OSHA in training volunteers to serve as Special Government Employee (SGE) worksite evaluators for OSHA's Voluntary Participation Program (VPP). Companies seeking VPP certification must apply to the program and undergo a rigorous site-based evaluation in order to qualify for recognition among the state's most safety-conscious employers.

This past August, **Mead Johnson**, the maker of Enfamil® infant formula, hosted a three-day SGE training session at its Evansville-based Global Operations Center and North America headquarters. The event was the first of its kind in Southwest Indiana and only the second in the state. Seventeen participants from ten industries throughout the Midwest completed the training, have been sworn in and

are now qualified to serve as SGEs on future VPP worksite evaluation teams.

Stephanie Lancaster, Associate Director, Global Environmental Health & Safety for **Mead Johnson**, was trained as an SGE in 2008 and served as a member of a VPP evaluation team earlier this year. She is finding the insights gained to be valuable as **Mead Johnson** works to attain VPP's highest-level, "Star" status, during its evaluation next April. The company is already a VPP "Merit" level site.

"It's interesting to have experienced the evaluation process from the opposite perspective," she said. "As a Mead Johnson employee, I'm proud that our company has earned VPP certification, because that's really all about people having a safe place to work – and industry and government coming together to make that happen. From the other view, as an SGE and a VPP evaluation team member, it's valuable to be in the room and part of the conversation as decisions are being discussed and made. I appreciate that the evalu-

ation teams want the sites to succeed—and that they want them to do that by reaching the required standards.”

IOSHA’s VPP Manager, Mike Gaskill, said that participation from private industry is essential to the success and growth of the program. “The state simply does not have the manpower to do this alone, so the value that companies such as **Mead Johnson** provide in facilities and assistance is monumental,” he said. “We have called upon 12 SGEs during 2009, up from eight in 2008, and we expect those numbers to continue to increase.”

He said that Stephanie Lancaster’s assistance as an SGE earlier this year exemplifies how the program is intended to work. “She was quite helpful, and I would like to recognize her for that assistance – and also to thank **Mead Johnson** for making her available to us.” Gaskill added that SGEs must be federally approved in order to avoid conflict of interest before they can be assigned to a particular team. In addition, the applying organizations are made aware of



The newest graduating class of Special Government Employees (SGEs) are sworn in by federal OSHA’s Timothy Crouse. To learn more about the SGE Program, please visit [www.osha.gov/dccsp/vpp/sge.html](http://www.osha.gov/dccsp/vpp/sge.html). (Submitted Photo)

the SGEs and the identity of their employers, and they have the opportunity to provide consent before the evaluations occur.

As a participant during this year’s session, **Mead Johnson’s** Evansville Supply Center Safety Coordinator Greg Huett is looking forward to the company’s opportunity to attain VPP Star status, as well as his first assignment as an SGE later in the year. “It was very enjoyable during the training session to be able to interact with occupational health and safety professionals from other businesses and industries,” he said. “I think there will be a great deal of value in getting out in the field and seeing what other companies are doing.

It’s really amazing to come together and be able to learn from one another.” Thanks to SGEs **Rhonda Scherer** and **Ken Sicard** from the Kimball Group in Jasper and **Beth Jewell** from IDOL/IOSHA, for their assistance with training this new group of SGEs.

## You Asked, We Answered - IOSHA and Inspection Selection

### How do I know if my business will be inspected by IOSHA?

All Indiana businesses covered under the Indiana Occupational Safety and Health Act (IC 22-8-1.1) can potentially be inspected by IOSHA. (see next question for how inspections are initiated) The IOSH Act covers Hoosier employers with one or more employees (with a few exceptions). Some of these exceptions include employers who are covered by another agency (EPA, DOT, Mine Safety, Federal Railroad Act, etc.), sole owner businesses, farms with fewer than 10 employees (not including family members) and some construction businesses with certain NAICS Codes.

### If my business is covered by the IOSH Act, how is it selected for an inspection?

There are two different types of IOSHA inspections: Programmed and Un-programmed. **Programmed** inspections are random, and are a result of statistical data and industry type. Programmed Health Inspections are chosen randomly by Federal OSHA from a computer database of high hazard industries, Programmed Safety Inspections are chosen by Bureau of Labor Statistics (BLS) as a result of lost work time and Programmed Construction Inspections are chosen from the General Dodge Report, which targets businesses based upon NAICS/SIC codes and company

size. **Un-programmed** inspections result from a catastrophe, fatality, complaint, referral (from a different regulatory agency) or follow-up from a previous inspection.

### Will I be notified if my company is selected for an IOSHA inspection?

No. If you are selected for an inspection, IOSHA compliance safety and health officers will arrive at your business with no prior notice.

### What if I disagree with IOSHA’s inspection findings?

After an inspection, if IOSHA determines that violations exist, you can request an Informal Conference, or you can issue a Formal Notice of Contest. An **informal conference** is a meeting with IOSHA to discuss citations/fines and attempt to come to a compromise. A **formal notice of contest** is taken to the Board of Safety to Review, which would hear arguments from both the company and IOSHA, and then make a determination.

If you don’t disagree with the findings, but would like more time to abate the violations, you can file a Petition for Modification of Abatement. For information and answers to IOSHA’s Frequently Asked Questions, please visit [www.in.gov/dol/FAQs.htm](http://www.in.gov/dol/FAQs.htm).



## IDOL Signs OSHA Training Alliance with IU's Heartland Safety and Health Education Center

The Indiana Department of Labor (IDOL) and representatives from **Indiana University's Heartland Safety & Health Education Center** entered into a strategic training alliance. The alliance is a mutually beneficial agreement between the two parties, which will be active through June 2011.

The alliance agreement focuses primarily on OSHA outreach training and education. Some of the provisions of the agreement include, that upon written request from the Heartland Center, and approval from the IDOL's INSafe division, the IDOL will provide staff to serve as trainer and assist in specialized OSHA trainings sponsored by the

Heartland Center. In return, the Heartland Center will provide OSHA outreach training free of charge to IOSHA and INSafe staff.

For more information the

IDOL alliance and partnership agreements, please visit our website at [www.in.gov/dol/2387.htm](http://www.in.gov/dol/2387.htm).



IDOL Commissioner Lori A. Torres and Deputy Commissioner of INSafe Sean M. Keefer sign an alliance agreement with representatives from Indiana University's Heartland Safety and Health Education Center.

## Bureau of Child Labor: Documentation of Breaks Cited Most Often

With some exceptions, Indiana law permits employment of minors beginning at the age of 14. However, the Child Labor laws set out specific requirements, including restrictions on the nature of the work performed and limitations on the number of hours worked by minors. For instance, Indiana law requires employers to **provide and document one or two breaks totaling at least 30 minutes to employees under the age of 18 who are scheduled to work six or more consecutive hours.**

In 2009, Indiana Bureau of Child Labor Inspectors inspected more than 1,800 Hoosier businesses to ensure compliance with the state's child labor laws. During these inspections, nearly 3,500 violations of the teen break law were cited—making the teen break law the most frequently cited Indiana Child Labor law. Penalties for break violations range from a written warning for a first-time violation to \$400 for each repeat violation.

With spring and summer breaks from school rapidly approaching, many Hoosier teens will enter the workforce. Employers of Indiana teens may want to consider attending one of the Bureau of Child Labor's teleconference training sessions. These training sessions are **free to attend** and last for approximately one hour. Sessions will cover all aspects of employing minors, from obtaining a work permit through termination of employment. Space is limited and registration is required, so signing up early for teleconference sessions is advised.

For answers to Frequently Asked Questions, additional information on Indiana Child Labor laws or to register for one of the teleconference trainings, please visit [www.in.gov/dol/childlabor.htm](http://www.in.gov/dol/childlabor.htm).



## Recognizing Excellence

The Indiana Department of Labor congratulates the following employers and employees for their efforts to ensure Hoosier occupational safety and health. Information on INSHARP or VPP is available online at [www.in.gov/dol](http://www.in.gov/dol).

### **INSHARP**

**New:** First Chance Center Food Service Program (Paoli, IN)

**Recertification:** First Chance Center (Paoli, IN)

First Chance Center (Paoli, IN)

### **VPP**

**New:** Covanta (Indianapolis, IN)

Nucor Steel (Crawfordsville, IN) *Merit Status*

Nurcor Building Systems (Waterloo, IN) *Merit Status*

### **VPP NEW CONT.**

CF Industries (Frankfort, IN)

Hendrickson Trailer Suspension (Lebanon, IN)

Frito-Lay Core Plant (Frankfort, IN)

**VPP Recertification:** AK Tube (Columbus, IN)

Rohm and Haas (Warsaw, IN)

United Technologies Electronic Controls (Huntington, IN)

Frito-Lay East (Frankfort, IN)

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