



**STATE OF TENNESSEE
DEPARTMENT OF LABOR & WORKFORCE DEVELOPMENT
TENNESSEE OCCUPATIONAL SAFETY & HEALTH
220 French Landing Drive
Nashville, Tennessee 37243-1002
(615) 741-2793**

Cindy Coe, Regional Administrator
United States Department of Labor
Occupational Safety and Health Administrator
60 Forsyth Street, Southwest, Room 6T50
Atlanta, GA 30303

Re: Tennessee OSHA response to the 2011 Federal Annual Monitoring and Evaluation Report (FAME)

Dear Ms. Coe,

Tennessee OSHA would like to respond to the 2011 Federal Annual Monitoring and Evaluation Report. We commend your staff on the cooperative and professional manner in which the visit was conducted. Our office has taken steps to address each of the recommendations contained in the report.

The 2010 FAME Appendix C contained average penalty calculations for all serious violations, including private and public sector employers **and** average penalty calculations for serious violations issued to private sector employers only. The 2011 FAME Appendix C does not include the average penalty calculation for private sector only. This is an inaccurate representation of the average serious penalty issued by our agency. As noted in the 2011 FAME written report, the average penalty issued by Tennessee OSHA for a serious violation in the private sector was \$1,597.00. This information should be included in Appendix C.

As required by Tennessee state law, public sector employers who participate in the Tennessee OSHA public sector program are not assessed monetary penalties for violations. To participate in this program, public sector employers must designate a safety and health director, maintain an effective safety and health program, and submit to biennial inspections by Tennessee OSHA. This provision has been part of state law since the inception of the program and was in place when Tennessee OSHA received 18(e) final approval on July 22, 1985. During the period of this evaluation, 30.88% of all Tennessee OSHA inspections were conducted in the public sector.

We appreciate the opportunity to respond to the 2011 FAME. We believe OSHA should consider revising Appendix C to provide a more accurate representation of penalties and separate the average penalty issued to public and private sector employers.

Sincerely,

A handwritten signature in black ink, appearing to read "S.D. Hawkins", with a long horizontal flourish extending to the right.

Steven D. Hawkins
Administrator
Tennessee OSHA