

FY 2015 Comprehensive Federal Annual Monitoring and Evaluation (FAME) Report

Maryland Occupational Safety and Health (MOSH)



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**Prepared by:
U. S. Department of Labor
Occupational Safety and Health Administration
Region III
Philadelphia, Pennsylvania**



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I. Executive Summary

A. State Plan Activities, Trends, and Progress

The purpose of this Federal Annual Monitoring Evaluation (FAME) Report is to assess the Maryland Occupational Safety and Health (MOSH) State Plan's progress in resolving the issues identified in previous evaluations, and its progress in achieving their goals by focusing on MOSH State Plan activities during Fiscal Year (FY) 2015.

MOSH continues to be effective in protecting Maryland's private, state, and local government workers' safety and health. The most recent evaluation, as well as previous FAMEs, shows that the State Plan establishes and enforces safety and health standards; conducts targeted inspections of worksites where employers who demonstrate indifference to their legal obligation to protect the workers they employ, as well as in industries with high injury and illness rates; ensures that all employers accurately report workers injuries, illnesses, and deaths; and gives workers a voice in how workplaces protect their safety and health.

During FY 2015, even with the departure of seven compliance officers (COs) and forced furlough days for state workers (which concluded in July of 2015), MOSH conducted 1,370 inspections. Although below their projected goal, the conducted inspections targeted high-hazard industries covered under the state or national emphasis programs. One hundred percent (100%) of fatalities were initiated within one day of notification. MOSH also made great progress in working toward achieving their strategic goals.

MOSH experienced a major administrative change during FY 2015. On January 21, 2015, Lawrence J. Hogan, Jr. was inaugurated as Maryland's 62nd Governor. Kelly M. Schulz was confirmed as Secretary of the Maryland Department of Labor, Licensing, and Regulation (DLLR) in February 2015. On May 27, 2015, Thomas J. Meighen was announced as the new Commissioner of the Division of Labor and Industry (DLI) at the Maryland DLLR. In September 2015, William E. Dallas was appointed as the new Assistant Commissioner.

During FY 2015, MOSH made moderate progress in addressing the one finding which was initially noted in their FY 2013 Comprehensive FAME Report. MOSH drafted an appeals process for their whistleblower program in conjunction with their attorneys which is expected to be implemented by FY June 2016. OSHA continues to monitor the progress of this issue.

Although MOSH experienced obstacles due to loss of staff and forced furloughs, they continued to address safety and health concerns in high-hazard businesses. However, this comprehensive on-site case file review revealed at least three specific areas where MOSH needs to enhance their program. For example, MOSH did not take action on seven of nine (78%) of the Federal Program Changes (FPCs) incorporated during FY 2015. In addition, in FY 2014, MOSH did not take action on three of five (60%) FPCs – in total, MOSH did not act on 10 of 14 (71%) of the FPCs incorporated between FY 2014 and FY 2015.

It was also noted that in 43 of the 53 (81%) of cases with informal conferences that were reviewed, MOSH held the informal conference beyond the 15 working day timeframe.

Informal conferences were held 16 to 112 working days after the citations were received by the employer (an overall average of 25 working days). Finally, MOSH did not include documentation that the final next-of-kin (NOK) letter with the inspection results was sent in 75% of the fatality case files reviewed where it was appropriate to provide a follow-up letter.

B. State Plan Introduction

The Maryland DLLR, DLI, is the state agency designated by the governor to administer the MOSH State Plan. The MOSH State Plan was initially approved on July 5, 1973 pursuant to Section 18 of the Occupational Safety and Health (OSH) Act. The Plan was certified on February 15, 1980 and granted State Plan final approval on July 18, 1985. MOSH operates under the authority of the MOSH Act, Labor and Employment Article, Section 5-101 through 5-901.

During FY 2015 there were significant organizational changes with the introduction of newly appointed Governor, Larry Hogan, and new Lieutenant Governor, Boyd K. Rutherford. In February, a new Secretary of the Department of Labor, Licensing, and Regulation was welcomed with Kelly M. Schulz replacing Leonard J. Howie III. In May, a new Commissioner of Labor and Industry, Thomas J. Meighen was welcomed – replacing J. Ronald DeJuliis. In September, MOSH welcomed a new Assistant Commissioner, William E. Dallas, replacing Eric Uttenreither.

MOSH's Compliance Services Unit conducts occupational safety and health inspections for all state and local government and private sector workplaces in Maryland. However, MOSH does not inspect places of employment which fall under OSHA's jurisdiction. OSHA's jurisdiction includes: federal workers, the United States Postal Service, private sector maritime activities (shipyard employment, marine terminals, and long shoring), and U.S. military bases. Additionally, MOSH's Outreach Unit provides free consultation services (Consultation Program), training and education, and manages its cooperative programs. MOSH's Discrimination Unit investigates complaints received by workers who feel that they have been discriminated against by their employer for making a safety or health complaint. Lastly, the Research and Statistic Unit provides MOSH with statistical data on occupational fatal and nonfatal workplace injuries and illnesses.

MOSH offers a free consultation service, targeted at small businesses in high-hazard industries. Consultation assists employers in identifying and correcting workplace hazards and establishing safety and health management systems. MOSH Consultation has a recognition program – Safety and Health Achievement Program (SHARP) – for companies that meet the safety and health requirements. In addition, MOSH develops and provides a broad array of outreach products and services, education and training materials, and full and half-day courses that promote occupational safety and health.

The table below shows MOSH's funding levels for FY 2015.

FY 2015 23(g) Funding					
Fiscal Year	Federal Award (\$)	State Plan Match (\$)	100% State Plan Funds (\$)	Total Funding (\$)	% of State Plan Contribution
2015	\$3,999,100	\$3,999,100	\$1,860,205	\$9,840,405	59%

The table below shows the number of MOSH's full time and part time staff as of the end of FY 2016 grant submittal.

MOSH Staffing					
23(g) Grant Positions	Allocated FTE Funded 50/50	Allocated FTE 100% State Plan Funded	Total	50/50 Funded FTE Onboard as of 7/1/15	100% State Plan Funded FTE Onboard as of 7/1/15
Managers/ Supervisors (Admin)	3.65	0.00	3.65	3.16	0.00
First Line Supervisors	5.80	0.00	5.80	5.80	0.00
Safety Compliance Officers	34.00	0.00	34.00	26.75	0.00
Health Compliance Officers	17.45	0.00	17.45	7.45	0.00
Discrimination Investigator	2.00	0.00	2.00	1.00	0.00
State/Local Gov. Safety Consultants	1.00	0.00	1.00	1.00	0.00
State/Local Gov. Health Consultants	0.00	0.00	0.00	0.00	0.00
Compliance Assistance Specialist	1.50	0.00	1.50	1.50	0.00
Other (all positions not elsewhere counted)	3.06	0.00	3.06	1.55	0.00
Total 23(g) FTE	86.91	0.00	86.91	63.66	0.00

As a State Plan, MOSH has the authority to promulgate standards and regulations which may be more stringent than OSHA's standards. MOSH has multiple standards and regulations which differ from the federal program including, but not limited to: High Voltage Lines (Title 6), Fall Protection in Steel Erection (Code of MD Regulations (COMAR) 09.12.25), Confined Spaces (COMAR 09.12.35), and Tree Care and Removal (COMAR 09.12.28).

MOSH has also made amendments to OSHA standards that are more stringent than OSHA's such as: Permit-Required Confined Spaces (29 CFR 1910.146), Occupational Exposure to Formaldehyde (29 CFR 1910.1048), Lead in Construction Work (29 CFR 1926.62), Cranes and Derricks (29 CFR 1926.550), Excavations (Requirements for Protective Systems- 29 CFR 1926.652), and Steel Erection (29 CFR 1926, Subpart R).

C. Data and Methodology

OSHA established a two-year cycle for the FAME process. FY 2015 was a comprehensive year and as such, OSHA performed comprehensive on-site case file reviews. This evaluation included reviewing MOSH's complaints, referrals, fatalities, and accident investigations. Additionally, 11(c) files were reviewed as a part of this FAME.

A five-person OSHA team, including a discrimination investigator, was assembled from Region III to conduct the on-site comprehensive case file review at the MOSH Hunt Valley Office from February 22, 2016 to February 25, 2016. A total of 144 safety, health, and whistleblower inspection files were reviewed. The safety and health inspection files were randomly selected from closed inspections conducted during the evaluation period (October 1, 2014 through September 30, 2015). The population of selected files included 18 fatality files, 30 complaint files, 28 accident files, and 27 files where repeat citations were issued. In addition to the safety and health inspection files, 41 closed whistleblower case files obtained from the web Integrated Management Information System (IMIS) for FY 2014 and 2015 were selected for review.

In addition to reviewing the above mentioned case files, the OSHA evaluation team discussed MOSH procedures with MOSH administration and management staff. OSHA continually monitors MOSH's activity and progress through different methods, including conducting quarterly meetings and reviewing MOSH's State Activity Mandated Measures (SAMM) reports, and the State OSHA Annual Report (SOAR).

D. Findings and Observations

There were three new findings identified during the FY 2015 FAME. The first finding was regarding the response and adoption of FPCs, and the second finding was in regards to the timeframe MOSH holds informal conferences. The third finding was associated with lack of documentation concerning the final NOK letter in fatality cases. One finding from FY 2013 still remains open.

MOSH did not take action on seven of nine (78%) FPCs incorporated during FY 2015. In addition, MOSH did not take action on three of five (60%) of FPCs during FY 2014. In total, MOSH did not act on 10 of 14 (71%) of the FPCs between FY 2014 and FY 2015.

New Findings

Finding FY 15-01: In FY 2014 and FY 2015, MOSH did not take action on 71% of the Federal Program Changes (FPCs).

Recommendation: MOSH should develop a strategy that ensures action is taken on FPCs within the required timeframes.

OSHA also noted that in 43 of the 53 (81%) of cases reviewed with informal conferences, MOSH held the informal conference beyond the 15 working day period. Informal conferences were held 16 to 112 working days after the citations were received by the employer (averaging 25 working days). MOSH only requires employers to schedule the informal conference within the 15 working day period. Extending the date significantly beyond the 15 working day period may allow citation items with open abatement to remain open without confirmation that workers have been promptly protected from the hazardous conditions. Furthermore, extending the date for the informal conference will delay a settlement date which will delay the final order date. Because the final order date is used to justify repeat violations, it may prevent the issuance of a repeat violation where one would normally have been appropriate.

Finding FY 15-02: In 81% of the case files reviewed, MOSH held informal conferences beyond the 15 working day period.

Recommendation: MOSH should reevaluate and update their Field Operations Manual (FOM) policy to ensure that informal conferences are held within 15 working days.

Finding FY 15-03: In nine of 12 (75%) fatality case files, there was no documentation showing that the final NOK letter with the inspection results was sent or that contact was made with family members.

Recommendation: MOSH should develop a strategy to ensure that final NOK letters with inspection results are provided to the next-of-kin in all fatality cases.

Previous Finding

There was one previous finding from FY 2013 and FY 2014 that has not yet been resolved.

Finding FY 15-04 (previously FY 14-01): MOSH does not currently have an internal appeals process for discrimination.

Recommendation: MOSH should continue to work to implement an internal appeals process which is at least as effective as the current federal process.

Status: MOSH drafted an appeals process for their whistleblower program in conjunction with their attorneys. The appeals process is expected to be implemented in June 2016.

New Observation

There was one new observation concerning MOSH's procedure for processing complaints in FY 2015. Due to a congressional inquiry and electronic correspondence received in the Regional Office, it was determined that MOSH failed to respond to two separate complainant requests within three days. The response to the request for investigations in these two cases fell well beyond three working days. The Regional Office followed up with MOSH in both circumstances and complaints investigations were initiated in accordance with current MOSH policy.

Observation FY 15-OB-01: MOSH failed to respond to two separate complainant requests well beyond three working days.

Federal Monitoring Plan: OSHA will continue to observe and evaluate the timeliness of MOSH's complaint investigations in FY 2016.

II. Major New Issues

There were no major issues identified during FY 2015.

III. Assessment of State Plan Performance

A. STATE PLAN ADMINISTRATION

1) Training

MOSH sent more than 20 COs to nine different technical training courses. These courses were taught by OSHA Technical Institute (OTI) personnel at locations around the country or at classes that took place in Maryland. Topics of study included: Electrical Power Generation Transmission and Distribution, Concrete, Forms and Shoring, Process Safety Management, Investigation and Interviewing Techniques, Permit Required Confined Spaces, Grain Handling Operations, Cranes in Construction, Accident Investigation, and Expanded Health Standards.

2) Budget

The annual budget for FY 2015 for enforcement was approximately \$9,858,205 of which 41% was federally funded and 59% was Maryland State Plan funded. MOSH operates its programs under state law with final OSHA approval, matching grants, and oversight. MOSH retains the flexibility to tailor programs to address Maryland local issues and concerns.

3) Staffing

MOSH is comprised of an overall workforce of 98 dedicated workers assigned to its various programs (Enforcement, Consultation, and the Research and Statistics Unit). MOSH had several veteran COs retire in FY 2015 and several other COs took new jobs at higher paying agencies. In all, the agency lost seven COs throughout the course of the year. MOSH was able to provide its services without interruption; however, this loss attributed to lower inspection numbers overall. The agency is in the beginning stages of hiring for CO positions and hopes to have a new class of trainees by the spring of 2016. In FY 2015 workers were assessed five service reduction days. With an average of 47 inspectors, this equates to approximately 235 lost workdays for agency COs and staff. MOSH worked diligently towards its goals with this large loss of production time. Beginning in July 2015 these assessed service reduction days ended.

4) OSHA Information System (OIS) – use of OIS reports for State Plan management

MOSH began utilizing OIS in FY 2014. In FY 2015, MOSH was entering all newly-initiated inspections into OIS and utilizing reports run from OIS to evaluate and manage the MOSH program.

5) State Internal Evaluation Program (SIEP) Report

Prior to issuance, MOSH reviews case files at the regional level and again in the central office. An extensive review with central office staff is conducted prior to issuance of any citations associated with fatality or significant cases.

B. ENFORCEMENT

1) Complaints

MOSH's response rate to complaints where investigations were conducted was 3.38 days which was slightly above the agreed upon measure of three days. Due to a congressional inquiry and electronic correspondence received by the Regional Office, it was determined that MOSH failed to respond to two separate complainant requests within three days. The response to the request for investigations in these two cases fell well beyond three working days. The Regional Office followed up with MOSH in both circumstances and complaint investigations were initiated in accordance with current MOSH policy. OSHA will continue to observe the timeliness of complaint investigations during the FY 2016 performance period.

MOSH initiated complaint inspections within an average of 2.63 days which was below the negotiated fixed number of five working days. MOSH responded to 100% of the complaints pertaining to imminent danger within one day. OSHA noted that the letter to the complainant was not included in the complaint case files. The diary sheet often lacked notes concerning whether the letter was mailed. It was also noted

that MOSH maintains a copy of the letter to the complainant in a separate file in accordance with current policy.

2) Fatalities

Review of fatality case files revealed that MOSH initially made appropriate next-of-kin contact and that next-of-kin were kept informed of the ongoing fatality investigation. However, these actions were not documented in the case file. Furthermore, in nine of 12 (75%) fatality case files reviewed where it was appropriate to provide a final NOK letter, the case file did not contain documentation that the final NOK letter with inspection results was sent or that contact was made with family members. Discussions with MOSH officials revealed that phone conversations with the next-of-kin have been a regular occurrence. It was noted that the NOK letters were maintained in separate files. The fatality case files reviewed were appropriately coded to indicate whether MOSH maintained jurisdiction or if the inspection was warranted.

MOSH conducted 24 fatality investigations in FY 2015. The SAMM Report indicates that 100% of the work-related fatalities were responded to within one work day. Employers are required to report all fatalities to MOSH within eight hours. When fatalities occur, MOSH staff notifies the DLLR Secretary and Deputy Secretary, Commissioner, and Deputy Commissioner of Labor and Industry, as well as the Assistant Commissioner of MOSH.

The Research and Statistic Unit provides MOSH with statistical data on occupational fatal and nonfatal workplace injuries and illnesses so they can assess trends and target inspections in high hazard industries. The on-site review determined that MOSH evaluated each fatality for potential violations. The fatality case files cited volatile conditions and/or discussed why such citations were inappropriate.

3) Targeting and Programmed Inspections

MOSH's programmed planned inspections for general industry are derived mainly from their Site-Specific Targeting (SST) program. The previous year's Data Initiative survey is the basis of MOSH's SST. MOSH also utilizes a number of targeting programs to identify and schedule programmed inspections. These include the use of OSHA's National Emphasis Programs (NEPs), their SST Program, and Maryland-specific LEPs which address special emphasis hazards and industries in Maryland. MOSH has adopted the primary metal industries NEP issued by OSHA October 20, 2014, but has not responded with the intent or adopted the amputations NEP issued by OSHA on August 13, 2015.

MOSH's in compliance rate for safety cases was 21.70% and 38.46% for health cases in FY 2015. Case files that were identified as being in-compliance were found to be documented properly with no issues identified. Case files with citations issued included proper hazard identification and documentation with the correct standard for

each violation noted. The FY 2015 on-site review did not reveal any concerns with hazard identification.

4) Citations and Penalties

During the on-site review it was noted that MOSH case files were well organized and well-documented. Each file contained an extensive hazard description and well developed employer knowledge gleaned from worker and management interviews. Most case files included numerous well labeled photos. All apparent violations were cited in each case were reviewed. According to the SAMM Report, of the 979 inspections conducted with citations issued, the average number of violations per inspections with serious, willful and/or repeat hazards was 2.28, and with other-than-serious (OTS) hazards, the average was 2.37. On average, MOSH found violations in 71% of the inspections conducted.

Before issuing a citation, MOSH considers the gravity of the violation as the primary factor in determining penalty amounts. It is the basis for calculating the basic penalty for all violations. To determine the gravity of a violation, MOSH considers the severity of the injury or illness which could result from the alleged violation and the probability that an injury or illness could occur as a result of the alleged violation. During the on-site review, it was determined that MOSH appropriately classified each violation and takes extra care to ensure the described procedures are followed before citations are issued. MOSH grouped citations where appropriate. The case file review did not note any major deviations from MOSH or OSHA policy.

Twenty-seven (27) files containing repeat violations were reviewed. The review indicated that MOSH cited repeat violations where it was appropriate. A significant review is conducted for all fatality and significant cases prior to issuance. MOSH will consult with the Office of the Attorney General when any questions or concerns arise prior to issuance of citations. The average serious penalty in the private sector in FY 2015 was \$747.42. A breakdown based on the number of workers is located in the table below:

Average Penalty	
Number of Workers	Average Serious Penalty
1 -25	\$608.18
26 -100	\$889.28
101-250	\$1,174.05
Greater than 250	\$2,013.38

MOSH followed the current policies and procedures and appropriately assessed penalties in each of the reviewed files. During FY 2015, MOSH provided effective consideration to the gravity of violations, the size of the business being inspected, good faith of the employer, the employer's previous inspection history, as well as the type, gravity, and severity of the violation when initially assessing penalty adjustment

factors in accordance with their established penalty guidelines.

MOSH's average current penalty per serious violation in private sector (SAMM 8:1-250+ workers) was \$747.42 in FY 2015. The Further Review Level (FRL) is -25% of the National Average (\$2,002.86) which equals \$1,502.14. Penalty levels are at the core of effective enforcement, and State Plans are therefore required to adopt penalty policies and procedures that are "at least as effective as" (ALAE) those contained in the FOM which was revised on October 1, 2015 to include changes to the penalty structure in Chapter 6 – Penalty and Debt Collection.

Note that with the passage of the Bipartisan Budget Bill on November 2, 2015, OSHA is now required to raise its maximum penalties in 2016 and to increase penalties according to the Consumer Price Index (CPI) each year thereafter. State Plans are required to follow suit. As a result of this increase in maximum penalties, OSHA will be revising its penalty adjustment factors in Chapter 6 of the FOM. Following completion of the FOM revision and after State Plans have the opportunity to adopt the required changes in a timely manner, OSHA will be moving forward with conducting ALAE analysis of State Plan penalty structures, to include evaluation of average current penalty per serious violation data.

5) Abatement

The on-site review revealed that MOSH was requesting appropriate abatement periods. Of the case files reviewed, it was determined that the CO and the regional supervisor used professional judgment while keeping the best interest of the workers in mind to justify a reasonable abatement date. A specific date for final abatement was included with the citations when the violation was not corrected during the inspection.

Verification of abatement and evidence of abatement was well-documented and clearly identified in the case file. All citations issued as a result of an inspection are marked to indicate abatement verification requirements. MOSH requires abatement documentation for all serious high gravity citations. During FY 2015, MOSH conducted nine follow-up inspections during. The on-site review did not reveal any deviations from current MOSH policy.

6) Worker and Union Involvement

During the on-site review, it was noted that workers are interviewed and unions are given the opportunity to participate in opening and closing conferences, as well as during the walkaround inspections. MOSH policies resemble OSHA policies. Under COMAR 09.12.20.F, if the employer contests, workers have the right to elect "party status" before the hearing examiner.

MOSH notates a reasonable number of worker interviews during each inspection. Worker interviews are used to develop hazard descriptions and develop employer

knowledge. Interview statements are maintained in case files associated with accidents and fatalities.

The CO determines as soon as possible after arrival whether the workers at the worksite to be inspected are represented and, if so, ensure that worker representatives are afforded the opportunity to participate in all phases of the workplace inspection. The on-site review did not reveal any deviations from this policy.

C. REVIEW PROCEDURES

1) Informal Conferences

MOSH follows the FOM guidance when determining penalty reductions during the informal conference. The MOSH conferee negotiates the amount of penalty reduction depending on the circumstances of the case, the financial condition of the employer, and what improvements in worker safety and health can be obtained in return. Penalty reductions are not offered for those items which lack proper documentation of abatement.

During FY 2015, MOSH provided effective consideration to the gravity of violations, the size of the business being inspected, good faith of the employer, the employer's previous inspection history, as well as the type, gravity and severity of the violation when initially assessing penalty adjustment factors in accordance with their established penalty guidelines.

MOSH provides justification for vacating and/or reclassifying violations and did not often vacate or reclassify violations. During the FY 2015 on-site review, there were no concerns with the changes made to citations during the informal conference. All changes noted were appropriate to the case.

Any modifications made to violations did not indicate any systemic problems within the MOSH Program. The on-site review did not reveal any settlement pattern concerns. MOSH retained penalties above the national average and did not need to reclassify or vacate any significant number of violations. MOSH procedures were deemed adequate as SAMM #12 indicates that MOSH maintained 74.79% of the penalty.

2) Formal Review of Citations

According to the MOSH FOM, when a Notice of Contest is properly filed with the Commissioner or authorized representative within 15 working days of receipt of the citation, the case is officially in litigation. Upon receipt of a Notice of Contest, the Commissioner or authorized representative notifies the Office of Administrative Hearing. The Commissioner or authorized representative also informs the employer of the time, place, and nature of the hearing. Based on the case files reviewed, the State Plan defense was deemed adequate in FY 2015.

Of those case files that were reviewed in FY 2015, only four of the cases were contested. Two of the cases were settled prior to hearing. A citation was reclassified in one case that went to hearing. The employer accepted the same settlement that was offered in the informal conference for the second case. Citations in this case were neither vacated nor reclassified.

Of those case files reviewed in FY 2015, penalties were reduced in one of the contested cases which went to hearing. There was no indication of problems with the original citations upon review or to adverse decisions made by MOSH. MOSH policy regarding the disclosure of documents is governed by the Maryland Public Information Act (MPIA) and the regulations adopted by DLLR (COMAR 09.01.04). MOSH policy is to disclose all documents to which the public is entitled under the MPIA and the regulations. All decisions were made available to the public and were consistent with federal procedures. There were no discrepancies with FOM procedures.

D. STANDARDS AND FEDERAL PROGRAM CHANGES (FPCs) ADOPTION

1) Standards Adoption

As a State Plan, MOSH has the authority to promulgate standards and regulations which may be more stringent than OSHA standards. MOSH has multiple standards and regulations which differ from the federal program such as but are not limited to: High Voltage Lines (Title 6), Fall Protection in Steel Erection (Code of MD Regulations (COMAR) 09.12.25), Crane Safety (COMAR 09.12.26), Confined Spaces (COMAR 09.12.35), and Tree Care and Removal (COMAR 09.12.28). MOSH has also made amendments to OSHA standards that are more stringent than OSHA such as Permit-Required Confined Spaces (29 CFR 1910.146), Occupational Exposure to Formaldehyde (29 CFR 1910.1048), Lead in Construction Work (29 CFR 1926.62), Excavations (Requirements for Protective Systems 29 CFR 1926.652), and Steel Erection (29 CFR 1926, Subpart R).

When OSHA incorporates changes to standards or the federal program, State Plans are required to respond within 60 days of initial notification to declare whether they intend to adopt the change. According to 29 CFR 1953, when a federal change is identified as having the potential to impact the effectiveness of the State Plans, State Plans are required to either adopt the change identically, or submit an alternative approach with a State Plan supplement that is at least as effective as the federal change.

MOSH responded with the program's intent and did not adopt Cranes and Derricks in Construction: Operator Qualification and Certification (1926.147(k)) because the program already has an equivalent standard in place. MOSH responded that it will be adopting Electric Power Generation, Transmission, and Distribution (1910.269, 1926). It was expected that the standard would be adopted by January 1, 2016, but it was not adopted in FY 2015. MOSH responded that it will adopt – but not identically

– the Occupational Injury and Illness Recording and Reporting Requirements-NAICS Update and Reporting Revisions (1904). MOSH did not adopt this standard in FY 2015, but is expected to be adopted in FY 2016. OSHA is currently awaiting a comparison document.

MOSH did not initiate any standards in FY 2015.

2) OSHA or State Plan-Initiated Changes

During FY 2015, OSHA adopted nine directives which required the State Plan’s intent during the evaluation period. MOSH did not respond to any of these by the deadline. MOSH responded to and adopted the National Emphasis Program – Primary Metal Industries (CPL 03-00-018) Directive. MOSH responded to, but has not adopted, the Compliance Directive for the Cranes and Derricks in Construction Standard (CPL-02-01-057) as the program follows guidance in the FOM.

MOSH has not responded with the program’s intent to adopt any of the other directives in FY 2015 – including the National Emphasis Program on Amputations (CPL 03-00-019) – even though adoption is required. In addition, MOSH has not taken action on three directives prior to those initiated in FY 2015. MOSH responded with the intent to adopt the Directive on Inspection Procedures for Accessing Communication Towers (CPL-02-01-056), but has not yet submitted a comparison document to OSHA for review.

MOSH did not take action on seven of nine or 78% of the FPCs incorporated during FY 2015. OSHA adopted nine directives which required the State Plan’s intent during FY 2015. MOSH did not respond to any of these prior to the deadline. Furthermore, MOSH did not take action on three of five (60%) of FPCs during FY 2014.

The whistleblower review revealed that MOSH continues to use the Final Investigative Report (FIR) form instead of the Report of Investigation (ROI) form used by OSHA. It was also noted that additional tabbing consistency would make the documents more discernible from one another. The adoption of the Whistleblower Investigations Manual (CPL-02-03-005) would implement the form update as well as consistent tabbing. The below table presents information on FPCs that occurred in FY 2014 and FY 2015 and MOSH’s response to each:

Federal Program Changes		
FPC	OSHA Adoption Date	MOSH Adoption Date
Whistleblower Investigations Manual (CPL-02-03-005)	April 21, 2015	No Response/ Not Adopted
Enforcement Procedures and Scheduling for Occupational Exposure to Tuberculosis (CPL-02-02-078)	June 30, 2015	No Response/ Not Adopted

Inspection Procedures for the Hazard Communication Standard (CPL-02-02-079)	July 9, 2015	No Response/ Not Adopted
July 29, 2015: OSHA Alliance Program (CSP-04-01-002)	July 29, 2015	No Response/ Not Adopted
July 30, 2015: Special Government Employee (SGE) Program Policies & Procedures Manual for the Occupational Safety and Health (TED 03-01-004)	July 30, 2015	No Response/ Not Adopted
August 13, 2015: National Emphasis Program on Amputations (CPL-03-00-019)	August 13, 2015	No Response/ Not Adopted
Alternative Dispute Resolution Process for Whistleblower Protection Program (CPL 02-03-006)	August 18, 2015	No Response/ Not Adopted
Directive on the National Emphasis Program - Primary Metal Industries (CPL-03-00-018).	October 20, 2014	Response Received/ Adopted December 1, 2014
Compliance Directive for the Cranes and Derricks in Construction Standard (CPL-02-01-057).	October 17, 2014	Response Received December 1, 2014/ Not Adopted
Directive on Mandatory Training Program for OSHA Compliance Personnel (TED-01-00-019).	July 21, 2014	Response Received/ Adopted May 11, 2015 (Not Identical)
Directive on Inspection Procedures for Accessing Communication Towers (CPL-02-01-056).	July 17, 2014	Response Sent November 25, 2014/ Not Adopted
Directive on Inspection Procedures for the Respiratory Protection Standard (CPL-02-00-158).	June 26, 2014	No Response/ Not Adopted
Directive on Shipyard Employment "Tool Bag" (CPL-02-00-157).	April 1, 2014	No Response/ Not Adopted
OSHA Strategic Partnership Program for Worker Safety and Health (CPL-03-02-003).	November 6, 2013	No Response/ Not Adopted

To date, MOSH needs to take action on 10 FPCs from FY 2014 and FY 2015. Changes initiated by MOSH are presented in the table below:

MOSH Instructions and Standards Notices Issued in FY 2015		
Topic	MOSH Instruction/ Standards Notices	Notes
Local Emphasis Program (LEP) Electrical Hazards in Construction	MI 15-1	Applies in Maryland only
Local Emphasis Program (LEP) Fall Hazards in Construction	MI 15-2	Applies in Maryland only
Local Emphasis Program (LEP) Tree Care and Removal	MI 15-3	Applies in Maryland only

Local Emphasis Program (LEP) Health Hazards in Construction	MI 15-4	Applies in Maryland only
Local Emphasis Program (LEP) State and Local Government	MI 15-5	Applies in Maryland only
Local Emphasis Program (LEP) Maryland High Hazard Industries	MI 15-6	Applies in Maryland only
Local Emphasis Program (LEP) Crushed-by/Struck-by Hazards in Construction	MI 15-7	Applies in Maryland only
REVISION – National Emphasis Program – Primary Metal Industries (CPL 03-00-018)	MI 15-8	Cancels MOSH Instruction 13-5
Focused Inspections	MI 15-9	Applies in Maryland only
National Emphasis Program – Occupational Exposure to Isocyanates (CPL 03-00-017)	MI 15-10	
Mandatory Training Program for MOSH Compliance Personnel (TED 01-00-019)	MI 15-11	Cancels MOSH Instruction 09-02

MOSH did not have any regulatory changes to submit in FY 2015. In FY 2015, MOSH adopted the National Emphasis Program for Occupational Exposure to Isocyanates and Primary Metal Industries. However, MOSH did not respond to or adopt the National Emphasis Program on Amputations.

E. VARIANCES

MOSH did not receive any requests for a variance in FY 2015.

F. STATE AND LOCAL GOVERNMENT WORKER PROGRAM

In FY 2015, MOSH conducted 9.71% of inspections in state and local government workplaces. Although no penalties are assessed against state and local government employers, MOSH has worked successfully with these agencies to bring them into compliance with current safety and health standards. MOSH is above their negotiated further review level of +/- 8.99% for SAMM 6.

G. WORKPLACE RETALIATION PROGRAM

The reports were explicit in testing witness statements and complainant's allegations as the reasoning from the respondent. Legal reasoning in the investigators evaluation met positively. Detailed notes of closing conferences held with the complainant were present in the case file. During the on-site review, OSHA noted that MOSH procedures were at least as effective as OSHA's except that MOSH has yet to adopt a whistleblower appeals process.

It was also noted that out of 33 cases reviewed, only one settlement occurred. MOSH investigations were conducted timely. OSHA noted one IMIS entry with a

supervisory approval date that conflicted with the docketing date (most likely attributed to a late entry error).

H. COMPLAINT ABOUT STATE PROGRAM ADMINISTRATION (CASPA)

OSHA did not receive any CASPAs associated with MOSH in FY 2015.

I. VOLUNTARY COMPLIANCE PROGRAM

MOSH’s Cooperative Compliance Program (CCP) seeks to establish joint cooperative relationship with private sector companies who are committed to reducing injuries and illnesses and building a positive safety and health culture. This program is mostly focused in the construction industry. The active CCP sites are listed in the table below:

Active Cooperative Compliance Program Sites			
Company Name	Project Name	City	Est Cost
The Whiting-Turner Contracting Company	Salisbury University East Athletic Stadium	Salisbury	19M
The Whiting-Turner Contracting Company	MGM National Harbor Resort	Oxen Hill	850M
CDM Smith/Haskel	City of Annapolis Water Treatment Plant	Annapolis	32M
AHP Construction LLC (Armada Hoffer)	Exelon Headquarters	Baltimore	165M
Barton Malow Company	UMMB Health Sciences Facility	Baltimore	216M
Barton Malow Company	Coppin State University	Baltimore	77M
The Whiting-Turner Contracting Company	JHBMC Renovation	Baltimore	21.9M
Fru-Con Construction, LLC	Patapsco WWTP SC 845R	Baltimore	130M
The Whiting-Turner Contracting Company	Pike & Rose, Phase 1	Rockville	182M
The Whiting-Turner Contracting Company	Holy Cross Hospital Silver Spring	Silver Spring	145M

Five new partnerships were signed in FY 2015 with various general contractors throughout the state of Maryland – totaling over \$1.2 billion in new construction projects throughout the state. MOSH signed its 75th partnership in August 2015. This project is estimated to cost 850 million dollars and cover approximately 3.3 million square feet of new construction. The Outreach Unit is one partnership shy of its five-year goal (while still in year three).

There are several applications in the review process that are likely to become new partners throughout fiscal year 2016. In FY 2015, the unit performed 146 inspections of subcontractors and spoke with nearly 400 subcontractors during 26 site visits. The inspection team removed over 6,000 workers from 271 hazards. There are currently 10 active CCP sites throughout the state – all operating at near zero injury and illness rates. The companies that were awarded a partnership in FY 2015 are presented in the table below:

Companies Awarded a Partnership in FY 2015			
Company Name	Project Name	Signing Date	Est. Cost
Barton Malow Company	UMMB Health Sciences Facility	12/18/2014	216M
CDM Smith/Haskel	City of Annapolis Water Treatment Plant	6/25/2015	32M
AHP Construction LLC (Armada Hoffer)	Exelon Headquarters	6/4/2015	165M
The Whiting-Turner Contracting Company	Salisbury University East Athletic Stadium	8/14/2015	19M
The Whiting-Turner Contracting, Company	MGM National Harbor Resort	8/21/2015	850M

MOSH's Voluntary Protection Program (VPP) recognizes mid-to-large size employers for developing a comprehensive safety and health management system that protects workers from harm. These VPP workplaces are recognized for their efforts in achieving an exceptional, progressive program that has management commitment and worker involvement, employs routine hazard identification, hazard control and safety, and health training. MOSH's VPP mirrors federal OSHA's VPP with the exception that it only accepts employers who meet the STAR status – the federal program also allows for the MERIT designation to employers who are close, but have not yet met the full criteria of the program. MOSH's VPP also does not extend the program to mobile worksites.

MOSH did not recognize any new companies with VPP status in FY 2015; however, MOSH's CPP maintained partnerships with the 15 sites that were previously awarded. MOSH's VPP has begun the recertification process for five of the current worksites, and has accepted new applications from companies interested in VPP. The active VPP sites in FY 2015 are listed below:

Active VPP Sites	
Company	Location
Clean Harbors Environmental Services	Baltimore
Covanta Energy	Dickerson
Frito-Lay	Aberdeen
Grace Davis Technical Center	Curtis Bay
Life Technologies Corporation	Frederick
Monsanto Galena Research Station	Galena
Northrop Grumman Advanced Technologies Laboratories	Linthicum
Northrop Grumman Electronic Systems	Linthicum
Performance Pipe	Hagerstown
Sherwin Williams	Crisfield
Covanta Montgomery Transfer Station	Derwood
Wheelabrator	Baltimore
GE Healthcare	Laurel
Sherwin Williams	Beltsville
Solipsys Corp.	Fulton

Inspection deferrals are approved under VPP which mirrors the federal policy. Worksites are removed from programmed inspection lists during participation in MOSH's VPP. MOSH did not make any changes to its voluntary and cooperative programs in FY 2015.

J. STATE AND LOCAL GOVERNMENT 23(g) ON-SITE CONSULTATION PROGRAM

According to the FY 2015 Mandated Activities Report for Consultation (MARC), the MOSH Consultation Program conducted 45 on-site consultation visits to state and local government workplaces in FY 2015. Thirty-three (33) of the 45 visits were initial visits. MOSH surpassed their goal of conducting 28 inspections by 17 inspections. MOSH conducted 27 of the total on-site visits in businesses with 250 or fewer workers. One hundred percent (100%) of the visits with hazards were abated within the required timeframe.

MOSH Education and Training Unit

In FY 2015, MOSH's Training and Education Unit offered 101 educational seminars covering 29 topics at no cost to the workers and employers in Maryland, including federal workers and contractors. Most of the seminars were taught by MOSH COs and consultants and were offered at locations throughout the state. Just over 2,100 workers and employers participated in the half and full day seminars. MOSH also offers employers the opportunity to request speaking engagements where COs give presentations on relevant technical safety and health topics. In FY 2015, 58 different employers, institutions, and government agencies requested a MOSH CO to speak at their jobsite. MOSH speakers spent nearly 90 hours presenting on various safety and health topics to over 3,400 workers at these speaking engagements.

In late FY 2015, MOSH developed two new seminars that were geared toward state and local government workers and healthcare workers. These two seminars focused on the safety and health hazards typically found in these two settings. The presentations gave a broad overview of what employers and workers need to be aware at their workplace and MOSH will continue to offer these two seminars throughout FY 2016.

MOSH also considers teen safety to be an important topic to cover with high school students readying to enter the work force. Each year MOSH receives numerous speaker invitations at various high schools throughout the state. In FY 2015, MOSH gave more than 20 presentations to over 1,000 thousand students in Maryland.

IV. Assessment of State Plan Progress in Achieving Annual Performance Goals

This section provides an assessment of MOSH's progress in achieving its annual performance plan (APP) goals. FY 2015 was the third year of MOSH's five-year strategic plan which encompasses FY 2013-2017. MOSH's FY 2015 APP supports its five-year strategic plan.

MOSH's first strategic goal is to improve workplace safety and health through compliance assistance and enforcement of occupational safety and health regulations. The supporting performance goals include decreasing the fatality rate by one percent yearly (for a five-year reduction of five percent) and maintaining or reducing the serious injury Days Away, Restricted Duty, or Transfer (DART) case rate of 2.0. MOSH completed 83% of the projected number of construction inspections conducted in FY 2015. The DART rate increased slightly to 1.7 injuries and illnesses per 100 full-time employees (FTEs) from calendar year (CY) 2014.

MOSH's second strategic goal is to promote a safety and health culture through cooperative programs, compliance assistance, on-site consultation programs, outreach, training and education, and informative services. There are three performance goals under this strategic goal. Although the number of recognition programs participants did not increase in FY 2015 (Performance Goal 2.1), MOSH has begun recertification for each active project already recognized in FY 2016, and will begin accepting new applications by FY 2017.

MOSH exceeded FY 2015 Performance Goal 2.2 (to sign three new cooperative partnerships) by signing five new partnerships in targeted high-hazard industries. Performance Goal 2.3 (to maintain attendance in MOSH outreach and training programs annually at 6,000 participants) was missed by 500 under participants. There was a total of 5,504 participants in MOSH's outreach and training programs in FY 2015. MOSH is currently working on presentations for new topics and engaging online resources to stretch resources while reaching the public.

MOSH's third strategic goal is to secure public confidence through excellence in the development and delivery of MOSH programs and services. Performance Goal 3.1 supports the strategic goal by initiating at least 95% of fatality and catastrophe inspections within one working day of notification. MOSH initiated 100 percent their inspections within one working day of the notification of an occupational fatality and/or catastrophe. Performance Goal 3.2 (percentage of serious complaint inspections initiated within an average of five days of notification) was exceeded. Complaint inspections were initiated in 2.63.

MOSH has greatly improved their timeliness related to Performance Goal 3.3 (to maintain the percent of discrimination complaint investigations completed within 90 days to at least 90 percent). In FY 2015, MOSH investigated 50 percent of the discrimination cases within 96 days of receiving the complaint. Data that would indicate users'

satisfaction and experience on MOSH's website is not available to measure Performance Goal 3.4. An online poll that rates MOSH website user experience is in the developmental stage and will serve as an evaluation tool. MOSH has improved and continues to improve their website to be more user-friendly.

Performance Goal 3.5 relates to the overall satisfaction of services provided by MOSH's consultation program measured by DLLR's external customer service form. Progress towards this goal is reported in MOSH's Consultation Annual Performance Report.

MOSH's Performance Goal 3.6 relates to the timeliness of services provided by MOSH's Consultation Program. Although, the number of days from receipt of request to the visit was over the 30 day average, it was decreased significantly from the FY 2014 average of 108 days. Additionally, MOSH exceeded their goal to issue reports within four days after the close-out of the consultation visit. Progress toward the private sector consultation program goal is reported in MOSH's Consultation Annual Performance Report.

V. Other Special Measures of Effectiveness and Areas of Note

N/A

Appendix A – New and Continued Findings and Recommendations
FY 2015 Maryland State Plan Comprehensive FAME Report

FY 20XX-#	Finding	Recommendation	FY 2015-# or FY 2014-OB-#
FY 2015-01	In FY 2014 and FY 2015, MOSH did not take action on 71% of the Federal Program Changes (FPCs).	MOSH should develop a strategy that ensures action is taken on FPCs within the required timeframes.	
FY 2015-02	In 81% of case files reviewed, MOSH held informal conferences beyond the 15 working day period.	MOSH should reevaluate and update their Field Operations Manual (FOM) policy to ensure that informal conferences are held within 15 working days.	
FY 2015-03	In 75% of the fatality case files reviewed, MOSH did not include documentation that the final next-of-kin (NOK) letter with inspection results were provided to family members.	MOSH should develop a strategy to ensure that final NOK letters with inspection results are provided to family members in all fatality cases.	
FY 2015-04	MOSH does not currently have an internal appeals process for discrimination.	MOSH should develop and implement an internal appeals process for discrimination. (Current status: MOSH has developed an appeals mechanism for discrimination cases and is planning implementation no later than June 2016.)	FY 2014-01

Appendix B – Observations Subject to New and Continued Monitoring
FY 2015 Maryland State Plan Comprehensive FAME Report

Observation # FY 20XX-OB-#	Observation# FY 20XX-OB-# or FY 20XX-#	Observation	Federal Monitoring Plan	Current Status
FY 2015-OB-01		MOSH failed to respond to two separate complainant requests well beyond the three-day timeframe.	OSHA will continue to monitor and track MOSH's timeliness when responding to complaint investigations. In FY 2016, a limited number of case files will be randomly selected and reviewed to determine if these are isolated instances or if this represents a trend that requires further action.	New

Appendix C – Status of FY 2014 Findings and Recommendations
FY 2015 Maryland State Plan Comprehensive FAME Report

FY 20XX-#	Finding	Recommendation	State Plan Response/ Corrective Action	Completion Date	Current Status
FY 2014-01	MOSH does not currently have an internal appeals process for discrimination.	MOSH should continue to work to implement an internal appeals process which is at least as effective as the current federal process.	MOSH has developed an appeals mechanism for discrimination cases and is planning implementation no later than June 2016.	N/A	Open

Appendix D – New and Continued Findings and Recommendations
FY 2015 Maryland State Plan Comprehensive FAME Report

OSHA is in the final stages of moving operations from NCR, a legacy data system, to OIS, a modern data system. During FY 2015, OSHA case files and most State Plan case files were captured on OIS. However, some State Plan case files continued to be processed through NCR. The SAMM Report, which is native to IMIS, a system that generates reports from the NCR, is not able to access data in OIS. Additionally, certain algorithms within the two systems are not identical. These challenges impact OSHA’s ability to combine the data. In addition, SAMMs 5, 8, 9, 11, 12, 15, and 17 have further review levels that should rely on a three-year national average. However, due to the transition to OIS, the further review levels for these SAMMs in this year’s report will rely on a one-year national rate pulled only from OIS data. Future SAMM year-end reports for FY 2016 and FY 2017 should rely on a two-year national average and three-year national average, respectively. All of the State Plan and federal whistleblower data is captured directly in OSHA’s WebIMIS System. See the “Notes” column below for further explanation on the calculation of each SAMM. All of the Maryland State Plan’s enforcement data was captured in OIS during FY 2015. The Maryland State Plan opened 1,370 enforcement inspections, and they were all captured in OIS.

U.S. Department of Labor				
Occupational Safety and Health Administration State Plan Activity Mandated Measures (SAMMs)				
State Plan: Maryland - MOSH			FY 2015	
SAMM Number	SAMM Name	State Plan Data	Further Review Level	Notes
1a	Average number of work days to initiate complaint inspections (state formula)	2.63	5	State Plan data is pulled only from OIS. Further review level is negotiated by OSHA and the State Plan.
1b	Average number of work days to initiate complaint inspections (federal formula)	2.22	N/A	State Plan data is pulled only from OIS. This measure is for informational purposes only and is not a mandated measure.
2a	Average number of work days to initiate complaint investigations (state formula)	3.38	3	State Plan data is pulled only from OIS. Further review level is negotiated by OSHA and the State Plan.

Appendix D – New and Continued Findings and Recommendations
FY 2015 Maryland State Plan Comprehensive FAME Report

SAMM Number	SAMM Name	State Plan Data	Further Review Level	Notes
2b	Average number of work days to initiate complaint investigations (federal formula)	0.62	N/A	State Plan data is pulled only from OIS. This measure is for informational purposes only and is not a mandated measure.
3	Percent of complaints and referrals responded to within one workday (imminent danger)	100%	100%	State Plan data is pulled only from OIS. Further review level is fixed for every State Plan.
4	Number of denials where entry not obtained	0	0	State Plan data is pulled only from OIS. Further review level is fixed for every State Plan.
5	Average number of violations per inspection with violations by violation type	SWRU: 2.28	+/-20% of SWRU: 1.92	State Plan data is pulled only from OIS. Further review level is based on a one-year national rate, pulled only from OIS.
		Other: 2.37	+/-20% of Other: .87	
6	Percent of total inspections in state and local government workplaces	9.71%	+/- 5% of 8.99%	State Plan data is pulled only from OIS. Further review level is based on a number negotiated by OSHA and the State Plan through the grant application.
7	Planned v. actual inspections – safety/health	S: 1,209	+/- 5% of S: 1,595	State Plan data is pulled only from OIS. Further review level is based on a number negotiated by OSHA and the State Plan through the grant application.
		H: 161	+/- 5% of H: 252	

Appendix D – New and Continued Findings and Recommendations
FY 2015 Maryland State Plan Comprehensive FAME Report

SAMM Number	SAMM Name	State Plan Data	Further Review Level	Notes
8	Average current serious penalty in private sector - total (1 to greater than 250 workers)	\$747.42	+/- 25% of \$2,002.86	State Plan data is pulled only from OIS. Further review level is based on a one-year national rate, pulled only from OIS.
	a. Average current serious penalty in private sector (1-25 workers)	\$608.18	+/- 25% of \$1,402.49	State Plan data is pulled only from OIS. Further review level is based on a one-year national rate, pulled only from OIS.
	b. Average current serious penalty in private sector (26-100 workers)	\$889.28	+/- 25% of \$2,263.31	State Plan data is pulled only from OIS. Further review level is based on a one-year national rate, pulled only from OIS.
	c. Average current serious penalty in private sector (101-250 workers)	\$1,174.05	+/- 25% of \$3,108.46	State Plan data is pulled only from OIS. Further review level is based on a one-year national rate, pulled only from OIS.
	d. Average current serious penalty in private sector (greater than 250 workers)	\$2,013.38	+/- 25% of \$3,796.75	State Plan data is pulled only from OIS. Further review level is based on a one-year national rate, pulled only from OIS.
9	Percent in compliance	S: 21.70%	+/-20% of S: 28.47%	State Plan data is pulled only from OIS.
		H: 38.46%	+/-20% of H: 33.58%	Further review level is based on a one-year national rate, pulled only from OIS.
10	Percent of work-related fatalities responded to in one workday	100%	100%	State Plan data is pulled only from OIS. Further review level is fixed for every State Plan.

Appendix D – New and Continued Findings and Recommendations
FY 2015 Maryland State Plan Comprehensive FAME Report

SAMM Number	SAMM Name	State Plan Data	Further Review Level	Notes
11	Average lapse time	S: 29.96	+/-20% of S: 42.78	State Plan data is pulled only from OIS.
		H: 57.68	+/-20% of H: 53.48	Further review level is based on a one-year national rate, pulled only from OIS.
12	Percent penalty retained	74.79%	+/-15% of 67.96%	State Plan data is pulled only from OIS. Further review level is based on a one-year national rate, pulled only from OIS.
13	Percent of initial inspections with worker walk around representation or worker interview	99.78%	100%	State Plan data is pulled only from OIS. Further review level is fixed for every State Plan.
14	Percent of 11(c) investigations completed within 90 days	50%	100%	State Plan data is pulled from WebIMIS. Further review level is fixed for all State Plans.
15	Percent of 11(c) complaints that are meritorious	25%	+/-20% of 24%	State Plan data is pulled from WebIMIS. Further review level is based on a three-year national average, pulled from WebIMIS.
16	Average number of calendar days to complete an 11(c) investigation	96	90	State Plan data is pulled from WebIMIS. Further review level is fixed for all State Plans.
17	Percent of enforcement presence	1.34%	+/-25% of 1.35%	State Plan data is pulled only from OIS. Further review level is based on a one-year national rate, pulled only from OIS.