

FY 2016 Follow-up Federal Annual Monitoring and Evaluation (FAME) Report

California Division of Occupational Safety and Health (Cal/OSHA)



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I. Executive Summary

A. State Plan Activities, Themes, and Progress

The purpose of this report is to assess California's Occupational Safety and Health (Cal/OSHA) activities for Fiscal Year FY 2016 and its progress in resolving outstanding recommendations from the FY 2015 Comprehensive Federal Annual Monitoring and Evaluation (FAME) report. The Division of Occupational Safety and Health (DOSH), commonly known as Cal/OSHA, is the agency responsible for the enforcement of regulations protecting workers from health and safety hazards in California's workplaces.

California has continued to lead the way in innovative standard development. During this past fiscal year, Cal/OSHA and the Occupational Safety and Health Standards Board (OSHSB) developed, proposed, amended and promulgated 11 new or revised regulations including: Workplace Violence Prevention in Healthcare; Floor Openings, Floor Holes, and Roofs; Agricultural Personnel Transport Carriers; and Private Fire Brigades. A few of these regulations are the first of their kind in the nation, broadening the range of hazards from which workers are to be protected. The Workplace Violence Prevention in Healthcare, in particular, is unprecedented and will have national impact.

Cal/OSHA continued its highly effective Heat Illness Prevention Special Emphasis Program (SEP) in 2016. The program combines a multifaceted approach that includes education and focused enforcement. Effective training and outreach to employers, supervisors and work crews were provided by partnering with agricultural and construction industry groups, insurance carriers and other stakeholders. According to data from Cal/OSHA, 1,278 heat outreach activities were conducted, four news releases were issued, and the media campaign which included billboards, radio spots (bilingual), and store posters were continued.

In years past, when determining repeat violations, Cal/OSHA did not consider the employer's enforcement history statewide. Instead, the employer history was only considered within each of the six regions. In FY 2016, the Office of Administrative Law approved the change to the repeat violation definition which expands the definition to include an employer's history statewide. This change became effective on January 1, 2017.

California has begun to overcome the budgetary constraints they faced over the past few years. From July 2014 through FY 2016, Cal/OSHA has been able to fill approximately 100 positions in enforcement and enforcement-support units.

In FY 2016, Cal/OSHA enforcement successfully conducted a total of 7,456 inspections, which exceeded their goal of 7,300 inspections. During this time, over 19,851 hazards were abated, a significant increase from the 17,527 identified in FY 2015.

B. State Plan Introduction

The Department of Industrial Relations (DIR) administers the California State Plan. The Director of DIR and State Plan Designee is Christine Baker. Juliann Sum is the Chief of Cal/OSHA. Ms. Sum is supported by Debra Lee, Deputy Chief for Field Enforcement, Cora

Gherga, Assistant Chief of Enforcement Administration and Eric Berg, Deputy Chief for Research and Standards. Eugene Glendenning is the Consultation Program Manager as of FY2016.

The California Occupational Safety and Health Standards Board (OSHSB) under DIR, promulgates occupational safety and health standards for the state of California. The board consists of seven members who are appointed by the governor and led by David Thomas, Chairperson and Marley Hart, Executive Officer. Two of these positions were vacant in FY 2016 and one of these positions has yet to be filled.

The California Occupational Safety and Health Appeals Board (OSHAB) adjudicates contested cases. Art Carter is the Chairperson and Han Ha is the Executive Director.

Under the Labor Commissioner, the Division of Labor Standards Enforcement (DLSE) investigates allegations of retaliation. The Labor Commissioner is Julie Su and Acting Senior Deputy Labor Commissioner is Joan Healy.

There are 26 enforcement offices located throughout the State Plan. Seventeen of these offices are separated into four geographical regions, each headed by a regional manager. In addition, there are two High Hazard Units (HHUs) located in Oakland (HHU North) and Santa Ana (HHU South) that conduct programmed inspections of employers in high-hazard industries. The Process Safety Management (PSM) Unit has two offices located in Concord (PSM North) and Santa Ana (PSM South). The Crane Unit and a Pressure Vessel Unit assist Compliance Safety and Health Officers (CSHOs) by providing technical expertise for cranes, hoisting equipment, and pressure vessels. There are three Mining and Tunneling Unit offices in California whose mandate is to inspect tunnels under construction. There are two Labor Enforcement Task Force (LETF) Units located in Oakland (LETF North) and Santa Ana (LETF South) that target employers in the underground economy in partnership with other state agencies.

The grant agreement established the final base award to fund the program at \$82,119,042, with \$26,544,300 federally funded. The state matches the \$26,544,300 and contributes an additional \$29,030,442.

C. Data Methodology

OSHA established a two-year cycle for the FAME process. This is the follow-up year and OSHA did not perform the level of case file review associated with a comprehensive FAME. This strategy allows the State Plan to focus on correcting deficiencies identified in the last comprehensive FAME.

Information and data referenced in this follow-up report were derived from the computerized State Activity Mandated Measures (SAMMs) dated November 14, 2016, OSHA Information Systems (OIS), California's FY 2016 State OSHA Annual Report (SOAR), the Bureau of Labor Statistics data, the FY 2016 23(g) grant, Complaint About State Plan Administration (CASPA) investigations, OSHA's Web Integrated Management Information System (IMIS) reports, and Cal/OSHA's Policy and Procedure (P&P) Manual. The review of the State Plan also included

information from the four quarterly meetings with Cal/OSHA; as well as, meetings with DLSE, OSHSB, and the OSHAB.

D. Findings and Recommendations

There are 11 findings and five observations in this report. All 10 findings from FY 2015 were carried over to FY 2016 and there is one new finding elevated from an FY 2015 observation. There is one new observation. Four observations were carried over from the FY 2015 report. Each responsible division has formulated specific and measurable steps and is working to close these findings and observations. Details on the status of findings and observations from FY 2015 FAME Report are provided in Section III of this report. Appendix A describes new and continued findings and recommendations. Appendix B describes new observations and the observations subject to continued monitoring. Appendix C describes the status of each FY 2015 finding in detail.

II. Assessment of State Plan Performance

A. Major New Issues

Maximum Penalty Increase

With the passage of the Bipartisan Budget Bill on November 2, 2015, OSHA raised its maximum penalties effective August of 2016 and again increased penalties according to the Consumer Price Index (CPI) in January of 2017. As required by law, OSHA will continue to raise maximum penalties each year according to the CPI. State Plans are required to adopt both the catch-up increase and annual increase. Under Assembly Bill 112, California's Labor code sections 6427, 6429 and 6431 were amended to increase the maximum penalties and raise them each year based on the increase to the CPI. This adjustment becomes effective Jan 1, 2018.

Division of Workers' Compensation (DWC)

In the FY 2015 Comprehensive FAME Report, OSHA raised concerns that complaints of retaliation for reporting work related fatalities, injuries, or illnesses that did not also allege a safety or health hazard were being referred to the DIR's Division of Worker Compensation (DWC) for investigation. Reports of work related fatalities, injuries, or illnesses, whether there is a related safety or health hazard, are considered OSHA activities, therefore, all investigations of retaliation resulting from these reports fall under the OSHA grant. Investigations must be conducted following the requirements outlined in the Whistleblower Investigation Manual or an approved "at least as effective" policy document, and are subject to oversight and monitoring by OSHA

Legislation was recently passed amending the California Labor Code designating DWC the responsibility for cases where the employee alleges retaliation for filing or intending to file workers compensation claims. According to DIR, DWC will adjudicate the workers compensation claims, while DLSE will investigate any retaliation claims. OSHA will monitor to ensure the concerns raised in the previous FAME are adequately addressed.

Observation FY 2016-OB-01: All claims filed by workers who allege retaliation for reporting work related fatalities, injuries, or illnesses are not being investigated in accordance with the equivalent federal whistleblower requirements.

Federal Monitoring Plan FY 2016-OB-01: Following the effective date of the amendment to the Labor Code, OSHA will monitor DLSE's process for investigating claims filed by workers who alleged retaliation for reporting work related fatalities, injuries, or illnesses

Cal/OSHA and OSHSB

In October 2016, OSHSB approved the Workplace Violence Prevention in Healthcare Standard developed by Cal/OSHA. The rules apply to healthcare facilities in the state and are more comprehensive than any existing workplace violence protection rules for that industry. Specific assessments and prevention techniques are required to identify violence risks towards workers. The rule follows the enactment of Senate Bill (SB) 1299, requiring a workplace violence prevention regulation for healthcare workers promulgated by July 1, 2016. Additional work is underway to begin rulemaking for Workplace Violence Prevention for General Industry.

OSHAB

OSHAB launched the OASIS system (OSHAB Appeals Scheduling & Information System) on September 27, 2016, which benefited the administrative operation of the board. OASIS allows employers to initiate an appeal to a citation and submit appeal documents electronically; decreasing the amount of time it takes to process an appeal. The system generates notices of scheduled hearings and decreases the time spent by the Administrative Law Judges (ALJs) in accessing case files and documents when conducting hearings in the field. The OASIS public portal also allows parties involved in a case to view documents and events, such as scheduled conferences or hearings. In addition, OASIS promises easier access to appeal statistics and data which was formerly compiled manually. More information on OASIS is posted at www.dir.ca.gov/OSHAB, including FAQs and tips.

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

This is the fourth year of the Five-year Strategic Plan (2013-2017). The FY 2016 Annual Performance Plan was developed and submitted as part of the grant application.

Five-year Strategic Goal 1: Secure safe and healthy workplaces, particularly in high-risk industries, and improve workplace safety and health through enforcement and consultative assistance.

Annual Performance Goal 1.1: Target the mobile workforce to reduce fatalities and occupational injuries and illnesses in construction and agriculture by reducing and eliminating hazards in these industries.

- Conduct 2,800 inspections in construction and agriculture.
- Sustain a higher number of serious violations as compared to the previous fiscal year.
- Achieve abatement of non-contested serious hazards in 95% of the cases for both

construction and agriculture.

- Reduce fatalities by 0.2 as compared to the average of 5.9 over the previous three-year period.
- Reduce the incidence rate for total recordable occupational injury and illness cases per 100 full-time workers by 0.1 as compared to the average of 4.0 for construction and 5.4 for agriculture, forestry, fishing, and hunting over the previous three years.

Results:

- 2,877 inspections were conducted (2,284 in construction and 593 in agriculture).
- The percent of serious citations issued to establishments with agricultural and construction North American Industry Classification System (NAICS) codes were sustained at 85% and 86%, respectively.
- 97% of non-contested construction and 99% of non-contested agriculture inspections with serious, willful, and/or repeat violations were verified abated.
- During CY 2015, the fatality rate in construction was 6.8 and 17.1 in agriculture, forestry; fishing and hunting (see <https://www.bls.gov/iif/oshwc/foi/rate2015ca.htm>).
- During CY 2015, the incidence rate for total recordable occupational injury and illness cases was 3.3 in construction and 5.6 in agriculture, forestry, fishing and hunting (see www.dir.ca.gov/oprl/Injuries/2015/2015Table1.pdf).

Assessment:

Annual Performance Goal 1.1 was partially achieved.

The goal to conduct 2,800 inspections was surpassed. The goal to sustain a higher percentage of the serious classification of citations issued to establishments in agricultural and construction NAICS codes in FY 2016 compared to FY 2015 was achieved.

The goal of reducing fatalities by 0.2 as compared to the average of 5.9 over the past three years (2013 - 2015) was not achieved. There was an increase in the fatality rates as compared to the baseline of 5.9 in construction and 11.5 in agriculture, forestry, fishing and hunting (a specific data point for agriculture is not available through BLS). The fatality rate represents fatal injuries or illnesses per 100,000 full-time equivalent workers, based on total hours worked. The fatality rates in construction and agriculture for calendar years 2013, 2014, and 2015 were respectively 6.5, 4.5 and 6.8 in construction and 9.2, 8.2 and 17.1 in agriculture, forestry, fishing and hunting.

The goal of reducing the incident rate for total recordable occupational injury and illness cases (nonfatal injuries and illnesses) by 0.1 from the baseline average for the past three years (2013 – 2015) was achieved for construction by moving from 4 to 3.3; however it was not achieved for agriculture, forestry, fishing, and hunting, which increases from 5.4 to 5.6.

Fatal occupational injury rates by industry and incidence rates of nonfatal occupational injuries and illnesses by selected industries and case types for 2015 are available at

<https://www.bls.gov/iif/oshwc/foi/rate2015ca.htm>.

Annual Performance Goal 1.2: To reduce injuries, illnesses and fatalities in selected high hazard industries, with a goal of removing the industry from the high hazard industries list due to decreased injury and illness rates.

- Conduct 400 inspections of high hazard industries from the highest priority NAICS codes.
- Achieve abatement of non-contested serious violations in 97% of the cases.
- Percentage of programmed inspections conducted in high hazard establishments with serious, willful, repeat and/or unclassified (SWRU) violations will increase by 5%.

Results:

- 344 inspections were conducted by the High Hazard Enforcement Unit and other District Offices.
- 99% of non-contested SWRU violations in high hazard industry programmed inspections were verified as abated.
- The percent of programmed inspections conducted in high hazard establishments with SWRU violations increased by 7%, from 58.1 in FY 2015 to 62.2 in FY 2016.

Assessment:

Annual Performance Goal 1.2 was partially achieved.

The goal to conduct 400 inspections in FY 2016 was not achieved. This was due to unplanned staffing vacancies. Of the 344 inspections that were conducted, 303 were done by the High Hazard Unit. The remainder of the inspections were conducted by other district offices.

Annual Performance Goal 1.3: Reduce fatalities and occupational injuries and illnesses in refineries and other industries which fall under the requirement of the PSM standard.

- Conduct 40 programmed inspections at facilities, other than petroleum refineries, that meet the trigger threshold quantities for PSM.
- Participate in five outreach/compliance assistance activities provided to industry/professional groups.
- Conduct four comprehensive inspections of petroleum refineries.
- Conduct four turnaround inspections of petroleum refineries, which focus on the work and procedures to facilitate a unit shutdown.
- Conduct follow-up inspections at establishments other than petroleum refineries for 10% of all inspection types.
- Abatement of non-contested serious hazards will be achieved in 98% of cases.
- Number of fatalities and serious injury/illnesses attributable to violations of the PSM standard will be maintained at the average level for the past three years.

Results:

- 44 programmed inspections were conducted at facilities other than petroleum refineries that meet the trigger threshold quantities for the PSM standard.
- The PSM Unit staff participated in 12 outreach/ compliance assistance activities provided to industry/professional groups.
- The PSM Unit staff conducted four comprehensive programmed inspections of petroleum refineries.
- The PSM Unit conducted four turnaround inspections of petroleum refineries.
- Five follow-up inspections were conducted of the 48 total establishments.

- 100% of non-contested Process Safety Management Unit (PSM) inspections with serious, willful, and/or repeat violations cited during FY 2016 were verified abated.
- There were two fatalities or serious injuries/illness attributable to violations of the PSM standard at covered facilities during CY 2015.

Assessment:

Annual Performance Goal 1.3 was partially achieved.

The goals for conducting programmed inspections, outreach/compliance assistance activities, comprehensive programmed inspections, follow-up inspections, and turnaround inspections were achieved. A turnaround inspection is a planned, periodic shutdown (total or partial) of a refinery process unit or plant to perform maintenance, overhaul, and repair operations and to inspect, test, and replace process materials and equipment.

The goal of maintaining the average number of fatalities and serious injuries/illnesses attributable to violations of the PSM standard at covered facilities for the past three years (2013 - 2015) at 1.0 was not achieved. There were two fatalities according to the BLS data for calendar year 2015 (the 2016 data from BLS was not available when this FAME was written).

Five-year Strategic Goal 2: Promote workplace cultures that increase worker and employer awareness of, commitment to, and involvement in safety and health.

Annual Performance Goal 2.1: Raise awareness of heat illness prevention among workers and employer groups in outdoor places of employment.

- Conduct 2,400 inspections of outdoor places of employment where heat hazards were evaluated.
- Conduct a minimum of 80 seminars emphasizing heat illness prevention.
- Distribute a minimum of 5,000 units of heat illness prevention outreach materials during inspections and outreach events.
- Abatement of non-contested heat hazards found in outdoor places of employment will be achieved in 94% of cases.
- The number of heat-related serious illnesses and fatalities occurring in outdoor places of employment, based on Cal/OSHA internal tracking, will be maintained at the average baseline level for CY 2011-2013, which is 52 and 3, respectively.

Results:

- 2,611 inspections were conducted where heat hazards were evaluated: 2,087 in construction and 524 in agriculture, as reflected by OIS data on December 6, 2016.
- Over 100 seminars were conducted where heat illness was emphasized during FY 2016. In all, Cal/OSHA Enforcement staff participated in over 225 outreach events where heat illness prevention was addressed and/or publications were distributed, including TV and radio interviews.
- Staff distributed over 38,000 units of heat illness prevention materials during outreach events alone.
- 90% of non-contested inspections with heat violations cited during FY 2016 were abated.
- There was one confirmed outdoor heat related fatality and 63 confirmed heat illnesses in

CY 2015, based on Cal/OSHA internal tracking.

Assessment:

Annual Performance Goal 2.1 was partially achieved.

The outreach and inspection goals related to heat illness were exceeded and Cal/OSHA continues to collaborate with various employers, labor groups, community based organizations and local governments to train employers and workers on heat illness prevention. Cal/OSHA was not able to reach the abatement goal and will continue to work with employers to obtain abatement. The baseline average number of heat-related fatalities was met as it was below the BLS CY2011-2013 average of 3.0. However, the baseline average number of heat-related illnesses obtained from BLS for CY2011 – 2013 was 52, which is 11 less than the number of confirmed cases.

Annual Performance Goal 2.2: Promote and interact with high-risk worker organizations about workplace safety and health.

- Distribute over 12,000 publications and flyers in English and other languages.
- Conduct 100 events with vulnerable workers.
- At least 1,000 event participants will come away with an increase in knowledge of workplace health and safety hazards, workers' rights under the law and how to exercise their rights and 18,000 workers will also gain information from the training.
- Re-title and revise the Farm Labor Contractor (FLC) Safety and Health Guide and translate the publication into Spanish.

Results:

- Staff distributed over 60,000 publications and flyers while at outreach activities.
- Cal/OSHA Enforcement staff participated in approximately 100 outreach events which were attended by and/or reached 30,000 vulnerable workers, according to the SOAR.
- Over 1,000 event participants came away with increased knowledge of workplace safety and health hazards, in both English and Spanish. Additionally, over 18,000 workers gained health and safety knowledge from the workshops, training and other events.
- The English-language FLC Guide has been completed and is in final review status.

Assessment:

Annual Performance Goal 2.2 was achieved.

The state met the goal for distributing publications and flyers, and conducting events to reach vulnerable workers. The numbers of participants who gained an increased awareness and knowledge from these events was based on the number of people that attended the events and in training sessions conducted by OSHA Train-the-Trainer certified teachers. The English-language FLC Guide has been completed and is in final review status at the time of this evaluation. Upon completion of this review, the FLC Guide, now called *Safety and Health in Agricultural Field Operations*, will be translated into Spanish.

Annual Performance Goal 2.3: Promote voluntary compliance by offering employers a variety of partnerships including recognition and exemption programs.

- Both Cal/Voluntary Protection Program (VPP) and Cal/VPP Construction will hold one

workshop each to promote Cal/VPP and Cal/VPP Construction.

- Cal/VPP will bring in three new establishments and conduct 18 renewals.
- Cal/VPP Construction will bring in 10 new establishments and conduct 16 renewals.

Results:

- Four workshops were held to promote Cal/VPP and one to promote Cal/VPP Construction.
- Four new Cal/VPP sites were added and 21 were renewed.
- Nine new Cal/VPP Construction sites were added and none were renewed.

Assessment:

Annual Performance Goal 2.3 was partially achieved.

The goals for conducting workshops and bringing new and renewed Cal/VPP sites were achieved. Cal/VPP Construction goals were not achieved. Nine new sites were added and there were no renewals. Cal/VPP Construction participants are dropped from the active list when the project is completed.

Five-year Strategic Goal 3: Maximize Cal/OSHA’s effectiveness and enhance public confidence.

Annual Performance Goal 3.1: Respond effectively to mandates so that workers are provided full protection under Cal/OSHA by timely response to formal complaints and to nonfatal accidents, as well as by timely issuance of citations, so that hazards could be timely corrected.

- Run weekly “Un-programmed Activity (UPA) Tracking” reports to monitor unsatisfied complaints.
- Run monthly “UPA One Liner Detail” report to track complaint response time.
- Run monthly “Open Inspection” reports and work with CSHOs to expedite citation issuance.
- Monitor SAMMs and other management reports to track progress of citations lapse time.
- Respond to formal serious complaints on average within three working days and to formal non-serious complaints on average within 14 calendar days of receipt of the complaint.
- Decrease the average number of days for citations issuance for both safety and health inspections as compared to the combined Integrated Management Information System (IMIS) and OIS FY 2015 data of 74.9 days for safety and 83.0 days for health.
- Increase the percentage of SWRU violations abated during inspection by 3% compared to the 55% achieved in FY 2015.

Results:

- The Cal/OSHA staff ran the OSHA Information System (OIS) “UPA Tracking” report on a weekly basis to monitor the unsatisfied complaints,
- The OIS “UPA One Liner Detail” report was run monthly to track complaint response time.
- The OIS “Open Inspections” report was run monthly and management worked with CSHOs to identify less complicated cases without serious citations with the goal of

issuing citations as soon as possible.

- Cal/OSHA staff ran the OIS “SAMM” and “Open Inspection” reports to track citation lapse time and other measures.
- The response time as measured in OIS by SAMM 1 (average number of days to initiate complaint inspections) and SAMM 2 (average number of days to initiate complaint investigations) is not accurate since OIS data does not distinguish between serious and non-serious response times and Cal/OSHA works under state-specific mandates to respond to serious complaints in three working days versus non-serious complaints in 14 calendar days. Until OSHA completes work to modify these fields in OIS, Cal/OSHA does not have the data to evaluate this goal.
- Citation lapse time for safety and health inspection respectively has improved to 68.5 days for safety and 73.9 days for health in FY 2016.
- 69% of SWRU violations cited were abated before citations were issued.

Assessment:

Annual Performance Goal 3.1 was partially achieved.

The goals for tracking case files and the increased percentage of SWRU violations abated has been achieved. The outcome for the goal concerning complaint response time cannot be evaluated until OSHA completes modification of the appropriate fields in OIS to accommodate Cal/OSHA’s unique complaint response time requirements. Citation lapse time has improved during FY 2016 but it is still over 20% of the national average. OSHA will continue to monitor the progress of SWRU violations issued through Observation FY 2016-OB-04 and citation lapse time through Finding FY 2016-03.

Annual Performance Goal 3.2: Respond effectively to mandates so that workers are provided full protection under Cal/OSHA by timely response to imminent hazards and work-related fatality reports.

- Measure response time to a report of an imminent hazard (complaint/ referral) or work-related fatality is measured from the time the district office receives notification to the date of attempted entry.
- Use the SAMM report to monitor, on a monthly basis, response times to imminent hazard complaints/referrals, as well as fatality investigations and correct data entry errors that occur.
- Respond to all (100%) of imminent hazard complaints/referrals within one day of receipt.
- Respond to all (100%) work related fatality reports within one day of receipt.

Results:

- Cal/OSHA staff ran the OIS SAMMs report on a monthly basis and monitored response times to imminent hazard complaints/referrals, as well as fatality investigations and corrected any data entry errors identified.
- 100% of all imminent hazard complaints/referrals were responded to within one day of receipt.
- 93.6% of work related fatalities were opened within one workday.

Assessment:

Annual Performance Goal 3.2 was partially achieved.

OSHA data indicated that 93.5% of the fatalities were responded to within one day. Of the 141 fatalities, 132 were responded to within one work day. After close review of these nine fatalities, it was found that: Three were initially reported as non-fatal accidents and opened before becoming a fatality or day after being notified that it became a fatality; One was a heart attack and has been changed to self-referral; One was a penal code violation; Two were not within the State’s jurisdiction; and two were opened late.

C. Highlights from the State Activity Mandated Measure (SAMM)

Penalties (SAMM 8)

California OSHA’s average current penalty per serious violation in private sector (SAMM 8: 1-250+ workers) was \$7,294.33 in FY 2016. The Further Review Level (FRL) is -25% of the National Average (\$2,279.03) which equals \$1,709.27. Penalties are one component of effective enforcement, and State Plans are required to adopt penalty policies and procedures that are “at least as effective” (ALAE) as those contained in OSHA’s FOM, which was revised on August 2, 2016, to include changes to the penalty structure in Chapter 6 – Penalty and Debt Collection. OSHA will continue to explore ALAE analysis of State Plan penalty structures to include evaluation of average current penalty per serious violation data.

Penalties assessed continued to be the highest in the nation and exceeded the national data in all categories. Table 1 shows the average current penalty per serious violation based on the number of workers that are controlled by the establishment with smaller employers receiving a higher discount than larger employers.

**Table 1
Average Current Penalty per Serious Violation**

Number of Workers	FY 2016	National Average
Total 1-250+	\$7,427.28	\$2,329.72
1-25	\$5,026.65	\$1,586.45
26-100	\$7,704.58	\$2,601.13
101-250	\$9,824.94	\$3,596.91
251+	\$10,807.69	\$4,525.64

Fatality Response Time (SAMM 10)

OSHA data indicated that 93.5% of the fatalities were responded to within one day. Of the 141 fatalities, 132 were responded to within one work day. After close review of these nine fatalities, it was found that: Three were initially reported as non-fatal accidents and opened before becoming a fatality or day after being notified that it became a fatality; One was a heart attack and has been changed to self-referral; One was a penal code violation; Two were not within the State’s jurisdiction; and two were opened late.

III. Assessment of State Plan Corrective Actions

Finding FY 2015-01: OSHSB's regulations for residential construction fall protection are not at least as effective as OSHA's regulations as required by 29 CFR 1953.5(a).

Recommendations FY 2015-01: OSHSB should modify its construction fall protection regulations on a timely basis to ensure that its residential fall protection requirements are at least as effective as the federal regulation. In addition, Cal/OSHA and its stakeholders should coordinate with OSHA to work out any differences before finalizing the amended regulation.

Status: Open

OSHSB and OSHA have come to an agreement on standard language. The contract for the outside entity who will be conducting the economic impact is still under financial analysis, as required by the state legislature since the total cost is projected to be above \$50 million. This analysis will take at least six months, but once completed, the draft standard can proceed to rulemaking.

Finding FY 2015-02: Six of 43 (14%) cases reviewed lacked documentation that complainants were notified of the results of inspections or inquiries.

Recommendation FY 2015-02: Cal/OSHA should ensure complainants are consistently notified of the results of the complaint inspections or inquiries by inserting documentation into the case file.

Status: Awaiting Verification

Specific training on the policy to notify complainants of the results of the inspection or investigation and case file documentation for enforcement staff will occur in 2017. An internal enforcement program audit addressing this issue has been conducted for all the district offices within the regions. Audit results are expected to be completed in 2017. This will be verified during onsite case file review in the FY 2017 Comprehensive FAME.

Finding FY 2015-03: Cal/OSHA's citation lapse time for safety inspections was more than 20% above of the national average (SAMM 11).

Recommendation FY 2015-03: Cal/OSHA should work with district and regional managers to continue improving its citation lapse time.

Status: Open

Senior staff in district offices were directed and trained to decrease the average time spent reviewing cases and to monitor lapse times through OIS reports. Cal/OSHA is also implementing a new system for CSHOs to analyze and document the evidence of violations that is expected to make writing and issuing citations more efficient. This training is expected to be completed in 2017.

Finding FY 2015-04: The average number of serious, willful, repeat and unclassified violations issued per inspection was 0.7 violations per inspection. This is 63% below the national average of 1.9 (SAMM 5).

Recommendation FY 2015-04: Cal/OSHA should determine the cause of the low number of inspections with serious, willful, repeat and unclassified violations, and implement corrective actions to ensure serious hazards are identified and eliminated.

Status: Open

In FY2016, the average number of SWRU violations per inspection increased to 0.8. This

average is still 43% lower than the national average of 1.9. In their effort to continue this upward trend, training has been provided to all staff on this topic and a new system for CSHOs to analyze and document the evidence of violations is being implemented. The anticipated completion date is April 10, 2017. This finding will carry over to Finding FY2016-04, but it will be amended to reflect the new data from FY2016.

Finding FY 2015-05: Worker representatives were not involved in the opening conference nor were workers interviewed in 22 of the 205 (11%) inspections reviewed.

Recommendation FY 2015-05: Cal/OSHA should conduct opening conference with unions (either with the employer or separately) and ensure these conferences are appropriately documented. Cal/OSHA should also ensure that worker interviews are conducted and documented.

Status: Awaiting Verification

Cal/OSHA has involved worker representatives in all aspects of inspections 99.8% of the time when workplaces are unionized, to interview workers in all inspections, and to document these actions. Training of all professional enforcement staff, including district managers and senior staff, will be completed in 2017. The cumulative FY 2016 SAMM 13 (percent of initial inspections with worker walk around representation or worker interview) indicates that Cal/OSHA now exceeds the 98.4% of the national average. This will be verified during onsite case file review in the FY 2017 Comprehensive FAME.

Finding FY 2015-06: Eight of 12 (67%) workplace retaliation case settlement agreements were not signed and retained.

Recommendation FY 2015-06: DLSE should ensure that settlements for workplace retaliation cases are signed and retained.

Status: Awaiting Verification

DLSE has noted that it is following this recommendation but no documentation was provided. This will be verified during onsite case file review in the FY 2017 Comprehensive FAME.

Finding FY 2015-07: In one “settled” and one “settled other” claim, there was no documentation that the waiver of future employment clauses was evaluated to ensure complainants are allowed to secure employment in their locale, as per the Whistleblower Investigations Manual in effect at the time these two cases were closed.

Recommendation FY 2015-07: DLSE should follow procedures to ensure proper consideration and documentation of factors to evaluate whether a waiver of future employment clauses prevents complainants from working in their chosen fields in the locality where they reside.

Status: Awaiting Verification

DLSE requested additional training for their investigators. OSHA Region IX conducted the training in May 2017. This will be verified during onsite case file review in the FY 2017 Comprehensive FAME.

Finding FY 2015-08: Information was not consistently entered into the IMIS database accurately for 15 cases reviewed, as required by WIM 02-03-003 Chapters 2(III)(B), 4(IV)(B)(1&2), 5(VII), and 6(IV)(C&D(3)), and WIM 02-03-003 Chapters 2(III)(B), 4(IV)(B)(1&2), 5(VII), and 6(XII)(C(5)&D(4)), which were in effect when these 15 cases closed.

Recommendation FY 2015-08: DLSE should consistently and accurately enter information into Web IMIS.

Status: Awaiting verification

DLSE has requested additional training from OSHA for both clerical and investigators. OSHA Region IX conducted the training in August 2016 and March 2017. This will be verified during onsite case file review in the FY 2017 Comprehensive FAME.

Finding FY 2015-09: DLSE has not updated its Retaliation Complaint Investigation (RCI) Manual and/or Policies and Interpretations Manual to ensure that its policy and procedures are at least as effective as OSHA's.

Recommendation FY 2015-09: DLSE should update its RCI Manual and/or Policies and Interpretations Manual to ensure that its policy and procedures are at least as effective as OSHA's and submit to OSHA for approval.

Status: Open

OSHA and DLSE agreed that DLSE would complete portions of its manual by quarterly deadlines rather than provide a date when the entire manual will be completed.

Finding FY 2015-10: DLSE's Retaliation Complaint Investigation (RCI) Manual requirements do not reflect that orally filed, faxed, and e-mailed discrimination complaints are acceptable which does not align with OSHA's Whistleblower Investigation Manual.

Recommendation FY 2015-10: DLSE's RCI Manual should be changed to reflect that discrimination complaints will be accepted whether orally filed, faxed, or e-mailed.

Status: Open

OSHA and DLSE agreed that DLSE would complete portions of its manual by quarterly deadlines rather than provide a date when the entire manual will be completed.

Observation FY 2015-OB-01: There are state-specific mandates for the response times that categorize complaints as serious or non-serious, and formal or non-formal. The response time as measured by SAMM 1 and 2 is not accurate since OIS data does not separate serious and non-serious response time. Cal/OSHA has not determined nor provided complaint response times on a regular basis.

Federal Monitoring Plan FY 2015-OB-01: OSHA will continue to monitor and track Cal/OSHA's development of an effective method for collecting complaint response time data in a timely manner.

Status: Continued

Cal/OSHA did not provide the complaint response times in FY 2016. However, OSHA and Cal/OSHA created a special report called "CA SAMM" which tracks SAMM 1 and 2 differently than the rest of the nation. Going forward, this report will accurately determine the response time to formal serious complaints on average within three working days and to formal non-serious complaints on average within 14 calendar days of receipt of the complaint.

Observation FY 2015-OB-02: Final letters notifying the next-of-kin of the results of the fatality inspection were not sent in 16.7% (4 out of 24) of the case files reviewed.

Federal Monitoring Plan FY 2015-OB-02: OSHA will continue to monitor to ensure that final letters are being sent to the next-of-kin after completion of the investigation as required by P&P Manual C-170 and 170A.

Status: Continued

An internal enforcement program audit was conducted for all the district offices within the regions. Audit results will be completed in 2017. OSHA will evaluate during the FY 2017 on-site review whether this issue is still prevalent and warrants an observation.

Observation FY 2015-OB-03: The percent of programmed safety inspections completed by the High Hazard Unit and Process Safety Management Unit, with serious, willful, repeat, or unclassified (SWRU) violations was lower (58.9%) than the national average (71.9%).

Federal Monitoring Plan FY 2015-OB-03: OSHA will continue to monitor the cause of the low number of programmed safety inspections with SWRU.

Status: Continued, Amended with FY 2016 data

In FY 2016, the number of inspections with SWRU violations increased to 61.4% (according to the OIS report run on January 31, 2017). This percentage is still below the national average of 86.5% but demonstrates a positive trend. OSHA will continue to monitor the trending of this data until the result is within the range for the national average.

Observation FY 2015-OB-04: When determining repeat violations, Cal/OSHA did not consider the employer's enforcement history statewide. Instead, the employer history was only considered with each of the six regions as indicated in Cal/OSHA's Policy and Procedure (P&P) Manual, C-1B.

Federal Monitoring Plan FY 2015-OB-04: OSHA will continue to monitor progress of the change in Cal/OSHA's P&P Manual, C-1B.

Status: Closed

The Office of Administrative Law approved the change to the repeat violation definition which makes the definition at least as effective as the federal definition. The definition went into effect on January 1, 2017.

Observation FY 2015-OB-05: State Plan-initiated rulemaking promulgated standards were not at least as effective as OSHA standards, such as the Bakery Oven and Crane Load Testing.

Federal Monitoring Plan FY 2015-OB-05: OSHA will continue to monitor Cal/OSHA's standards to ensure they are at least as effective as OSHA standards and initiate actions to update deficient standards.

Status: Continued

Crane Load Testing – OSHSB proposed Cal/OSHA rulemaking for this subject has been suspended pending further discussion and consideration. Cal/OSHA Research and Standards and Crane units are re-evaluating Title 8 standards for this issue and will get back to OSHSB. Bakery Oven – This regulation is under review.

Observation FY 2015-OB-06: There is a decreased presence of consultation service in state and local government workplaces.

Federal Monitoring Plan FY 2015-OB-06: OSHA will continue to monitor Cal/OSHA's progress in marketing its state and local government consultation program.

Status: Converted to finding

OSHA has elevated this observation to a finding FY 2016-11 (see below). After lowering the number of visits for FY 2016, the consultation program remained unable to meet the goal. Twenty eight (28) state and local government on-site consultation visits were projected to occur

in FY 2016 and 16 total visits were conducted. This year, the number of consultation visit requests decreased, which continues this downward trend in the number of requests for consultation services under the 23(g) grant for state and local government site visits.

Finding FY 2016-11: There is a decreased number of consultation visits in state and local government workplaces.

Recommendation FY 2016-11: Increase marketing in the state and local government consultation program in order to increase the number of visit requests.

Appendix A – New and Continued Findings and Recommendations
 FY 2016 California State Plan Follow-up FAME Report

FY2016-#	Finding	Recommendation	FY2015-#
FY 2016-01	OSHSB’s regulations for residential construction fall protection are not at least as effective as OSHA’s regulations as required by 29 CFR 1953.5(a).	OSHSB should modify its construction fall protection regulations on a timely basis to ensure that its residential fall protection requirements are at least as effective as the federal regulation. In addition, Cal/OSHA and its stakeholders should coordinate with OSHA to work out any differences before finalizing the amended regulation.	FY 2015-01
FY 2016-02	Six of 43 (14%) cases reviewed lacked documentation that complainants were notified of the results of inspections or inquiries.	Cal/OSHA should ensure complainants are consistently notified of the results of the complaint inspections or inquiries by inserting documentation into the case file. <i>Corrective action complete, awaiting verification.</i>	FY 2015-02
FY 2016-03	Cal/OSHA’s citation lapse time for safety inspections was more than 20% above of the national average (SAMM 11).	Cal/OSHA should work with district and regional managers to continue improving its citation lapse time.	FY 2015-03
FY 2016-04	The average number of SWRU violations issued per inspection was 0.8 violations per inspection. This is 43% below the national average of 1.87 (SAMM 5).	Cal/OSHA should determine the cause of the low number of inspections with serious, willful, repeat and unclassified violations, and implement corrective actions to ensure serious hazards are identified and eliminated.	FY 2015-04
FY 2016-05	Worker representatives were not involved in the opening conference nor were workers interviewed in 22 of the 205 (11%) inspections reviewed.	Cal/OSHA should conduct opening conference with unions (either with the employer or separately) and ensure these conferences are appropriately documented. Cal/OSHA should also ensure that worker interviews are conducted and documented. <i>Corrective action complete, awaiting verification.</i>	FY 2015-05

FY2016-#	Finding	Recommendation	FY2015-#
FY 2016-06	Eight of 12 (67%) workplace retaliation case settlement agreements were not signed and retained.	DLSE should ensure that settlements for workplace retaliation cases are signed and retained. <i>Corrective action complete, awaiting verification.</i>	FY 2015-06
FY 2016-07	In one “settled” and one “settled other” claim, there was no documentation that the waiver of future employment clauses was evaluated to ensure complainants are allowed to secure employment in their locale, as per the Whistleblower Investigations Manual in effect at the time these two cases were closed.	DLSE should follow procedures to ensure proper consideration and documentation of factors to evaluate whether a waiver of future employment clauses prevents complainants from working in their chosen fields in the locality where they reside. <i>Corrective action complete, awaiting verification.</i>	FY 2015-07
FY 2016-08	Information was not consistently entered into the IMIS database accurately for 15 cases reviewed, as required by WIM 02-03-003 Chapters 2(III)(B), 4(IV)(B)(1&2), 5(VII), and 6(IV)(C&D(3)), and WIM 02-03-003 Chapters 2(III)(B), 4(IV)(B)(1&2), 5(VII), and 6(XII)(C(5)&D(4)), which were in effect when these fifteen cases closed.	DLSE should consistently and accurately enter information into Web IMIS. <i>Corrective action complete, awaiting verification.</i>	FY 2015-08
FY 2016-9	DLSE has not updated its Retaliation Complaint Investigation (RCI) Manual and/or Policies and Interpretations Manual to ensure that its policy and procedures are at least as effective as OSHA’s.	DLSE should update its RCI Manual and/or Policies and Interpretations Manual to ensure that its policy and procedures are at least as effective as OSHA’s and submit to OSHA for approval.	FY 2015-09
FY 2016-10	DLSE’s Retaliation Complaint Investigation (RCA) Manual requirements do not reflect that orally filed, faxed, and e-mailed discrimination complaints are acceptable which does not align with OSHA’s	DLSE’s RCI Manual should be changed to reflect that discrimination complaints will be accepted whether orally filed, faxed, or e-mailed.	FY 2015-10

FY2016-#	Finding	Recommendation	FY2015-#
	Whistleblower Investigation Manual.		
FY 2016-11	There is a decreased number of consultation visits in state and local government workplaces.	Increase marketing in the state and local government consultation program in order to increase the number of visit requests.	FY 2015-OB-06

Appendix B – Observations Subject to New and Continued Monitoring
FY 2016 California State Plan Follow-up FAME Report

Observation #	Observation # FY 2015	Observation	Federal Monitoring Plan	Current Status
FY 2016-OB-01		All claims filed by workers who allege retaliation for reporting work related fatalities, injuries, or illnesses are not being investigated in accordance with the equivalent federal whistleblower requirements.	OSHA will monitor DLSE's process for investigating claims filed by workers who alleged retaliation for reporting work related fatalities, injuries, or illnesses	New
FY 2016-OB-02	FY2015-OB-01	There are state-specific mandates for the response times that categorize complaints as serious or non-serious, and formal or non-formal. The response time as measured by SAMM 1 and 2 is not accurate since OIS data does not separate serious and non-serious response time. Cal/OSHA has not determined nor provided complaint response times on a regular basis.	OSHA will continue to monitor and track Cal/OSHA's development of an effective method for collecting complaint response time data in a timely manner.	Continued
FY 2016-OB-03	FY 2015-OB-02	Final letters notifying the next-of-kin of the results of the fatality inspection were not sent in in 16.7% (4 out of 24) of the case files reviewed.	OSHA will continue to monitor to ensure that final letters are being sent to the next-of-kin after completion of the investigation, as required by P&P Manual C-170 and 170A.	Continued
FY 2016-OB-04	FY 2015-OB-03	The percent of programmed safety inspections completed by the High Hazard Unit and Process Safety Management Unit, with serious, willful, repeat, or unclassified violation was lower (61.4%) than the national average (86.5%).	OSHA will continue to monitor the cause of the low number of programmed safety inspections with serious, willful, or repeat violations.	Continued - Amended with FY 2016 data
FY 2016-OB-05	FY 2015-OB-05	State Plan-initiated rulemaking promulgated standards were not at least as effective as OSHA standards, such as	OSHA will continue to monitor Cal/OSHA's standards to ensure they are at least as effective as OSHA standards and initiate	Continued

		the Bakery Oven and Crane Load Testing.	actions to update deficient standards.	
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Appendix C – Status of FY 2015 Findings and Recommendations
FY 2016 California State Plan Follow-up FAME Report

FY 2015-#	Finding	Recommendation	State Plan Response/Corrective Active	Completion Date	Current Status and Date
FY 2015-01	OSHSB’s regulations for residential construction fall protection are not at least as effective as OSHA’s regulations as required by 29 CFR 1953.5(a).	OSHSB should modify its construction fall protection regulations on a timely basis to ensure that its residential fall protection requirements are at least as effective as the federal regulation. In addition, Cal/OSHA and its stakeholders should coordinate with OSHA to work out any differences before finalizing the amended regulation.	OSHSB and OSHA have come to an agreement on standard language. The contract for the outside entity who will be conducting the economic impact is still under financial analysis, as required by the state legislature since the impact is projected to be above \$50 million. This analysis will take at least six months, but once completed, it can proceed to rulemaking.		Open 2/8/2017

Appendix C – Status of FY 2015 Findings and Recommendations
FY 2016 California State Plan Follow-up FAME Report

FY 2015-#	Finding	Recommendation	State Plan Response/Corrective Active	Completion Date	Current Status and Date
FY 2015-02	Six of 43 (14%) cases reviewed lacked documentation that complainants were notified of the results of inspections or inquiries.	Cal/OSHA should ensure complainants are consistently notified of the results of the complaint inspections or inquiries by inserting documentation into the case file.	Specific training on the policy to notify complainants of the results of the inspection or investigation and case file documentation for enforcement staff will occur in 2017. An internal enforcement program audit addressing this issue has been conducted for all the district offices within the regions. Audit results are expected to be completed in 2017.		Open 2/8/2017
FY 2015-03	Cal/OSHA’s citation lapse time for safety inspections was more than 20% above of the national average (SAMM 11).	Cal/OSHA should work with district and regional managers to continue improving its citation lapse time.	Senior staff in district offices were directed and trained to decrease the average time spent reviewing cases and to monitor lapse times through OIS reports. Cal/OSHA is also implementing a new system for CSHOs to analyze and document the evidence of violations that is expected to make writing and issuing citations more efficient. This training is expected to be completed in 2017.		Open 2/8/2017

Appendix C – Status of FY 2015 Findings and Recommendations
FY 2016 California State Plan Follow-up FAME Report

FY 2015-#	Finding	Recommendation	State Plan Response/Corrective Active	Completion Date	Current Status and Date
FY 2015-04	The average number of serious, willful, repeat, or unclassified violations issued per inspection was 0.70 violations per inspection. This is 63% below the national average of 1.9 (SAMM 5).	Cal/OSHA should determine the cause of the low number of inspections with serious, willful, repeat and unclassified violations, and implement corrective actions to ensure serious hazards are identified and eliminated.	In FY 2016, the average number of SWRU violations per inspection increased to 0.8. This average is still 43% lower than the national average of 1.9. In their effort to continue this upward trend, training has been provided to all staff on this topic and a new system for CSHOs to analyze and document the evidence of violations is being implemented. This training is expected to be completed in 2017. This finding will carry over to Finding FY 2016-04, but it will be amended to reflect the new data from FY 2016.		Open 2/8/2017
FY 2015-05	Worker representatives were not involved in the opening conference nor were workers interviewed in 22 of the 205 (11%) inspections reviewed.	Cal/OSHA should conduct opening conference with unions (either with the employer or separately) and ensure these conferences are appropriately documented. Cal/OSHA should also ensure that worker interviews are conducted and documented.	Cal/OSHA has involved worker representatives in all aspects of inspections 99.8% of the time when workplaces are unionized, to interview workers in all inspections, and to document these actions. Training of all professional enforcement staff, including district managers and senior staff, will be completed in 2017. The cumulative FY 2016 SAMM 13 indicates that Cal/OSHA now exceeds the 98.4% of the national average.	2/8/2017	Awaiting Verification

Appendix C – Status of FY 2015 Findings and Recommendations
FY 2016 California State Plan Follow-up FAME Report

FY 2015-#	Finding	Recommendation	State Plan Response/Corrective Active	Completion Date	Current Status and Date
FY 2015-06	Eight of 12 (67%) workplace retaliation case settlement agreements were not signed and retained.	DLSE should ensure that settlements for workplace retaliation cases are signed and retained.	DLSE has noted that it is following this recommendation but no documentation was provided. OSHA will verify during the FY 2017 on-site review.		Open 2/8/2017
FY 2015-07	In one “settled” and one “settled other” claim, there was no documentation that the waiver of future employment clauses was evaluated to ensure complainants are allowed to secure employment in their locale, as per the Whistleblower Investigations Manual in effect at the time these two cases were closed.	DLSE should follow procedures to ensure proper consideration and documentation of factors to evaluate whether a waiver of future employment clauses prevents complainants from working in their chosen fields in the locality where they reside.	DLSE requested additional training for their investigators. OSHA Region IX conducted the training in May 2017. This will be verified during onsite case file review in the FY 2017 Comprehensive FAME.		Open 2/8/2017

Appendix C – Status of FY 2015 Findings and Recommendations
 FY 2016 California State Plan Follow-up FAME Report

FY 2015-#	Finding	Recommendation	State Plan Response/Corrective Active	Completion Date	Current Status and Date
FY 2015-08	Information was not consistently entered into the Web Integrated Management Information System (IMIS) database accurately for 15 cases reviewed, as required by WIM 02-03-003 Chapters 2(III)(B), 4(IV)(B)(1&2), 5(VII), and 6(IV)(C&D(3)), and WIM 02-03-003 Chapters 2(III)(B), 4(IV)(B)(1&2), 5(VII), and 6(XII)(C(5)&D(4)), which were in effect when these 15 cases closed.	DLSE should consistently and accurately enter information into Web IMIS.	DLSE has requested additional training from OSHA for both clerical and investigators. OSHA Region IX conducted the training in August 2016 and March 2017. This will be verified during onsite case file review in the FY 2017 Comprehensive FAME.		Open 2/8/2017

Appendix C – Status of FY 2015 Findings and Recommendations
FY 2016 California State Plan Follow-up FAME Report

FY 2015-#	Finding	Recommendation	State Plan Response/Corrective Active	Completion Date	Current Status and Date
FY 2015-09	DLSE has not updated its Retaliation Complaint Investigation (RCI) Manual and/or Policies and Interpretations Manual to ensure that its policy and procedures are at least as effective as OSHA's.	DLSE should update its RCI Manual and/or Policies and Interpretations Manual to ensure that its policy and procedures are at least as effective as OSHA's and submit to OSHA for approval.	OSHA and DLSE agreed that DLSE would complete portions of its manual by quarterly deadlines rather than provide a date when the entire manual will be completed.		Open 2/8/2017
FY 2015-10	DLSE's Retaliation Complaint Investigation (RCI) Manual requirements do not reflect that orally filed, faxed, and e-mailed discrimination complaints are acceptable which does not align with OSHA's Whistleblower Investigation Manual.	DLSE's RCI Manual should be changed to reflect that discrimination complaints will be accepted whether orally filed, faxed, or e-mailed.	OSHA and DLSE agreed that DLSE would complete portions of its manual by quarterly deadlines rather than provide a date when the entire manual will be completed. OSHA will verify during the FY 2017 on-site review.		Open 2/8/2017

Appendix D - FY 2016 State Activity Mandated Measures (SAMM) Report

FY 2016 California State Plan Follow-up FAME Report

Fiscal Year 2016 is the first year since the transition from the NCR (OSHA's legacy data system) began that all State Plan enforcement data has been captured in OSHA's Information System (OIS). All State Plan and federal whistleblower data continues to be captured in OSHA's WebIMIS System. Unless otherwise noted, the data contained in this Appendix D is pulled from the State Activity Mandated Measures (SAMM) Report and State Plan WebIMIS report run on November 14, 2016, as part of OSHA's official end-of-year data runs. The further review levels for SAMMs 5, 8, 9, 11, 12, 15, and 17 have been negotiated to rely on a three-year national average. However, due to the recent transition to OIS, the further review levels for these SAMMs will rely on a one-year national average for one more year.

Appendix D - FY 2016 State Activity Mandated Measures (SAMM) Report
 FY 2016 California State Plan Follow-up FAME Report

U.S. Department of Labor				
Occupational Safety and Health Administration State Plan Activity Mandated Measures (SAMMs)				
State Plan: California – Cal/OSHA			FY 2016	
SAMM Number	SAMM Name	State Plan Data	Further Review Level	Notes
1a	Average number of work days to initiate complaint inspections (state formula)	9.92*	3	Further review level is negotiated by OSHA and the State Plan.
1b	Average number of work days to initiate complaint inspections (federal formula)	6.36*	N/A	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)	10.09*	1	Further review level is negotiated by OSHA and the State Plan.
2b	Average number of work days to initiate complaint investigations (federal formula)	3.97*	N/A	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%	Further review level is fixed for all State Plans.
4	Number of denials where entry not obtained	0	0	Further review level is fixed for all State Plans.
5	Average number of violations per inspection	SWRU: .80	+/- 20% of SWRU: 1.87	Further review level is based on a one-year national rate.

Appendix D - FY 2016 State Activity Mandated Measures (SAMM) Report
FY 2016 California State Plan Follow-up FAME Report

	with violations by violation type	Other: 2.74	+/- 20% of Other: .99	
6	Percent of total inspections in state and local government workplaces	5.53%	+/- 5% of 5.75%	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: 6,206	+/- 5% of S: 5,875	Further review level is based on a number negotiated by OSHA and the State Plan through the grant application.
		H: 1,341	+/- 5% of H: 1,425	
8	Average current serious penalty in private sector - total (1 to greater than 250 workers)	\$7,294.33	+/- 25% of \$2,279.03	Further review level is based on a one-year national rate.
	a. Average current serious penalty in private sector (1-25 workers)	\$4,925.22	+/- 25% of \$1,558.96	Further review level is based on a one-year national rate.
	b. Average current serious penalty in private sector (26-100 workers)	\$7,656.37	+/- 25% of \$2,549.14	Further review level is based on a one-year national rate.
	c. Average current serious penalty in private sector (101-250 workers)	\$9,591.69	+/- 25% of \$3,494.20	Further review level is based on a one-year national rate.
	d. Average current serious penalty in private sector (greater than 250 workers)	\$10,603.43	+/- 25% of \$4,436.04	Further review level is based on a one-year national rate.
9	Percent in compliance	S: 23.72%	+/- 20% of S: 28.85%	Further review level is based on a one-year national rate.
		H: 38.09%	+/- 20% of	

Appendix D - FY 2016 State Activity Mandated Measures (SAMM) Report
FY 2016 California State Plan Follow-up FAME Report

			H: 35.68%	
10	Percent of work-related fatalities responded to in one workday	93.48%	100%	Further review level is fixed for all State Plans.
11	Average lapse time	S: 68.43	+/- 20% of S: 45.16	Further review level is based on a one-year national rate.
		H: 73.87	+/- 20% H: 57.28	
12	Percent penalty retained	86.91%	+/-15% of 69.86%	Further review level is based on a one-year national rate.
13	Percent of initial inspections with worker walk around representation or worker interview	99.79%	100%	Further review level is fixed for all State Plans.
14	Percent of 11(c) investigations completed within 90 days	7%	100%	Further review level is fixed for all State Plans.
15	Percent of 11(c) complaints that are meritorious	20%	+/- 20% of 24%	Further review level is based on a three-year national average.
16	Average number of calendar days to complete an 11(c) investigation	462	90	Further review level is fixed for all State Plans.
17	Percent of enforcement presence	1.11%	+/- 25% of 1.26%	Further review level is based on a one-year national rate.

* The response time as measured in OIS by SAMM 1 (average number of days to initiate complaint inspections) and SAMM 2 (average number of days to initiate complaint investigations) is not accurate since OIS data does not distinguish between serious and non-serious response times and Cal/OSHA works under state-specific mandates to respond to serious complaints in three working days versus non-serious complaints in 14 calendar days. Until OSHA completes work to modify these fields in OIS, Cal/OSHA does not have the data to evaluate this goal.