

FY 2017 Comprehensive Federal Annual Monitoring Evaluation (FAME) Report

Maryland Occupational Safety and Health (MOSH)



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I. Executive Summary

The purpose of this comprehensive Federal Annual Monitoring Evaluation (FAME) report is to assess the Maryland Occupational Safety and Health (MOSH) program's performance during Fiscal Year (FY) 2017, and its progress in resolving the 10 outstanding findings identified during previous FAMEs. This FAME included an on-site comprehensive review of safety and health inspection files randomly selected and obtained from the OSHA Information System (OIS). In addition to the safety and health inspection files, whistleblower case files obtained from the Web Integrated Management Information System (WebIMIS) were also reviewed.

OSHA verified that MOSH made progress to address four previous FAME findings; however, OSHA converted these findings to observations in order to continue monitoring these items during the next performance period. Six of the previous 10 findings were not sufficiently addressed and remain open as presented in Appendix A of this report. There were no new findings identified. Three of four previous observations were appropriately addressed and closed. In summary, there are a total of six findings and seven observations included in this report. Appendix B describes the observations and federal monitoring plans. Appendix C describes the status of the previous findings with the associated corrective actions.

During the FY 2017 performance period, MOSH made some progress to resolve citations with abatement open beyond 60 days, properly enter complaint receipt dates and hazardous conditions associated with complaints into OIS, validate complaints in a timely manner, and appropriately document that unprogrammed activity (UPA)-related inspections are opened after the associated UPA is received.

Unfortunately, MOSH made little progress to address and improve previously identified problematic areas such as: addressing and documenting serious workplace hazards brought to its attention, adopting Federal Program Changes (FPCs) within the required timeframes, and documenting that next-of-kin (NOK) letters with inspections results were sent to family members. Therefore, during the FY 2017 performance period, MOSH made progress in some areas, but minimal progress in others.

MOSH needs to make improvements in FY 2018. For instance, MOSH needs to ensure that program data entry is accurately and consistently entered into OIS. Properly addressing complaints is also a critical component that MOSH needs to improve on in the future. Because MOSH is a small agency, complaints are likely the primary means by which many of the 2.5 million workers – whose worksites would not likely be visited by MOSH – are able to voice their workplace safety and health concerns and issues.

II. State Plan Background

A. Background

The Maryland Department of Labor, Licensing, and Regulation (DLLR), Division of Labor and Industry (DLI) is the state agency designated by the governor to administer the MOSH program. The Maryland State Plan was initially approved on July 5, 1973, pursuant to Section 18 of the Occupational Safety and Health (OSH) Act. The State 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. In FY 2017, MOSH operated under the guidance of Kelly M. Schulz, Secretary of DLLR, Matthew Helminiak replaced Thomas Meighen as Commissioner of DLI, and William Dallas remained as Assistant Commissioner of MOSH. DLLR is headquartered in Baltimore and consists of MOSH representatives stationed in different regional and field offices located in Hunt Valley, Easton, Hagerstown, and Upper Marlboro.

MOSH is the agency responsible for protecting Maryland workers from workplace safety and health hazards. MOSH covers almost 2.5 million workers and 170,000 employers in the state of Maryland. MOSH's Compliance Services Unit conducts occupational safety and health inspections for all state and local government workplaces, and private sector places of employment in the state of 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 longshoring), and U.S. military bases. Additionally, MOSH's Outreach Unit provides free consultation services through the consultation program, training and education, and manages its cooperative programs.

MOSH operates a private sector on-site consultation project under Section 21(d) and a state and local government consultation project under Section 23(g) of the OSH Act of 1970. MOSH's Discrimination Unit investigates whistleblower complaints made by workers who feel that they have been retaliated against by their employer for making a safety and health complaint.

The Research and Statistic Unit provides MOSH with statistical data on occupational fatal and nonfatal workplace injuries and illnesses. Industries covered by MOSH include a combination of agricultural, manufacturing, construction, transportation, and trade and service industries. Similar to OSHA, MOSH has selected certain high hazard industries on which to focus its safety and health activities through the implementation of emphasis programs.

As a State Plan, MOSH has the authority to promulgate standards and regulations which maybe 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), and Tree Care and Removal (COMAR 09.12.28). MOSH also made amendments to OSHA standards that are more stringent than OSHA's such as:

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).

MOSH promotes and recognizes exceptional safety and health efforts through its voluntary programs. The Maryland Safety and Health Achievement Recognition Program (SHARP) recognizes smaller, high-hazard employers who develop and implement exemplary safety and health management systems. MOSH's Voluntary Protection Programs (VPP) is a cooperative effort between MOSH and participating employers to extend worker protection beyond the minimum required by MOSH standards.

MOSH has also implemented a Cooperative Compliance Partnership (CCP) for employers in Maryland. Generally, a company may request a CCP through MOSH for a specific construction project. Instead of programmed inspections, MOSH conducts worksite visits that are scheduled with the company. The company does not receive citations if hazards are immediately corrected and abatement provided to MOSH. MOSH reserves the right to terminate the CCP and respond in enforcement mode in accordance with the agreement.

B. Major New Issues

On May 4, 2017, Governor Larry Hogan signed a bill passed unanimously by the state's general assembly that codifies MOSH's VPP. Codifying VPP makes it a permanent element of the MOSH program. This makes Maryland the fourth state in the United States to pass legislation that codifies VPP.

Since FY 2015, OSHA has received three CASPAs alleging concerns regarding MOSH's complaint procedures and overall complaint process. Each CASPA contained allegations that through investigatory processes, OSHA deemed to be valid. OSHA continues to work with MOSH to ensure that all complaints are appropriately handled.

III. Assessment of State Plan Progress and Performance

A. Data and Methodology

OSHA established a two-year cycle for the FAME process. FY 2017 is a comprehensive year and as such, OSHA was required to conduct an on-site evaluation and case file review. A five-person OSHA team, including a whistleblower investigator, was assembled to conduct the comprehensive on-site case file review. The case file review was conducted at the MOSH Hunt Valley Office from January 8, 2018 to January 12, 2018. A total of 90 safety, health, and whistleblower inspection case files, as well as 80 complaint files, were reviewed. The safety and health inspection files were randomly selected from closed inspections conducted and complaints received during the evaluation period (October 1, 2015 through September 30, 2017). The selected population included:

- Twenty-five (25) fatality case files
- Forty (40) incident case files
- Eighty (80) complaint files
- Twenty-five (25) closed whistleblower case files

The analyses and conclusions described in this report are based on information obtained from a variety of monitoring sources, including the:

- State Activity Mandated Measures (SAMM) Report (Appendix D)
- State Information Report (SIR)
- Mandated Activities Report for Consultation (MARC)
- State OSHA Annual Report (Appendix E)
- State Plan Annual Performance Plan
- State Plan Grant Application
- Quarterly monitoring meetings between OSHA and the State Plan
- Comprehensive on-site case file review

Each SAMM report has an agreed-upon Further Review Level (FRL) which can be either a single number or a range of numbers above and below the national average. State Plan SAMM data that falls outside the FRL triggers a closer look at the underlying performance of the mandatory activity. Appendix D presents MOSH's FY 2017 SAMM report and includes the FRL for each measure. Throughout the evaluation process MOSH was cooperative, shared information, and ensured staff was available to discuss cases, policies and procedures, and answer questions.

B. Review of State Plan Performance

1. PROGRAM ADMINISTRATION

a) Training

In 2017, MOSH hired nine new safety and four new health compliance officers. As of the end of FY 2017, these nine newly hired compliance officers (trainees) were still in the process of completing classroom and on-the-job (OJT) training with senior compliance staff. It is expected that the trainees will complete their initial training in FY 2018.

In FY 2017, 20 compliance officers received training from 12 different training courses at the OSHA Training Institute (OTI). In addition, 64 compliance officers attended three OTI courses that were brought to the Hunt Valley office. Multiple and varied OTI training topics were attended by the staff. MOSH also offered National Fire Protection (NFPA) 70E, Electrical Safety in the Workplace, and other training courses to staff through an independent instructor.

MOSH developed and implemented an Instruction (15-11) competency-based training program for MOSH compliance personnel. The training program outlines a two-phase approach to completing the mandatory training requirements: Phase 1 includes initial courses and Phase 2 includes technical courses. The instruction specifies that OJT is also a necessary component of compliance officer development.

b) OSHA Information System (OIS)

Proper OIS data entry continues to be an area where MOSH needs to make significant improvements. In FY 2017, the OIS data showed that MOSH inspections were initiated prior to the receipt of the associated UPA in 66 of 261 (25%) inspections linked with a UPA. In addition, MOSH did not enter a complaint hazard description in OIS in more than half (51%) of the 71 cases reviewed. While each hard-copy complaint file reviewed contained a printout of the electronic complaint (or some other means of identifying the alleged hazard descriptions), the conditions were not documented into OIS which is the primary database used to store data and run reports. Proper OIS documentation allows those without access to the hard copy complaint file to promptly and adequately address the alleged hazardous conditions, as well as track and monitor progress.

Finding 2017-06 (FY 2016-09)

In 36 of 71 (51%) reviewed complaints, the hazardous condition described by the complainant was not documented in OIS.

Recommendation 2017-06 (FY 2016-09)

MOSH should adhere to its procedures outlined in its Field Operations Manual (FOM) and ensure that the hazardous conditions are documented on a MOSH form in OIS.

c) State Internal Evaluation Program (SIEP) Report

MOSH does not develop an annual formal written SIEP report for the comprehensive evaluation of its internal operations. However, prior to issuance, MOSH reviews case files at the regional level and in its central office. An extensive review with central office staff is conducted prior to issuance of any citations associated with fatality or significant cases.

d) Staffing

As of July 1, 2017, MOSH was staffed with 77.15 full-time employees (FTEs). In FY 2017, MOSH brought on nine safety and four health compliance officers. Two senior safety and one health compliance officer were assigned supervisory positions. A compliance specialist was also assigned a supervisory role. This is an overall increase of six FTEs when compared to staffing levels in FY 2016.

2. ENFORCEMENT

a) Complaints

The end-of-year (EOY) SAMM report (Appendix D) indicated that MOSH initiated complaint inspections within 3.06 days and complaint investigations within 2.46 days. MOSH responded to all complaints coded as imminent danger within one day. However, MOSH did not document if it attempted to communicate with complainants by telephone when the complainant's telephone number was made available. In general, MOSH only contacts complainants by email when an email address is provided.

Complaint Procedures/Documenting Contact with Complainant

Observation FY 2017-OB-07 (FY 2016-OB-03)

MOSH does not appropriately document if it attempted to communicate with complainants by email and telephone (when this information is available) regarding potentially serious hazards.

Federal Monitoring Plan FY 2017-OB-07 (FY 2016-OB-03)

OSHA will review case files in FY 2018 to identify how MOSH communicated with complainants to determine if potentially serious hazards were not investigated due to lack of contact with the complainant.

Out of 574 UPAs coded as a complaint and entered into OIS, the FY 2017 EOY SAMM Report indicated that MOSH only inspected 35 and investigated 67 complaints – resulting in 82% (472 of 574) complaints that were not inspected or investigated. It was determined that improper data entry into OIS led to this result. For example, a report capturing all UPAs received in FY 2017 was run independently of the SAMM and indicated that MOSH initiated inspections in response to 83 complaints – 48 more than is reported on the FY 2017 EOY SAMM Report. However, in 39 out of 83 (47%) of complaint cases listed on the UPA report, the complaints were still coded as “draft” which made them undetected by the SAMM algorithm. Because data entry continues to be an issue, OSHA is taking into consideration this as one possibility for the lack of response to a significant majority of complaints received by MOSH.

OSHA discovered that MOSH does not always document, validate, and process electronic complaints from former employees and other complainants who have alleged serious hazards. OSHA reviewed a total of 558 electronic complaints (387 received in FY 2017 and 171 received between October 1, 2017 and January 31, 2018). Of the 558 electronic complaints reviewed, OSHA deemed 161 (29%) to allege one or more serious hazards. Of these 161 electronic complaints, 65 (40%) could not be located in OIS. It was determined that MOSH did not validate and process at least 105 of 161 (65%) of the electronic complaints alleging serious hazards because they were not entered into OIS or

because they were not validated after being entered into OIS.

Serious Hazard Complaint Validation and Processing Procedures

Finding FY 2017-04 (FY 2016-04)

MOSH did not validate and process at least 105 of 161 (65%) electronic complaints from former employees and other complainants alleging serious hazards.

Recommendation FY 2017-04 (FY 2016-04)

MOSH should adhere to the non-formal complaint processing procedures and requirements set forth in its Field Operations Manual (FOM), and develop a strategy to ensure that all complaints alleging serious hazards are addressed.

Serious Hazard Complaint Documentation/OIS

Finding FY 2017-05 (FY 2016-08)

MOSH did not document 65 of 161 (40%) of electronic complaints alleging serious hazards, and did not document all serious complaint allegations received telephonically in the OSHA Information System (OIS).

Recommendation FY 2017-05 (FY 2016-08)

MOSH should adhere to the complaint processing procedures in its Field Operations Manual (FOM) and document receipt of complaints.

This evaluation also revealed that MOSH was documenting complaints as received, after the actual receipt date in 20 of 71 (28%) cases reviewed. Furthermore, it was also discovered that in six of 17 (35%) case files reviewed, MOSH did not validate the complaint appropriately. Due to MOSH making some improvement in these areas since last year's follow-up FAME, OSHA converted Findings FY 2016-05, FY 2016-06, and FY 2016-07 to observations.

Unprogrammed Activity (UPA) Documentation Accuracy

Observation FY 2017-OB-01 (FY 2016-05)

MOSH documented that inspections were initiated prior to the receipt of the associated UPA in 66 of 261 (25%) inspections with a linked UPA, skewing data reports and distorting complaint documentation accuracy.

Federal Monitoring Plan FY 2017-OB-01 (FY 2016-05)

In FY 2018, OSHA will run quarterly reports to determine how MOSH is documenting the receipt date for UPAs associated with inspections. The outliers will be provided to MOSH for prompt correction.

Complaint Response Time by Receipt Date

Observation FY 2017-OB-02 (FY 2016-06)

In 20 of 71 (28%) reviewed complaint files, MOSH incorrectly documented that the complaints were received after the actual receipt date, initiating complaint investigations and inspections after the negotiated three- and five-day timeframes.

Federal Monitoring Plan FY 2017-OB-02 (FY 2016-06)

In FY 2018, OSHA will conduct a limited review of complaint files in FY 2018 to document MOSH's progress documenting complaint receipt dates.

Complaint Response Procedures

Observation FY 2017-OB-03 (FY 2016-07)

In six of 17 (35%) valid complaints reviewed, MOSH did not validate the complaint appropriately, responding to the complaints after the negotiated three-day timeframe.

Federal Monitoring Plan FY 2017-OB-03 (FY 2016-07)

In FY 2018, OSHA will conduct a limited review of complaint files to document MOSH's progress documenting valid dates.

OSHA was not informed during the FY 2017 performance period that MOSH failed to respond to any severe injury incidents in a timely manner or to document severe injury incidents in OIS. MOSH obtained entry at all sites where inspections were assigned. Therefore, Observations FY 2016-OB-01 and FY 2016-OB-02 were closed.

b) Fatalities

Next-of-Kin (NOK) were not sent correspondence addressing the final outcome of the inspection in 8 of 19 (42%) fatality inspection case files reviewed. Discussions with MOSH officials revealed that phone conversations with NOK are a regular occurrence. NOK letters were maintained in separate files by MOSH. Finding FY 2016-03 remains open.

NOK Notification Documentation

Finding FY 2017-03 (FY 2016-03)

In eight of 19 (42%) 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 FY 2017-03 (FY 2016-03)

MOSH should develop a strategy to ensure that final NOK letters with inspection results are provided to NOK in all fatality cases.

OSHA did not review any fatality cases where MOSH did not have jurisdiction or did not conduct an inspection. Case files were appropriately coded to indicate whether MOSH maintained jurisdiction and if the inspection was warranted. MOSH conducted 17 fatality inspection in FY 2017. The FY 2017 EOY SAMM report indicates that 100% of the work-related fatalities were responded to by MOSH within one work day. Employers are required to report all fatalities to MOSH within eight hours.

c) Targeting and Programmed Inspection

MOSH conducted 1,722 total inspections during FY 2017 – accomplishing 87% of its goal in FY 2017. Although MOSH fell short of meeting its goal, it conducted 711 more inspections than in FY 2016. 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) and Maryland-specific Local Emphasis Programs (LEPs) which address special emphasis hazards and industries in Maryland. MOSH has adopted LEPs for:

- Maryland High Hazard Industries
- Health Hazards in Construction
- Tree Care and Removal
- Health Hazards in Construction
- Fall Hazards in Construction
- Electrical Hazards in Construction

MOSH participates in the OSHA exempted SIC/NAICS industry list as provided in the current Appropriations Act. The Federal Appropriations Act contains limits for OSHA activities where 23(g) grant funds are used on a year-by-year basis. Since these 23(g) grant funds are passed through OSHA to the State Plan, MOSH is held to the same restrictions and limits imposed on OSHA for the use of federal funds. The Appropriations Act limitations do not apply to 100% State Plan funds. MOSH Instruction, 98-3, describes the limitations or prohibitions of the use of federal funds for certain MOSH activities.

MOSH’s in-compliance rate for safety cases was 18.43% and 38.16% for health cases in FY 2017. Both in-compliance rates were within the FRL. 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 on-site review did not reveal any concerns with hazard identification. In FY 2017, MOSH compliance officers conducted 1,722 inspections – issuing violations in 1,120 safety cases and 45 health cases. MOSH issued repeat violations in 4.7% of cases. MOSH did not issue any willful violations.

A significant review is conducted for all fatality and significant cases prior to issuance. MOSH consults with the Office of the Attorney General when any questions or concerns arise prior to issuance of citations. According to OSHA’s definition, MOSH did not issue any significant cases in FY 2017.

d) Citations and Penalties

During the on-site review, OSHA observed that MOSH’s 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. Based on the information and documentation contained in the reviewed case files, it appeared that citations were issued for apparent violations when appropriate.

In FY 2017, MOSH issued 2,379 violations (52.5% were serious and 4.7% were repeat). MOSH averaged 2.07 serious, willful, or repeat violations per inspection, and 1.58 other-than-serious violations per inspection with violations which was within the FRL. Before issuing a citation, MOSH considers the gravity of the violation. To determine this, MOSH considers the severity of the injury or illness that could result from the alleged violation, and the probability that an injury or illness could occur as a result of the alleged violation. The case file review revealed that citation classification (severity/probability) was found to be in accordance with the MOSH FOM.

MOSH grouped citations where appropriate. The case file review did not note any major deviations from MOSH or OSHA policy. The MOSH FOM provides general and standard specific guidance for grouping violations. MOSH did not issue any willful violations and issued 224 repeat violations in FY 2017. The review indicated that MOSH cited repeat violations where it was appropriate. An extensive review with central office staff is conducted prior to issuance of any citations associated with fatality or significant cases.

The average serious penalty based on national data in the private sector in FY 2017 was \$2,118.66. MOSH’s average current penalty in the private sector is \$644.78. A breakdown of MOSH average penalty based on the number of workers is located in the table below:

MOSH Average Penalty	
Number of Workers	Average Serious Penalty
1 – 25	\$567.91
26 – 100	\$796.10
101 – 250	\$1,124.29
Greater than 250	\$1,517.22

e) Abatement

The FY 2017 EOY State Information Report (SIR) identified 206 cases that were awaiting abatement verification for more than 60 days. The first quarter in FY 2018 SIR showed that MOSH was able to reduce that total to 59 cases. Because MOSH made progress in reducing the number of cases with abatement open beyond 60 days, Finding FY 2016-10 was converted to an observation.

Abatement Verification and Documentation

Observation FY 2017-OB-04 (FY 2016-10)

MOSH has not verified and documented abatement for 59 inspection cases which have been open for more than 60 days.

Federal Monitoring Plan FY 2017-OB-04 (FY 2016-10)

In FY 2018, OSHA will run a quarterly abatement documentation report and provide MOSH with a list of outliers for prompt action.

Follow-up Inspections

OIS reports show that MOSH did not conduct any follow-up inspections in FY 2017. MOSH policies and procedures outline when follow-up inspections are necessary. Because it is likely that it would be appropriate for MOSH to conduct at least one follow-up inspection based on the policies outlined in the MOSH FOM, OSHA made this a new observation.

Observation FY 2017-OB-06

MOSH did not conduct any follow-up inspections in FY 2017.

Federal Monitoring Plan FY 2017-OB-06

OSHA will continue to monitor the number of follow-up inspections conducted in FY 2018. OSHA will run reports for cases that the MOSH FOM indicates follow-up inspections are appropriate and provide the list to MOSH every quarter.

f) Worker and Union Involvement

The EOY SAMM report indicated that MOSH included worker representation on all but three inspections. It was determined that the three identified outliers were OIS data entry errors. During the on-site review, OSHA found that MOSH conducts interviews with workers on a consistent basis, and unions are provided the opportunity to participate in opening and closing conferences, as well as during the walkaround portion of inspections. SAMM #13 indicated that in 99.80% of inspections, MOSH included worker representation.

Worker interviews are used to develop hazard descriptions and develop employer knowledge. Interview statements are maintained in case files associated with incidents and fatalities. MOSH's policies resemble OSHA's policies. Under COMAR 09.12.20.F, if the employer contests, workers have the right to elect "party status" before the hearing examiner.

3. REVIEW PROCEDURES

a) 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 2017, MOSH provided effective consideration to the gravity of violations, the size of the business being inspected, good faith of the employer, and the employer's previous inspection history. In addition, MOSH considered the type, gravity, and severity of the violation when initially assessing penalty adjustment factors.

MOSH provided justification for vacating and/or reclassifying violations and only on rare occasions vacated or reclassified violations. During the FY 2017 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.

SAMM #12 indicated that MOSH maintained 78.83% of penalty – exceeding the FRL range. 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.

The FY 2017 EOY SIR indicated that MOSH vacated on 1.11% of violations pre-contest and 21.70% after a contest had been filed. Similarly, MOSH only reclassified violations in 1.28% of cases pre-contest and in 19.28% of cases post-contest. Likewise, the case file review did not reveal any issues with citation modification.

The FY 2017 case file review revealed that MOSH held informal conferences beyond the 15 working day period in 12 of 15 (80%) of cases where an informal conference was held. Informal conferences were held an average of 34 days after the citations were received. The longest gap between receipt of citation and informal conference was 100 days. Because MOSH does not require the informal conference to be held within the 15 working day contest period, MOSH does not have an opportunity to discuss and negotiate an abatement plan for serious hazards

until the informal conference is held, potentially exposing workers to hazardous conditions for longer periods of time. OSHA continued Finding FY 2016-02.

Informal Conferences

Finding FY 2017-02 (FY 2016-02)

In 80% of the case files reviewed, MOSH held informal conferences beyond the 15 working day contest period, and has not developed or implemented a policy ensuring that employers abate serious hazards when informal conferences were scheduled and held beyond the 15 working day contest period.

Recommendation FY 2017-02 (FY 2016-02)

MOSH should develop a policy in its FOM ensuring that informal conferences are held within the 15 working day contest period and develop, formalize, and implement a policy requiring serious hazard abatement when informal conferences are held beyond the 15 working day contest period.

The on-site review revealed that MOSH is fairly consistent when settling cases. The on-site review revealed that of the 31 cases with an initial penalty, four (13%) cases were settled by reducing the penalty to less than half of the original penalty – while the full penalty was maintained in 15 (48%) of the cases. Overall, MOSH consistently retains penalties.

b) 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. The State Plan defense was deemed adequate in FY 2017.

The FY 2017 EOY SIR indicates that 21.70% of total violations after a contest has been filed are vacated while the national average is recorded at 14.56%. Similarly, the SIR shows that 19.28% of total violations after a contest has been filed are reclassified. The national average is recorded at 12.62%. MOSH settled all of reviewed cases informally.

The FY 2017 EOY SIR indicates that 68.98% of penalty is retained after a contest has been filed while the national average was reported as 62.98%. The review did not reveal concerns with the originally issued citations. In general, MOSH may amend or administratively vacate a citation when the citation was issued with an administrative or technical error, when previously unknown additional facts are presented, or when additional facts establishing that no employees were exposed to the hazard are identified. The FOM also defines the circumstances when citation

amendment or administrative vacating is not justified. The case file review did not reveal any adverse decisions.

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. OSHA is not aware of any inconsistency with federal precedence nor any poor quality decisions. The on-site review did not reveal any discrepancies with the procedures outlined in the FOM.

4. STANDARDS AND FEDERAL PROGRAM CHANGE (FPC) ADOPTION

a) Standards Adoption

State Plans are required to respond within 60 days of initial notification to declare whether they intend to adopt an OSHA change. According to 29 CFR 1953, when a federal change is identified as having the potential to impact the effectiveness of the State Plan, 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 adopted the Final Rule for Confined Spaces in Construction identically January 2, 2017. However, MOSH continues to be delinquent in its adoption of multiple FPC standards listed in the table below:

Status of MOSH's Response to Federal Program Change (FPC) Standards		
Standard	OSHA Adoption Date	MOSH Status
Final Rule on Walking-Working Surfaces and Personal Protective Equipment (Fall Protection Systems)	January 17, 2017	Will Adopt Identical/ Not Yet Adopted
Final Rule on Occupational Exposure to Beryllium	January 9, 2017	Will Adopt Identical/ Not Yet Adopted
Interim Final Rule on Maximum Penalty Increases	July 2, 2016	No Response/ Not Yet Adopted
Final Rule to Improve Tracking of Workplace Injuries and Illnesses	May 12, 2016	Will Adopt Alternative/ Not Yet Adopted
Final Rule for Occupational Exposure to Silica	March 25, 2016	Will Adopt Identical/ Not Yet Adopted
Direct Final Rule for Electric Power Generation, Transmission and Distribution; Electrical Protective Equipment	April 11, 2014	Will Adopt Identical/ Not Yet Adopted

MOSH did not provide timely notice of intent for any of the standards listed above except for the Final Rule on Occupational Exposure to Beryllium.

Maximum Penalty Increase

With the passage of the Bipartisan Budget Bill on November 2, 2015, OSHA raised its maximum penalties effective August of 2016. As required by law, OSHA then increased maximum penalties annually, on January 1, 2017 and January 1, 2018, according to the Consumer Price Index (CPI). State Plans are required to adopt both initial increase and subsequent annual increases. MOSH has not yet completed the legislative changes to increase maximum penalties. OSHA will continue to monitor MOSH's progress on this issue.

Silica Standard

On March 25, 2016, OSHA published a Federal Register notice on the Final Rule for Occupational Exposure to Respirable Crystalline Silica. OSHA's silica standard consists of two separate standards, one for general industry and maritime and one for construction, to tailor the standards to the circumstances in these sectors. The construction standard went into effect on September 23, 2017. The general industry/maritime standard is still expected to have an enforcement date of June 23, 2018. OSHA rolled out the construction standard with a 30 day compliance assistance initiative and then on October 23, 2017, began enforcing fully under the Interim Enforcement Guidance Memo for the Respirable Crystalline Silica in Construction Standard.

State Plans were required to adopt an "at least as effective as" rule within six months of promulgation, by September 26, 2016. State Plans were also required to have an effective date by the date of state promulgation or the federal effective date, whichever is later. Industry members filed litigation challenging OSHA's silica standard. Despite the regulatory requirement that State Plans adopt the standard within six months of promulgation, several State Plans, including MOSH, delayed their promulgation pending the outcome of the litigation. The U.S. Court of Appeals for the District of Columbia rejected all industry challenges to the standard in a ruling issued December 22, 2017. As of March 31, 2018, MOSH was working on completing the promulgation of its silica standard.

Beryllium Standard

On January 9, 2017, OSHA adopted new standards addressing occupational beryllium exposure in general industry, construction and shipyards. State Plans were required to adopt an "at least as effective as" rule within six months of promulgation, by July 9, 2017. However, on June 27, 2017, OSHA published a notice of proposed rulemaking proposing to revoke the ancillary provisions applicable to the construction and shipyard sectors, but to retain the new permissible exposure limits (PELs). OSHA will not enforce the provisions of the

January 9, 2017, construction and shipyard standards that it has proposed to revoke, while the current rulemaking is underway.

Given the unusual circumstances of this rulemaking, in which substantive changes have been proposed to a standard within six months following its initial promulgation, several State Plans, including MOSH, have delayed promulgation pending completion of the second rulemaking.

Electronic Reporting Rule

On May 12, 2016, OSHA published the Final Rule to Improve Tracking of Workplace Injuries and Illnesses, effective January 1, 2017. The rule required all affected employers to submit 300A log summaries in OSHA's Injury Tracking Application (ITA) by the specified due date of July 1, 2017. This deadline was subsequently pushed back to December 15, 2017.

In its Fall 2017 Regulatory Agenda, OSHA announced that it intends to issue a proposal to reconsider, revise, or remove provisions of the Improve Tracking of Workplace Injuries and Illnesses final rule, 81 FR 29624 (May 12, 2016). State Plans were required to adopt an "at least as effective as" rule within six months of promulgation, by November 14, 2016. However, given OSHA's intent to issue a proposed rule to reconsider, revise or remove provisions of the Improve Tracking of Workplace Injuries and Illnesses rule, a number of State Plans, including MOSH, have delayed adoption until this additional rulemaking is complete.

No standards due to be adopted in FY 2017 were adopted on time by MOSH, and OSHA continues to work with MOSH to adopt overdue standards. MOSH anticipated to adopt the Direct Final Rule for Electric Power Generation, Transmission and Distribution; Electrical Protective Equipment by October 20, 2017, and the Final Rule on Walking-Working Surfaces and Personal Protective Equipment (Fall Protection Systems) by November 30, 2017, but was unable to meet those targets. MOSH did not adopt any unique enforcement standards in FY 2017. MOSH has not adopted regulations that were due during FY 2017, nor has it adopted multiple regulations due prior to FY 2017.

b) Federal Program Change (FPC) Adoption

MOSH continues to be delinquent in its adoption of multiple FPC directives listed in the table below:

Status of MOSH's Response to Federal Program Change (FPC) Directives		
Directive	OSHA Adoption Date	MOSH Status
Field Operations Manual (FOM) (CPL 02-00-160)	August 8, 2016	Will Adopt Alternative / Not Yet Adopted
Whistleblower Investigations Manual (CPL 02-03-007)	January 28, 2016	Will Adopt Identical/ Not Yet Adopted
Consultation Policies and Procedures Manual (CSP 02-00-003)	November 19, 2015	Will Adopt Identical/ Not Yet Adopted
Mandatory Training Program for OSHA Whistleblower Investigators (TED 01-00-020)	October 8, 2015	No Response/ Not yet Adopted
OSHA Strategic Partnership for Worker Safety and Health (CPL 03-002-003)	November 6, 2013	No Response/ Not Yet Adopted

MOSH did not provide timely notice of intent for any of the directives listed in the table above. Finding FY 2016-01 remains open because MOSH has not adopted multiple directives due prior to FY 2017.

Federal Program Changes

Finding FY 2017-01 (FY 2016-01)

MOSH did not take action on Federal Program Changes within the required timeframes.

Recommendation FY 2017-01 (FY 2016-01)

MOSH should develop a strategy that ensures action is taken on Federal Program Changes within the required timeframes.

MOSH did not adopt the Enforcement Procedures and Scheduling for Occupational Exposure to Workplace Violence (CPL 02-01-058), nor did it adopt National Emphasis Program on Shipbreaking (CPL 03-00-020) because MOSH has no jurisdiction over such activities in the private sector. MOSH has been working on updates to its FOM, the Whistleblower Investigations Manual (WIM), and its Consultation Policies and Procedures Manual (CPPM).

5. VARIANCES

MOSH variance provisions are delineated in Sections 5-318 through 5-327 of the MOSH Act and COMAR 09.12.20.17. There were no variances requested during the FY 2017 evaluation period.

6. STATE AND LOCAL GOVERNMENT WORKER PROGRAM

MOSH conducted 37 safety and health inspection in state and local government workplaces. MOSH only conducted 2.15% of its total inspection activity in state and local government for FY 2017, falling below the FRL of 7.37%. MOSH projected conducting 7.76% of inspections in state and local government workplaces in FY 2017. This was a significant decrease from FY 2016 when MOSH conducted 9.71% of inspections in state and local government workplaces. OSHA is monitoring MOSH's inspection activity in state and local government through new Observation FY 2017-OB-05.

State and Local Government Inspection Goals

Observation FY 2017-OB-05

MOSH conducted 37 of 1,722 (2.15%) inspections in state and local government – 117 less than its anticipated goal of 154 (7.76%) inspections.

Federal Monitoring Plan FY 2017-OB-05

OSHA will continue to monitor MOSH's activities in state and local government, emphasizing the percent of inspections conducted in state and local government each quarter.

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. Abatement information is required from state and local government entities and is reviewed and evaluated in the same manner as private sector abatement documentation.

7. WHISTLEBLOWER PROGRAM

The whistleblower case file review did not indicate that MOSH's workplace retaliation metrics are below the FRL due to procedural matters or internal decisions. MOSH's major procedures were deemed to be at least as effective. Of the 23 files reviewed, nine were dismissals, two were withdrawals, and the rest were administratively closed. MOSH did not have any settled cases to review in FY 2016. All dispositions were appropriate and timely. The whistleblower case file review did not indicate that MOSH's workplace retaliation metrics are below the FRL due to procedural matters or internal decisions. Observation FY 2016-OB-04 was closed.

8. COMPLAINT ABOUT STATE PROGRAM ADMINISTRATION (CASPA)

OSHA received one CASPA in FY 2017 and another in early FY 2018. Both CASPAs alleged concerns with the MOSH complaint process. The first CASPA alleged concerns with responding to complaints, and the second CASPA alleged MOSH's handling of complaint inspections. MOSH provided a timely written

response and promptly provided requested documentation to OSHA for both CASPAs.

Allegations from both CASPAs were confirmed by OSHA as valid. OSHA determined that MOSH had not been following the complaint policies and procedures set forth in its Field Operations Manual (FOM), nor was it ensuring the accuracy of complaint data entered into OIS. The CASPA received in early FY 2017 was also discussed in the FY 2016 FAME report. OSHA also received a CASPA in FY 2015 alleging that MOSH did not address a complaint properly. This complaint was deemed valid following OSHA's investigation. OSHA continues to monitor MOSH's response to complaints.

9. VOLUNTARY COMPLIANCE PROGRAM

MOSH's 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 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. The VPP unit awarded one new Star designated site with VPP status, and received and approved a second application in FY 2017. 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's 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. Three new partnerships were signed in FY 2017 with various general contractors throughout the State of Maryland.

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

According to the FY 2017 Mandated Activities Report for Consultation (MARC), the MOSH Consultation Program conducted 13 on-site consultation visits at state and local government workplaces in FY 2017. All 13 consultation visits were reported as initial visits. All hazards were abated within the required timeframe. MOSH projected that 53 total visits would be conducted in state and local government workplaces; however, MOSH fell significantly short of its goal – only conducting 24% of the visits projected in its most recent grant application. It should be noted that meeting the goal is dependent upon receiving voluntary requests for visits and only six were received in FY 2017. MOSH responded to all voluntary requests.

Appendix A – New and Continued Findings and Recommendations
 FY 2017 Maryland Occupational Safety and Health Comprehensive FAME Report

FY 2017-#	Finding	Recommendation	FY 2016-#
FY 2017-01	<i>Federal Program Changes</i> MOSH did not take action on Federal Program Changes (FPCs) within the required timeframes.	MOSH should develop a strategy that ensures action is taken on FPCs within the required timeframes.	FY 2016-01
FY 2017-02	<i>Informal Conferences</i> In 80% of the case files reviewed, MOSH held informal conferences beyond the 15 working day contest period, and has not developed or implemented a policy ensuring that employers abate serious hazards when informal conferences were scheduled and held beyond the 15 working day contest period.	MOSH should develop a policy in its FOM ensuring that informal conferences are held within the 15 working day contest period and develop, formalize, and implement a policy requiring serious hazard abatement when informal conferences are held beyond the 15 working day contest period.	FY 2016-02
FY 2017-03	<i>Next-of Kin (NOK) Notification Documentation</i> In eight of 19 (42%) 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.	MOSH should develop a strategy to ensure that final NOK letters with inspection results are provided to NOK in all fatality cases.	FY 2016-03
FY 2017-04	<i>Serious Hazard Complaint Validation and Processing Procedures</i> MOSH did not validate and process at least 105 of 161 (65%) electronic complaints from former employees and other complainants alleging serious hazards.	MOSH should adhere to the non-formal complaint processing procedures and requirements set forth in its Field Operations Manual (FOM), and develop a strategy to ensure that all complaints alleging serious hazards are addressed.	FY 2016-04
FY 2017-05	<i>Serious Hazard Complaint Documentation/OSHA Information System (OIS)</i> MOSH did not document 65 of 161 (40%) of electronic complaints alleging serious hazards, and did not document all serious complaint allegations received telephonically in OIS.	MOSH should adhere to the complaint processing procedures in its Field Operations Manual (FOM) and document receipt of complaints.	FY 2016-08
FY 2017-06	<i>OSHA Information System (OIS)</i> In 36 of 71 (51%) reviewed complaints, the hazardous condition described by the complainant was not documented in OIS.	MOSH should adhere to its procedures outlined in its Field Operations Manual (FOM) and ensure that the hazardous conditions are documented on a MOSH form.	FY 2016-09

Appendix B – Observations and Federal Monitoring Plans
 FY 2017 Maryland Occupational Safety and Health Comprehensive FAME Report

Observation # FY 2017-OB-#	FY 2016-#	Observation	Federal Monitoring Plan	Current Status
FY 2017-OB-01	FY 2016-05	<i>Unprogrammed Activity (UPA) Documentation Accuracy</i> MOSH documented that inspections were initiated prior to the receipt of the associated UPA in 66 of 261 (25%) inspections with a linked UPA, skewing data reports and distorting complaint documentation accuracy.	In FY 2018, OSHA will run quarterly reports to determine how MOSH is documenting the receipt date for UPAs associated with inspections. The outliers will be provided to MOSH for prompt correction.	New
FY 2017-OB-02	FY 2016-06	<i>Complaint Response Time by Receipt Date</i> In 20 of 71 (28%) reviewed complaint files, MOSH incorrectly documented that the complaints were received after the actual receipt date, initiating complaint investigations and inspections after the negotiated three- and five-day timeframes.	In FY 2018, OSHA will conduct a limited review of complaint files in FY 2018 to document MOSH's progress documenting complaint receipt dates.	New
FY 2017-OB-03	FY 2016-07	<i>Complaint Response Procedures</i> In six of 17 (35%) valid complaints reviewed, MOSH did not validate the complaint appropriately, responding to the complaints after the negotiated three-day timeframe.	In FY 2018, OSHA will conduct a limited review of complaint files to document MOSH's progress documenting valid dates.	New
FY 2017-OB-04	FY 2016-10	<i>Abatement Verification and Documentation</i> MOSH has not verified and documented abatement for 59 inspection cases which have been open for more than 60 days.	In FY 2018, OSHA will run a quarterly abatement documentation report and provide MOSH with a list of outliers for prompt action.	New

Appendix B - Observations and Federal Monitoring Plans
 FY 2017 Maryland Occupational Safety and Health Comprehensive FAME Report

Observation # FY 2017-OB-#	Observation# FY 2016-OB-#	Observation	Federal Monitoring Plan	Current Status
FY 2017-OB-05		<i>State and Local Government Inspection Goals</i> MOSH conducted 37 of 1,722 (2.15%) inspections in state and local government – 117 less than its anticipated goal of 154 (7.76%) inspections.	OSHA will continue to monitor MOSH's activities in state and local government, emphasizing the percent of inspections conducted in state and local government each quarter.	New
FY 2017-OB-06		<i>Follow-Up Inspections</i> MOSH did not conduct any follow-up inspections in FY 2017.	OSHA will continue to monitor the number of follow-up inspections conducted in FY 2018. OSHA will run reports for cases that the MOSH FOM indicates follow-up inspections are appropriate and provide the list to MOSH every quarter.	New
FY 2017-OB-07	FY 2016-OB-03	<i>Complaint Procedures/ Documenting Contact with Complainant</i> MOSH does not appropriately document if it attempted to communicate with complainants by email and telephone (when this information is available) regarding potentially serious hazards.	OSHA will review case files in FY 2018 to identify how MOSH communicated with complainants to determine if potentially serious hazards were not investigated due to lack of contact with the complainant.	Continued
	FY 2016-OB-01	<i>Severe Incident Response Procedures</i> MOSH was notified but failed to respond timely to two separate severe injury incidents.	OSHA will continue to monitor and track MOSH's response to incidents. In FY 2017, OSHA will monitor incidents as feasible and evaluate MOSH's response to determine if these are isolated instances or if this represents a trend that requires further action.	Closed

Appendix B – Observations and Federal Monitoring Plans
 FY 2017 Maryland Occupational Safety and Health Comprehensive FAME Report

Observation # FY 2017-OB-#	Observation# FY 2016-OB	Observation	Federal Monitoring Plan	Current Status
	FY 2016-OB-02	<i>OSHA Information System (OIS)</i> MOSH was notified of two separate severe injury incidents but did not document the referrals in OIS.	OSHA will continue to monitor and evaluate entry of referral notifications into OIS during FY 2017 as feasible.	Closed
	FY 2016-OB-04	<i>Workplace Retaliation Metrics</i> The FY 2016 metrics indicated that the MOSH Discrimination Unit is performing below negotiated targets and national averages.	OSHA will conduct an in-depth review of whistleblower protection case files in FY 2017.	Closed

Appendix C – Status of FY 2016 Findings and Recommendations
 FY 2017 Maryland Occupational Safety and Health Comprehensive FAME Report

FY 2016-#	Finding	Recommendation	State Plan Corrective Action	Completion Date	Current Status (and Date if Item is Not Completed)
FY 2016-01	<i>Federal Program Changes</i> MOSH did not take action on Federal Program Changes (FPCs) within the required timeframes.	MOSH should develop a strategy that ensures action is taken on FPCs within the required timeframes.	MOSH is working with DLLR to take action on all overdue FPCs. MOSH has presented two standards to the MOSH Advisory Board for adoption.	Not completed	Open (March 15, 2017)
FY 2016-02	<i>Informal Conferences</i> In 81% of the case files reviewed, MOSH held informal conferences beyond the 15 working day period.	MOSH should reevaluate and update its Field Operations Manual (FOM) policy to ensure that informal conferences are held within 15 working days.	MOSH will require employers to submit abatement documentation and certification (where applicable) when requesting the informal conference within 15 working days of receiving a citation. MOSH will incorporate this change in its next FOM update during FY 2018.	Not completed	Open (March 15, 2017)
FY 2016-03	<i>Next-of Kin (NOK) Notification Documentation</i> In nine of 12 (75%) fatality case files from FY 2015, there was no documentation showing that the final NOK letter with the inspection results was sent or that contact was made with family members.	MOSH should develop a strategy to ensure that final NOK letters with inspection results are provided to NOK in all fatality cases.	MOSH Instruction 16-10 will be updated in FY 2018 to reflect the alternate means of communication and documentation of NOK notification.	Not completed	Open (March 15, 2017)

Appendix C – Status of FY 2016 Findings and Recommendations
 FY 2017 Maryland Occupational Safety and Health Comprehensive FAME Report

FY 2016-#	Finding	Recommendation	State Plan Corrective Action	Completion Date	Current Status (and Date if Not Completed)
FY 2016-04	<p><i>Serious Hazard Complaint Validation and Processing Procedures</i> MOSH did not validate and process at least 17 electronic complaints from former employees and other complainants alleging serious hazards.</p>	<p>MOSH should adhere to the non-formal complaint processing procedures and requirements set forth in their Field Operations Manual (FOM), and develop a strategy to ensure that all complaints alleging serious hazards are addressed.</p>	<p>MOSH will adhere to the non- formal complaint processing procedures and requirements set forth in its FOM, and develop a strategy to ensure that all complaints alleging serious hazards are addressed.</p>	Not completed	Open (March 15, 2017)
FY 2016-05	<p><i>Unprogrammed Activity (UPA) Documentation Accuracy</i> MOSH documented that inspections were initiated prior to the receipt of the associated UPA in 216 of 515 (42%) inspections with a linked UPA, skewing data reports and distorting complaint documentation accuracy.</p>	<p>MOSH should reevaluate its complaint processing procedures, and develop a strategy to ensure data integrity and accuracy of SAMM reports by confirming and correctly entering the accuracy of receipt dates for all complaints linked to an inspection into the OSHA Information System (OIS).</p>	<p>MOSH updated its complaint processing procedures and trained staff on properly entering data into OIS.</p>		Converted to an observation (March 15, 2017)

Appendix C – Status of FY 2016 Findings and Recommendations
 FY 2017 Maryland Occupational Safety and Health Comprehensive FAME Report

FY 2016-#	Finding	Recommendation	State Plan Corrective Action	Completion Date	Current Status (and Date if Not Completed)
FY 2016-06	<p><i>Complaint Response Time by Receipt Date</i> In 24 of 55 (44%) of reviewed complaint files, MOSH incorrectly documented that the complaints were received after the actual receipt date, initiating complaint investigations and inspections after the negotiated three- and five-day timeframes.</p>	<p>MOSH should reevaluate complaint processing procedures, and develop a strategy to ensure that a complaint investigation or inspection is initiated within the negotiated timeframe after a receipt of a complaint.</p>	<p>MOSH updated its complaint processing procedures and retrained staff on the differences for data entry into the OIS system.</p>		<p>Converted to an observation (March 15, 2017)</p>
FY 2016-07	<p><i>Complaint Response Procedures</i> In five of six (83%) complaint files where the complainant was contacted to provide information, MOSH did not validate the complaint appropriately, responding to the complaints after the negotiated three-day timeframe.</p>	<p>MOSH should reevaluate its complaint processing procedures, and develop a strategy to ensure that all complaints are validated and processed, to ensure that a complaint investigation or inspection is initiated appropriately within the negotiated three-day timeframe.</p>	<p>MOSH trained staff to enter the receipt date as the date the complaint is received, and to enter the valid date as the date that MOSH received enough information to process the complaint (if different). MOSH updated its complaint processing procedures and retrained staff on the differences for data entry into the OIS system.</p>		<p>Converted to an observation (March 15, 2017)</p>

Appendix C – Status of FY 2016 Findings and Recommendations
 FY 2017 Maryland Occupational Safety and Health Comprehensive FAME Report

FY 2016-#	Finding	Recommendation	State Plan Corrective Action	Completion Date	Current Status (and Date if Not Completed)
FY 2016-08	<i>Serious Hazard Complaint Documentation</i> MOSH did not document at least 50 electronic complaints alleging serious hazards, and did not document all serious complaint allegations received telephonically in the OSHA Information System (OIS).	MOSH should adhere to the complaint processing procedures in its Field Operations Manual (FOM) and document receipt of complaints.	MOSH assigned additional staff to the complaint processing unit to ensure the timely documentation of electronic complaints. MOSH made procedural changes such as documenting imminent danger hazards received by telephone as an unprogrammed activity (UPA) in OIS.	Not completed	Open (March 15, 2017)
FY 2016-09	<i>OSHA Information System (OIS)</i> None of the electronic complaints entered into OIS had documentation of the hazardous condition described by the complainant.	MOSH should adhere to its procedures outlined in its Field Operations Manual (FOM) and ensure that the hazardous conditions are documented on a MOSH form.	MOSH has provided training to staff about entering the hazardous conditions described by the complainant into OIS.	Not completed	Open (March 15, 2017)
FY 2016-10	<i>Abatement Verification and Documentation</i> MOSH has not verified and documented abatement for 265 inspection cases which have been open for more than 60 days.	MOSH should adhere to its procedures outlined in the Field Operations Manual (FOM) and verify and document that abatement has been completed for all cases where abatement is past due.	MOSH assigned a senior level compliance officer to evaluate abatement and update the status in OIS.		Converted to an observation (March 15, 2017)

Appendix D - FY 2017 State Activity Mandated Measures (SAMM) Report

FY 2017 Maryland Occupational Safety and Health Program Comprehensive FAME Report

U.S. Department of Labor				
Occupational Safety and Health Administration State Plan Activity Mandated Measures (SAMMs)				
State Plan: Maryland - MOSH			FY 2017	
SAMM Number	SAMM Name	State Plan Data	Further Review Level	Notes
1a	Average number of work days to initiate complaint inspections (state formula)	3.06	5	The further review level is negotiated by OSHA and the State Plan.
1b	Average number of work days to initiate complaint inspections (federal formula)	2.63	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)	2.46	3	The further review level is negotiated by OSHA and the State Plan.
2b	Average number of work days to initiate complaint investigations (federal formula)	0.51	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%	The further review level is fixed for all State Plans.
4	Number of denials where entry not obtained	0	0	The further review level is fixed for all State Plans.
5	Average number of violations per inspection with violations by violation type	SWRU: 2.07 +/- 20% of	SWRU: 1.83	The further review level is based on a two-year national average. The range of acceptable data not requiring further review is from 1.46 to 2.20 for SWRU and from 0.79 to 1.19 for OTS.
		Other: 1.58	+/- 20% of Other: 0.99	

Appendix D - FY 2017 State Activity Mandated Measures (SAMM) Report

FY 2017 Maryland Occupational Safety and Health Program Comprehensive FAME Report

SAMM Number	SAMM Name	State Plan Data	Further Review Level	Notes
6	Percent of total inspections in state and local government workplaces	2.15%	+/- 5% of 7.76%	The further review level is based on a number negotiated by OSHA and the State Plan through the grant application. The range of acceptable data not requiring further review is from 7.37% to 8.15%.
7	Planned v. actual inspections – safety/health	S: 1,628 +/- 5% of	S: 1,860	The further review level is based on a number negotiated by OSHA and the State Plan through the grant application. The range of acceptable data not requiring further review is from 1,767 to 1,953 for safety and from 118.75 to 131.25 for health.
		H: 94	+/- 5% of H: 125	
8	Average current serious penalty in private sector - total (1 to greater than 250 workers)	\$644.78	+/- 25% of \$2,516.80	The further review level is based on a two-year national average. The range of acceptable data not requiring further review is from \$1,887.60 to \$3,146.00.
	a. Average current serious penalty in private sector (1-25 workers)	\$567.91	+/- 25% of \$1,706.10	The further review level is based on a two-year national average. The range of acceptable data not requiring further review is from \$1,279.58 to \$2,132.63.
	b. Average current serious penalty in private sector (26-100 workers)	\$796.10	+/- 25% of \$2,867.94	The further review level is based on a two-year national average. The range of acceptable data not requiring further review is from \$2,150.96 to \$3,584.93.
	c. Average current serious penalty in private sector (101-250 workers)	\$1,124.29	+/- 25% of \$3,952.26	The further review level is based on a two-year national average. The range of acceptable data not requiring further review is from \$2,964.20 to \$4,940.33.
	d. Average current serious penalty in private sector (greater than 250 workers)	\$1,517.22	+/- 25% of \$5,063.48	The further review level is based on a two-year national average. The range of acceptable data not requiring further review is from \$3,797.61 to \$6,329.35.
9	Percent in-compliance	S: 18.43%	+/- 20% of S: 29.53%	The further review level is based on a two-year national average. The range of acceptable data not requiring further review is from 23.62% to 35.44% for safety and from 28.62% to 42.94% for health.
		H: 38.16%	+/- 20% of H: 35.78%	

Appendix D - FY 2017 State Activity Mandated Measures (SAMM) Report

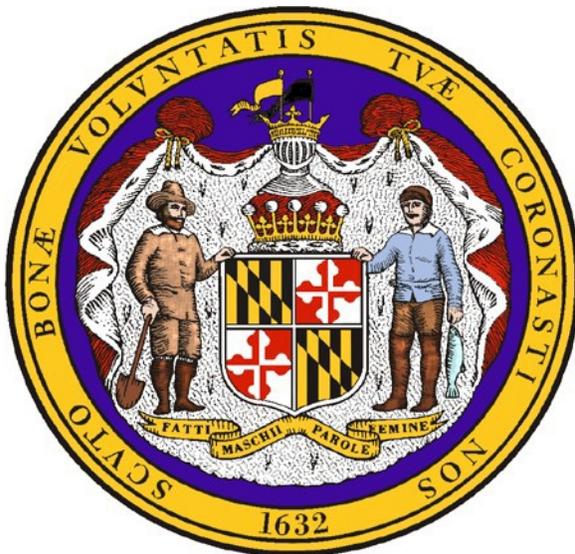
FY 2017 Maryland Occupational Safety and Health Program Comprehensive FAME Report

SAMM Number	SAMM Name	State Plan Data	Further Review Level	Notes
10	Percent of work-related fatalities responded to in one workday	100%	100%	The further review level is fixed for all State Plans.
11	Average lapse time	S: 41.98	+/- 20% of S:45.29	The further review level is based on a two-year national average. The range of acceptable data not requiring further review is from 36.23 to 54.35 for safety and from 44.82 to 67.24 for health.
		H: 72.17	+/- 20% of H: 56.03	
12	Percent penalty retained	78.83%	+/- 15% of 67.44%	The further review level is based on a two-year national average. The range of acceptable data not requiring further review is from 57.32% to 77.56%.
13	Percent of initial inspections with worker walk around representation or worker interview	99.83%	100%	The further review level is fixed for all State Plans.
14	Percent of 11(c) investigations completed within 90 days	45%	100%	The further review level is fixed for all State Plans.
15	Percent of 11(c) complaints that are meritorious	0%	+/- 20% of 25%	The further review level is based on a three-year national average. The range of acceptable data not requiring further review is from 20% to 30%.
16	Average number of calendar days to complete an 11(c) investigation	132	90	The further review level is fixed for all State Plans.
17	Percent of enforcement presence	1.66%	+/- 25% of 1.26%	The further review level is based on a two-year national average. The range of acceptable data not requiring further review is from 0.95% to 1.58%.

NOTE: Fiscal Year 2017 is the second 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). As such, the further review levels for SAMMs typically referencing a three-year rolling average will instead rely on a two-year average this year. Unless otherwise noted, the data contained in this Appendix D is pulled from the State Activity Mandated Measures (SAMM) Report in OIS and the State Plan WebIMIS report run on November 13, 2017, as part of OSHA's official end-of-year data runs.

State of Maryland Occupational Safety and Health Compliance Annual Report for Fiscal Year 2017

December 2017



Larry Hogan, Governor
Kelly M. Schulz, Secretary
Matthew S. Helminiak, Commissioner
William E. Dallas, Assistant Commissioner

Appendix E – FY 2017 State OSHA Annual Report (SOAR)
FY 2017 Maryland Occupational Safety and Health Comprehensive FAME Report

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Appendix E – FY 2017 State OSHA Annual Report (SOAR)
FY 2017 Maryland Occupational Safety and Health Comprehensive FAME Report

Section 1
Year in Review

Fiscal year 2017 (FY17) was the last year in our current five-year Strategic Plan. Maryland Occupational Safety and Health (MOSH) has accomplished several goals this year and is on track to complete all of the annual and five-year goals. On April 12, 2017, MOSH completed the new five-year Strategic Plan (FY18-FY22) and posted the plan on the MOSH web site. Several performance goals outlined in the new Strategic Plan are already on track to reach their target by FY22.

In FY17 the On-Site Consultation Project re-certified two Safety and Health Achievement Recognition Program (SHARP) participants. Stanley Black & Decker, Inc. - Powdered Metals Division and Marlin Steel Wire Products, Inc. maintained and improved their workplace safety and health programs, employee involvement, and management commitment during their previous two years of participation. Each maintained injury and illness rates below the national averages for their respective North American Industrial Classification System (NAICS) code.

During the spring and summer of 2017, MOSH welcomed nine new safety compliance officers and four new industrial hygienists.

The Voluntary Protection Program (VPP) unit awarded Star Recognition VPP status to one new site, Stinger Ghaffarian Technologies (SGT), and received and approved an application for another, in FY17. The unit performed four recertification visits in which all sites were reapproved. VPP also performed five pre-application visits.

In FY17, the Cooperative Compliance Partnerships (CCP) program signed three new partnerships with general contractors in the State of Maryland. These three general contractors are Barton Malow Company, Lendlease (US) Construction, and The Whiting-Turner Contracting Company. The estimated projected value of the three sites total \$213 million in new construction. The Whiting-Turner Contracting Company signing was the 83rd CCP partnership since the inception of the program, twenty years ago.

The Training and Education Unit offered 80 educational seminars covering thirty-two topics at no cost to the employees and employers in Maryland, including many federal employees and contractors.

In July 2017, the MOSH Research and Statistics unit completed the 2016 data collection for the Bureau of Labor Statistics Survey of Occupational Injuries and Illnesses (SOII) program. The statistics generated from this employer-based survey are the U.S. government's official accounting of the safety and health issues facing America's workplaces. The SOII charts the nature and magnitude of occupational injuries and illnesses across the United States. The dedication and perseverance of the Research and Statistics staff helped to ensure that Maryland's response rate for this important survey was highest of all states in the Mid-Atlantic region.

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Instructions and Standards Notices

One MOSH Instruction and one Standard Notice were issued in FY17.

MOSH Instructions and Standards Notices Issues in FY17			
OSHA Directive	Topic	MOSH Instructions/Standards Notices	Notes
CPL 02-03-007	Discrimination Complaints	MI 17-1	March 1, 2017
MOSH Standards Notice	Confined Spaces In Construction	MS 17-1	March 27, 2017

They are available online at:

<http://www.dllr.state.md.us/labor/instructions/>

<http://www.dllr.state.md.us/labor/standards/>

Staff Training

During FY17, MOSH sent twenty compliance officers to twelve different technical training courses offered by the Occupational Safety and Health Administration (OSHA) Training Institute (OTI) in Chicago, Illinois. Additionally, MOSH brought three different OTI courses to the Hunt Valley (HV), Maryland office which were attended by 64 MOSH compliance officers.

Topics of study included:

1. Inspection Techniques and Legal Aspects (HV)
2. Investigative Interviewing Techniques (HV)
3. Accident Investigation (HV)
4. Applied Welding Principles
5. Introduction to Health Standards for Industrial Hygienists
6. Respiratory Protection
7. Health Hazard Awareness for Safety Officers
8. Special Government Employees (SGE) Training
9. Concrete, Forms, and Shoring
10. Principles of Scaffolding
11. Occupational Safety & Health Standards for the Construction Industry
12. Joint Whistleblower - Solicitors Training Summit
13. Cranes and Materials Handling for General Industry
14. Machine Guarding and Hazardous Energy Control
15. Advanced PSM in the Chemical Industries

*HV: MOSH Hunt Valley, Maryland Office

In September 2017, continued educational opportunities were offered to thirteen new MOSH compliance officers for training on National Fire Protection Association (NFPA) 70E Standard for Electrical Safety in the Workplace. This training was provided by John Grzywacz, a retired OSHA OTI instructor, at the MOSH Hunt Valley, Maryland office.

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Three employees obtained the Construction Health Safety Technician (CHST) certification, two employees obtained the Certified Safety Professional (CSP) certification, one employee obtained the Certified Industrial Hygienist (CIH) certification, and one employee obtained the Safety Management Specialist (SMS) certification.

Organizational Changes

In the summer of 2017, MOSH welcomed a new Commissioner of Labor & Industry, Matthew S. Helminiak. Mr. Helminiak was appointed to this position by Secretary of Labor, Licensing, & Regulation, Kelly M. Schulz with Governor Larry Hogan's approval.

In the spring and summer of 2017, MOSH welcomed its newest class of inspectors. The new trainees consisted of nine safety compliance officers and four industrial hygienists. Each trainee is completing a rigorous training curriculum that consists of classroom-style training and intense field training with senior compliance officers. It is anticipated that the trainees will take their final exams in spring 2018.

In the spring of 2017, MOSH reassigned Supervisor Robert Fadrowski to supervise MOSH Region 1 and promoted two senior compliance officers, one senior industrial hygienist, and one OSH Compliance Specialist to regional supervisors:

- Senior Industrial Hygienist Cristina Campbell was promoted and assigned to supervise MOSH Region 2.
- Senior Compliance Officer Erica Erdman was promoted and assigned to supervise MOSH Region 5.
- OSH Compliance Specialist Tom Thorsen was promoted and assigned to supervise Region 3.
- Senior Compliance Officer Josh Price was promoted and assigned to supervise MOSH Region 6.

The Industrial Hygiene unit lost three hygienists, but gained five, increasing the total number of industrial hygienists (IH) to seven. This included the transfer of one IH to Consultation and the return of one veteran industrial hygienist who has taken a lead role in providing training and mentoring to new staff. The unit has been focusing on providing classroom and on-the-job training to the four new inspectors, and direct support and assistance to two IHs with fewer than two years of experience. There are plans to hire up to four more IHs in the coming fiscal year. The IH unit conducted 100 inspections in FY17.

Federal Audit

In FY17, MOSH underwent a Comprehensive Federal Annual Monitoring and Evaluation (FAME) review. The focus of this audit was to assess the agency's performance during FY16 and to evaluate progress in addressing the issues identified in prior FAME reports. MOSH corrected the one finding in FY15 that referred to the lack of an internal appeals process for discrimination. The agency developed an internal appeals process and MOSH Instruction 17-1 was created outlining the new procedures. The Instruction was issued to all staff and posted on the agency's website. When the MOSH Field Operations Manual (FOM) is updated, these procedures will be formally added.

MOSH had three findings from FY15 that continued as findings in FY16:

FY 2016-01: This finding dealt with the agency not responding to 71% of Federal Program changes (FPCs) issued by Federal OSHA in a timely manner. MOSH will adhere to the requirements as stated in 29 CFR 1953.5(a)(1).

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FY 2016-02: This finding identified that 81% of informal conferences were being held beyond the fifteen working days allowed. MOSH will require employers to submit abatement documentation and certification (where applicable) when requesting the informal conference within fifteen working days of receiving a citation. MOSH will incorporate this change in its FOM by December 29, 2017.

FY 2016-03: This finding stated that 75% of fatality case files did not contain documentation showing that a next-of-kin letter was sent to family members. MOSH Instruction 16-10 will be updated to reflect the alternate means of communication and documentation of NOK notification by December 29, 2017.

MOSH had seven new findings during the FY16 FAME:

FY 2016-04: The finding dealt with serious hazard complaint validation and processing procedures. In the seventeen electronic complaints specified, the complainant was either a former employee or someone other than a current employee who requested anonymity on the electronic complaint. MOSH will adhere to the non-formal complaint processing procedures and requirements set forth in its FOM, and develop a strategy to ensure that all complaints alleging serious hazards are addressed.

FY 2016-05 & FY 2016-06: These two findings dealt with Unprogrammed Activity (UPA) Documentation Accuracy and Complaint Response Time by Receipt Date. MOSH updated the complaint processing procedures and retrained staff on the differences for data entry into the OSHA Information System (OIS) system.

FY 2016-07: This finding dealt with Complaint Response Procedures. MOSH retrained staff to enter the receipt date as the date the complaint is received and to enter the valid date as the date that MOSH received enough information to process the complaint. MOSH updated complaint processing procedures and retrained staff on the differences for data entry into the OIS system.

FY 2016-08: This finding dealt with Serious Hazard Complaint Documentation. MOSH will adhere to the complaint processing procedures in its FOM and document receipt of complaints. In addition, MOSH has assigned additional staff to the complaint processing unit to ensure the timely documentation of electronic complaints. MOSH has also made procedural changes such as documenting imminent danger hazards received by telephone as an unprogrammed activity (UPA) in OIS.

FY 2016-09: This finding dealt with none of the electronic complaints entered on UPAs in OIS had documentation of the hazardous condition described by the complainant. MOSH has trained staff to enter the hazardous conditions on UPAs entered in OIS.

FY 2016-10: This finding dealt with Abatement Verification and Documentation. MOSH has assigned a senior level compliance officer to address this issue. MOSH anticipates completion by January 1, 2018.

Section 2
Unit Review

Enforcement

According to the OSHA derived State Activity Mandated Measures (SAMM) report, MOSH compliance officers opened 1,722 enforcement inspections in FY17: of those, 1629 were safety and 93 were health. MOSH projected 1,985 inspections would be conducted; the agency was able to accomplish 87% of that goal.

As discussed earlier, MOSH hired thirteen new compliance officers/industrial hygienists. During their training period, senior compliance officers' and industrial hygienists' time was needed to properly train this class. This had an impact on the number of compliance inspections conducted.

Compliance officers continued to focus their efforts on the industries in Maryland that had high injury and illness rates. Of the total, 1370 (80%) of these inspections were conducted under one or more of the state's Local Emphasis Programs (LEP) and 203 (12%) of the inspections were conducted under one or more of the adopted National Emphasis Programs (NEP). MOSH compliance officers investigated approximately 103 accidents, an increase of thirteen from FY16. According to SAMM Measure 10, MOSH investigated seventeen workplace fatalities; however, according to MOSH documentation twenty-five fatality investigations were opened. Twenty-four investigations were opened within one day of notification. The one instance where an investigation was not initiated within 24-hours was a case where MOSH was notified at 7:50 p.m. on a Saturday night. The investigation was not conducted Saturday night because the scene had been cleared and all personnel had left the scene. MOSH initiated the investigation on Monday morning.

MOSH was able to initiate complaint inspections within an average of 3.06 days and complaint investigations within an average of 2.46 days, both are below the five-day and three-day average, respectively, agreed upon in our Annual Performance Plan. MOSH received and responded to four complaints/referrals for imminent danger situations within one day of notification. There were no instances where a compliance officer did not gain entry into a facility after an employer originally denied the inspection.

According to SAMM Measure 5, MOSH compliance officers and industrial hygienists averaged 2.07 serious, willful, or repeat and 1.58 other-than-serious violations per case, totaling an average of 3.65 violations per case file.

MOSH's average penalty per serious violation was just under \$650.00. MOSH issued an average penalty of just over \$550.00 per serious citation for employers with twenty-five employees or fewer, the average national penalty for employers with twenty-five employees or less was nearly three and a half times as much at \$1,957.26. MOSH will continue to follow its Field Operations Manual (FOM) and applicable policies regarding penalty levels. While our penalties are typically lower than the surrounding states and Federal OSHA, BLS information supports that our state efforts are very effective. It should be noted that based on U.S. Bureau of Labor Statistics' data, of the 45 states and territories where occupational injury and illness statistics were available, Maryland's private sector total recordable case incidence rate was 2.9 injuries and illnesses per 100 full-time equivalent workers in 2015. This rate was 3% below the U.S private sector average and was within the top 38% of the lowest reported state rates.

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According to SAMM Measure 9, there were 1,538 qualifying safety inspections completed with 18.34% of them being in compliance. There were also 75 qualifying health inspections completed with 37.33% of them being in compliance. According to MOSH documentation, nearly 90% of health inspections in FY17 were unprogrammed, of which 58% were complaints. Health inspections generated from complaints typically do not result in citations related to the complaint for a variety of reasons. Many of the complaints investigated by our industrial hygienists revolved around alleged exposure to dust and asbestos during renovation/demolition/construction activities, these generally did not result in overexposures; therefore, citations were not issued. There were also several instances where the complaint was filed against a host employer; however, the complaint items were being generated by a sub-contractor on-site or a neighboring employer. Totaling the inspections together, MOSH had an in compliance rate of approximately 19%. MOSH is well within the +/-20% goal of the federal in compliance rate; which is approximately 27%. Our targeting systems are continually assuring our compliance officers are spending time and resources in the industries that need the most assistance.

Just over 2% of all MOSH inspections were completed in the public sector. Historically MOSH performs 3-5% of its annual inspections in the public sector. MOSH continued to use an LEP to help focus on public sector establishments.

Lapse time (number of days from inspection open date to citation issuance date) decreased from FY16, for both safety and health. As the new class of trainees began to write their own cases, the number of reviews and time spent on each case increased as they learned the process. During FY17, safety averaged just under 42 days which is a 1-day decrease from FY16 while health averaged just over 72 days which is a nine-day decrease from FY16.

Case Highlights

Lead and Cadmium Exposure

In early November 2016, three employees were completing restoration services on a historic home in Easton, MD. The company was contracted to complete paint removal and repainting operations. The employees removed old paint using manual and electric-powered sanding methods. Bulk samples of the paint were found to contain as much as 32% lead, in addition to other contaminants, such as cadmium. The first phase of this particular job was to remove and repaint one side of the building, which took approximately five weeks from start to finish. The employees worked from ladders, scaffolds and the ground level sanding various areas of the home, including columns, siding, and window frames. Air monitoring was completed during the inspection and found the employees were exposed to lead at levels up to one hundred and fifty times the permissible exposure limit (PEL), and cadmium at levels almost two times the PEL. Employees' blood lead levels (BLLs) exceeded 50 µg/dL. Citations were recommended for lead and cadmium overexposures and program deficiencies, as well as respiratory and hazard communication deficiencies.

Contact with Overhead Electrical Line

On 3/30/2017, MOSH conducted an inspection where an employee made contact with an overhead electrical line while employees were installing new overhead communication lines. The line installation totaled approximately 1,050 feet, spanning the length of five pre-existing utility poles. The process of installing the lines included the use of a bucket truck. While the supervisor cleared all vines and other natural growth from the area of installation, an employee operating the bucket extended the boom and elevated the bucket too far above the communication lines to a point of making direct contact with the C-phase power line that operating at 7,620 volts. According to employees, there was a loud buzzing noise, a blue flash, and a fire. The back of the

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employee's head contacted the C-Phase power line at a height of approximately 25 feet, eight inches above the ground. The bucket was comprised of fiberglass but attached to it was a metal control box and the boom was un-insulated. The electricity traveled through the victim and through the boom of the truck to the ground, at which point the ground caught on fire. Resulting injuries included, but were not limited to, electrocution, electrical burns, and burns to the body from fire. There was an entrance wound in head and exit wounds in left shoulder and left lower leg. A citation was issued under 1910.268(c) for the employee not being trained in the approached distance for high voltage lines.

Confined Space Entry

In July 2017, the employer was contracted to complete restorative cleaning services on a large spray dryer that had sustained damage after a fire at the facility. This spray dryer unit was equipped with explosion suppression equipment designed to suppress the explosion before reaching the walls of the dryer. The explosion suppression equipment was built with an explosive charge, charged to 600 pounds per square inch (psi), protected with a battery-powered backup system, and was extremely sensitive to any flash or light sources.

The employee was required to break the plane of the dryer by extending their upper torso, including their head, arms, and upper body, through the 20-inch hatch opening in order to scrap the inner walls of the unit. The employee was unaware of this explosion suppression equipment while completing this job and did not understand the hazards of potentially activating the explosive charge while working inside the dryer. The employer did not evaluate the tasks, equipment, and procedures to determine if the process met the criteria for permit-required confined space entry. Citations were recommended for deficiencies related to confined space entry and lockout, tagout.

Inadequately Constructed Scaffolding

On the day of the accident, employees were completing brick installation to the exterior wall of a church under construction. The work was performed on a mast climbing scaffold. During the course of the work being performed, the scaffold platform was raised to a working height of approximately twenty-eight feet above the ground with bracing at the fifteen-foot level leaving approximately fifteen feet of mast unsupported. With the approximately 1538-1878 lbs. of equipment, bricks, mortar, tools, and personnel; the scaffold platform began swaying and collapsed. It was determined the mast climber scaffold had broken off at 15-foot level due to being erected improperly. The investigation found that the employer had not provided competent person training to the employee prior to erecting the scaffold. The employer also failed to ensure the mast climber scaffold was erected according to the manufacturer's instructions. Citations were recommended under 29 CFR 1926.451(c)(1)(ii) for guys, ties, and braces not installed according to manufacturer's recommendations and 29 CFR 1926.451(f)(7) for the scaffold not being erected under the supervision and direction of a qualified competent person.

Consultation

MOSH has one public sector safety consultant in 23(g). When there are specific health concerns on a public sector site one of the industrial hygiene consultants from 21(d) will temporarily transfer and perform the health visit. Our public sector consultant attended Applied Welding Principles and Cranes and Materials Handling for General Industry training in FY17. There were forty-eight public sector site visits completed; forty-one were initial safety visits, six were safety follow-up visits, and one was an initial health visit. The goal of fifty-three visits was not met. A lack of public sector health requests and the fact that one of our health consultants left state service in March of 2017 contributed to the shortfall. All public sector requests for service were filled and promotional activities were conducted throughout the year to increase service requests.

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Assistance was provided to the Outreach unit during seventeen onsite Cooperative Compliance Partnership Program visits, speaker requests, and seminar presentations by the public sector safety consultant. All of the employer surveys received by the Consultation Unit rated the service provided by our public sector consultant(s) as “excellent”.

Outreach

Cooperative Compliance Partnerships (CCP)

Three new partnerships were signed in FY17 with various general contractors throughout the State of Maryland. The estimated project value of the three sites total \$213 million in new construction. MOSH signed their 83rd partnership since the inception of the program 20 years ago, in August 2017. Seven new applications are currently going through the review process and are likely to become new partnerships in FY18. The Outreach Unit performed thirty-five CCP site visits and conducted 175 inspections of the 800 subcontractors working on the sites. The inspection team removed 5,837 employees from 279 hazards found on these sites. As of the end of FY17, there were five active CCP sites.

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Companies Awarded a Partnership in FY17

Company Name	Project Name	Signing Date	Project Value
Barton Malow Company	UMBC Event Center	12/20/2016	\$73 M
Lendlease (US) Construction	414 Light Street	01/26/2017	\$116M
The Whiting-Turner Contracting Company	West Salisbury Elementary School	08/31/2017	\$24M

Active CCP Sites as of end FY17

Company Name	Project Name	City	Project Value
Barton Malow Company	UMBC Event Center	Catonsville	\$73M
Lendlease (US) Construction	414 Light Street	Baltimore	\$116M
The Whiting-Turner Contracting Company	West Salisbury Elementary School	Salisbury	\$24M
The Whiting-Turner Contracting Company	Skip Virage Outpatient Cancer Build.	Baltimore	\$65M
PC Construction	Frederick Waste Water Treatment Plant	Frederick	\$38M

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Voluntary Protection Program (VPP) - Star only

The VPP unit awarded one new Star Designated site with VPP status, and received and approved a second application in FY17. The onsite evaluation is scheduled for the first quarter of FY18. The unit performed four recertification visits in which all sites were reapproved. The unit also performed five pre-application visits and continues to work with each company. The VPP Program Manager attended the Region III and National VPP Participants' Association, Inc. (VPPPA) conferences in FY17. Cintas Corporation hosted Special Government Employee (SGE) training in Laurel, Maryland. The Maryland VPP continues to support the OSHA and VPPPA SGE program by using SGEs as mentors and to assist with application reviews.

<u>Active VPP Sites FY17</u>	
<u>Company</u>	<u>Location</u>
Cintas Corporation 42	Baltimore
Cintas Corporation 387	Frederick
Cintas Corporation 393	Hughesville
Cintas Corporation 41	Landover
Clean Harbors Environmental Services	Baltimore
Covanta Montgomery Transfer Station	Derwood
Covanta Energy	Dickerson
Frito-Lay	Aberdeen
GE Healthcare	Laurel
Monsanto Galena Research Station	Galena
Performance Pipe	Hagerstown
(Raytheon) Solipsys Corp.	Fulton
Raytheon IIS Riverdale	Riverdale
Sherwin Williams	Baltimore
Sherwin Williams	Beltsville
Sherwin Williams	Crisfield
Stinger Ghaffarian Technologies	Lanham
Thermo Fisher Scientific	Frederick
Wheelabrator	Baltimore

Safety and Health Achievement Recognition Program (SHARP)

Please refer to the FY17 Consultation Annual Program Report (CAPR) for these results.

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Education Unit FY 2017 Maryland Occupational Safety and Health Comprehensive FAME Report

In FY17, the Training and Education Unit was able to offer 80 educational seminars covering thirty-two topics at no cost to the employees and employers in Maryland, including many federal employees and contractors. Most of the seminars were taught by MOSH compliance officers and consultants and were offered at locations throughout the state. Just over 1,500 employees and employers participated in the half-day and full-day seminars. MOSH also offered employers the opportunity to request speaking engagements where compliance officers gave presentations on relevant, technical safety and health topics. In FY17, 89 different employers, institutions, and government agencies requested a MOSH compliance officer to speak at their job site. MOSH speakers spent over 74 hours presenting various safety and health topics to over 4,000 employees at these speaking engagements. MOSH continues to consider teen safety to be an important topic to cover with high school students who are readying to enter the workforce. Each year MOSH completes numerous speaker requests at various high schools throughout the state. In FY17, MOSH spent over thirty-three hours speaking to 976 students at thirteen different events about workplace hazards.

Educational Seminars Offered in FY17

Course Name	Course Name
Accident Investigation	Heat Stress
Blood Borne Pathogens	Introduction to OSHA Recordkeeping
Characteristics of an Effective Safety & Health Program	Job Safety Analysis
Chipper Operator Specialist	Machine Guarding
Confined Spaces	MD Tree Care & Removal
Construction Site Safety I	Occupational Exposure to Noise
Construction Site Safety II	OSHA 10 – General Industry
Electrical Safe Work Practices & the NFPA 70E	OSHA 10 - Construction
Electrical Safety & Lockout Tagout	Personal Protective Equipment
Emergency Response and Disaster Preparedness	Powered Industrial Truck Safety
Excavation Safety	Respiratory Protection
Fall Protection – Construction	Scaffolding Safety in Construction
General Industry – I	Seguridad en la Construction
General Industry – II	This is MOSH
Hand and Power Tool Safety	Workplace Hazard Assessment
Hazard Communication	Workplace Violence

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APPENDIX A

Summary of Annual Performance Plan Goals for MOSH FY17

- Performance Goal 1.1 – Total Reduction in the Fatality Rate by 1% in FY17 (5% by end of FY17)
- Performance Goal 1.2 – Maintain Injury and Illness DART rate at 2.0 in FY17
- Performance Goal 2.1 – Increase Recognition Programs from 20 to 25 in FY17 (5 New Recognition programs by the end of FY17)
- Performance Goal 2.2 – Increase Cooperative Partnerships from 61 to 76 in FY17 (15 new Cooperative Partnerships by the end of FY17)
- Performance Goal 2.3 – Maintain attendance in MOSH outreach and training programs annually at 6,000 participants
- Performance Goal 3.1 – Percent of fatality and catastrophe inspections initiated within one working day of notification maintained at least 95% in FY17 (FY11 is 100%).
- Performance Goal 3.2 – Serious complaint inspections are initiated within an average of five working days of notification.
- Performance Goal 3.3 – Percent of discrimination complaint investigations completed within 90 days is at least 90%
- Performance Goal 3.4 – Percent of polled responses from MOSH website users indicating a positive overall experience established at 90% by 2017
- Performance Goal 3.5 – 90% of responding employers are satisfied with the consultation visit received.
- Performance Goal 3.6 – Provide prompt consultation service.

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APPENDIX B

Program Activity Projections:

Total Inspections- Enforcement				
	Safety		Health	
	Projected	Actual	Projected	Actual
Private Sector Inspections (FY16 Safety 906; Health 67)	1730	1607	101	79
Public Sector Inspections (FY16: Safety 34; Health 19)	130	23	24	14
Total	1860	1629	125	93

Projected Inspection - Consultation		
	Safety	Health
21(d)	237*	72*
23(g)	50**	3**

Total Inspections – Consultation
<p>* For results of the 21(d) consultation unit please see the FY17 CAPR</p> <p>** In all, forty-eight 23g consultation visits were conducted. Forty-one were initial visits, six were follow-up visits and one was an initial health visit.</p>

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Performance Standards

Strategic Goal 1: Improve workplace safety and health through compliance assistance and enforcement of occupational safety and health regulations.			
Performance Goal 1.1: Total reduction in the fatality rate by 1%			
Performance Goal 1.2: Maintain Injury and Illness Days Away/Restricted or Job Transfer Rate (DART) at 2.0 in FY17			
Unit Responsible (date source)	Performance Indicator	Result	Comments
Enforcement/ Compliance Assistance Consultation Integrated Management Information System [IMIS] (numerator) and the Maryland Quarterly Census of Employment and Wages [QCEW] Program (denominator) (BLS survey of occupational injuries and illnesses)	Perform inspection activity in the following areas: <u>Industry 2017 Projected</u> a. Construction (NAICS 230).....1400 b. Other high-hazard industries 457 (NAICS 110,510-560,610-620,710-720,810 c. Public Sector 154 d. Manufacturing (NAICS 310-330).160 e. Trade, Transportation, Utilities....114 (NAICS 220,420-450,480-490) Conduct the following number of Consultation visits: <u>Industry</u> a. Construction (NAICS 230) 158 b. Other high-hazard industries.....44 (NAICS 110,510-560,610-620,710-720,810 c. Public Sector 53 d. Manufacturing (NAICS 310-330)..71 e. Trade, Transportation, Utilities.....36 (NAICS 220,420-450,480-490)	<u>Industry 2017 Actual</u> a. Construction (NAICS 230) 1501 b. Other high-hazard industries 99 (NACIS 110,510-560,610-620,710-720.810) c. Public Sector 64 d. Manufacturing (NAICS 310-330)...111 e. Trade, Transportation, Utilities 102 (NAICS 220,420-450,480-490) <u>Industry 2017</u> a. Construction (NAICS 230).....See CAPR b. Other high-hazard industries.....See CAPR (NAICS 110,510-560,610-620,710-720,810 c. Public Sector 62 d. Manufacturing (NAICS 310-330)...See CAPR e. Trade, Transportation, Utilities.....See CAPR (NAICS 220,420-450,480-490) See CAPR for consultation results on Goal 1.2	NOTE: The Maryland private sector DART rate for reference year (RY) 2016 decreased to 1.5 injuries and illnesses per 100 equivalent full-time workers. MOSH had one 23(g) public sector consultant. All parameters for consultation can be found in the FY17 CAPR.

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Strategic Goal 2: Promote a safety and health culture through Cooperative Programs, Compliance Assistance, On-site Consultation Programs, Outreach, Training and Education, and Informative Services.

Performance Goal 2.1: Increase Recognition Programs from 20 to 25 (5 new Recognition programs by end of 2017)

Unit Responsible (data source)	Performance Indicator	Result	Comments
Compliance Assistance (report from consultation unit and VPP unit)	Increase Recognition Programs by one new company for FY17.	There were two VPP Star Designated sites added for FY 17.	The VPP unit awarded one new Star Designated site with VPP status, and received and approved a second application in FY17. By the end of FY17, MOSH maintained six Consultation SHARP programs and nineteen VPP programs meeting the goal of twenty-five recognition programs by the end of the MOSH five-year strategic plan.

Performance Goal 2.2: Increase Cooperative Partnerships from 61 to 76 (add 15 new cooperative partnerships by the end of 2017)

Unit Responsible (data source)	Performance Indicator	Result	Comments
Compliance Assistance (report from partnership and alliance unit)	Increase MOSH Cooperative Partnerships by 3 new partnerships in 2017.	MOSH signed three new cooperative partnerships in FY17.	MOSH signed their 83rd partnership since the inception of the program twenty years ago, in August 2017. The MOSH five-year strategic plan for Cooperative Partnership (CCP) was a total of 76 partnerships. The MOSH CCP program exceeded this goal by reaching 83.

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Performance Goal 2.3: Maintain attendance in MOSH outreach and training programs annually at 6,000 participants			
Unit Responsible (data source)	Performance Indicator	Result	Comments
Compliance Assistance (report from training and education unit)	Maintain the total number of trainees/participants anticipated to be affected by outreach activities in the areas covered by MOSH LEP's, current SST, and Federal NEP's including formal training, workshops, seminars, speeches, conferences, and informal worksite training at 6,000.	The total number of employees/employers participating in MOSH outreach and training programs in FY17 was approximately 6,476. The total number of participants in the full day and half day educational seminars was approximately 1,500. There were approximately 5,000 participants in speaking engagements done by MOSH personnel. MOSH spent over thirty- three hours speaking to 976 students at thirteen different events about workplace hazards.	The annual goal of 6,000 participants was exceeded by over 400. The MOSH Training and Education Unit continues to develop, train, and support senior compliance officers to complete speaker requests and teach seminars.

Performance Goal 3.1: Percent of fatality and catastrophe inspections initiated within one working day of notification maintained at least 95%			
Unit Responsible (data source)	Performance Indicator	Result	Comments
Enforcement/ Compliance Assistance (OIS/IMIS)	Percentage of fatal case investigations initiated within one working day of notification.	According to SAMM Measure 10, MOSH investigated seventeen workplace fatalities; however, according to MOSH documentation twenty-five fatality investigations were opened. Twenty-four investigations were opened within one day of notification.	The one instance where an investigation was not initiated within 24-hours was a case where MOSH was notified at 7:50 p.m. on a Saturday night. The investigation was not conducted Saturday night because the scene had been cleared and all personnel had left the scene. MOSH initiated the investigation on Monday morning.

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Performance Goal 3.2: Percent of serious complaint inspections initiated within an average of five days of notification			
Unit Responsible (data source)	Performance Indicator	Result	Comments
Enforcement/ Compliance Assistance (OIS/IMIS) SAMM Report	Serious complaint inspections are initiated within an average of five days of notification.	In FY17 MOSH initiated complaint inspections within an average of 3.06 days.	This goal was exceeded. MOSH focuses many resources on ensuring serious complaints are investigated as quickly as possible.
Performance Goal 3.3: Percent of discrimination complaint investigations completed within 90 days maintained at least at 90%			
Unit Responsible (data source)	Performance Indicator	Result	Comments
Enforcement/ Compliance Assistance (whistleblower web-based application)	Percent of discrimination complaint investigations completed within 90 days.	According to the IMIS report, there were eighteen discrimination complaints received in FY17. Of those, sixteen (89%) were completed within the 90- day timeframe.	The unit continues to work towards getting complaints completed within the negotiated timeframe.

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Performance Goal 3.4: Percent of polled responses from MOSH website users indicating a positive overall experience established at 90% by 2017			
Unit Responsible (date source)	Performance Indicator	Result	Comments
<p>Enforcement/ Compliance Assistance</p> <p>Consultation (online review of website)</p>	<p>This is a continuing Performance Goal carried over from the previous 5-year Strategic Plan, whereas, 90% of website users indicate a positive overall experience when polled at the end of the five-year Strategic Plan.</p> <p>Consultation will share in the technical development of the website and continue to maintain their Federal OSHA requirements, current information, and forms.</p>	<p>In 2017, the DLLR launched an expanded outreach program to support interdepartmental training, information dissemination, and communication.</p> <p>MOSH continues to work towards better content management and can update the website on a timelier basis. MOSH is still working toward the goal of having a poll online for users to fill out. MOSH has also continued to utilize social media links such as our website, Facebook page, and the State of Maryland YouTube page. We use the Facebook page to keep Maryland employers and employees up to date on the latest safety & health information, educational seminars, and local agency news. We use the two YouTube videos to inform employees and employers about MOSH’s mission. The videos are shown at all our educational seminars and at safety conference informational booths.</p>	<p>The agency continues to support a user- friendly website. As we move forward we continue to make all of our processes and information easier to find for the final user. We continue with our efforts to make a “two click” process to locate information such as ordering publications, filing a complaint, and registering for our seminars.</p>
Performance Goal 3.5: 90% of responding employers are satisfied with the consultation visit received			
Unit Responsible (data source)	Performance Indicator	Result	Comments
<p>Consultation (returned and completed DLLR external customer survey from)</p>	<p>Percent of responding employers that rate “overall satisfaction” as satisfactory or better.</p>	<p>All employer surveys received from our public sector consultant(s) were rated as “excellent.” Please see the FY17 CAPR for information on our private sector consultants.</p>	<p>This measure was exceeded for our public sector consultant(s).</p>

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Performance Goal 3.6: Provide prompt consultation service			
Unit Responsible (data source)	Performance Indicator	Result	Comments
Consultation (OIS reports)	On average, small high-hazard employers are visited within thirty days of their request for an initial visit; on average, initial visit reports are mailed within twenty days of the closing conference. Public sector only – see CAPR for private sector.	On average, the initial high-hazard public sector visits were conducted eleven days after their request, and the initial visit reports were mailed eight days after the closing conference.	Our public sector consultant in FY17 met both time requirements.